

SENATE BILL NO. 253

INTRODUCED BY S. VINTON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO STUDENT SCHOLARSHIP ORGANIZATIONS; REQUIRING A STUDENT SCHOLARSHIP ORGANIZATION TO APPLY FOR CERTIFICATION FROM THE DEPARTMENT OF REVENUE; ESTABLISHING REQUIREMENTS FOR CERTIFICATION; ENSURING A PARENT'S RIGHT TO SELECT AN EDUCATION PROVIDER; INCREASING TRANSPARENCY AND ACCOUNTABILITY REQUIREMENTS FOR STUDENT SCHOLARSHIP ORGANIZATIONS; REVISING A DEFINITION; PROVIDING LEGISLATIVE INTENT; AND AMENDING SECTIONS 15-30-3102, 15-30-3103, 15-30-3105, AND 15-30-3106, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-3102, MCA, is amended to read:

"15-30-3102. (Temporary) Definitions. As used in this part, the following definitions apply:

- (1) "Department" means the department of revenue provided for in 2-15-1301.
- (2) "Donation" means a gift of cash.
- (3) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on or before September 10 of the year of attendance and has not yet reached 19 years of age.
- (4) "Innovative educational program" includes any of the following:
 - (a) transformational learning as defined in 20-7-1602;
 - (b) advanced opportunity as defined in 20-7-1503;
 - (c) any program, service, instructional methodology, or adaptive equipment used to expand opportunity for a child with a disability as defined in 20-7-401;
 - (d) any courses provided through work-based learning partnerships or for postsecondary credit or career certification;
 - (e) technology enhancements, including but not limited to any expenditure incurred for purposes specified in 20-9-533; and

(f) capital improvements and equipment necessary to support an innovative educational program.

(5) "Partnership" has the meaning provided in 15-30-2101.

(6) "Pass-through entity" has the meaning provided in 15-30-2101.

(7) "Qualified education provider" means an education provider that:

(a) is not a public school;

(b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or national accreditation organization; or

(ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;

(c) is not a home school as referred to in 20-5-102(2)(e);

(d) satisfies the health and safety requirements prescribed by law for private schools in this state;

and

(e) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.

(8) "Small business corporation" has the meaning provided in 15-30-3301.

(9) "Student scholarship organization" means a charitable organization in this state that:

(a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

(b) is certified by the department in accordance with the requirements under 15-30-3103 to accept donations eligible for the tax credit under 15-30-3111 and provide scholarships to eligible students;

(b)(c) allocates not less than 90% of its annual revenue from donations eligible for the tax credit under 15-30-3111 for scholarships to allow students to enroll with any qualified education provider; and

(e)(d) provides educational scholarships to eligible students without limiting student access to only one access to a parent's or guardian's choice of qualified education provider.

(10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023, sec. 12, Ch. 558, L. 2023.)"

Section 2. Section 15-30-3103, MCA, is amended to read:

"15-30-3103. (Temporary) Requirements for student scholarship organizations. (1) A student

1 scholarship organization:

2 (a) shall apply for certification, in a manner prescribed by the department, prior to accepting
3 donations eligible for the tax credit under 15-30-3111. Certification under this subsection (1)(a) is valid for the
4 tax year for which it is issued and for the immediately following tax year. In no case may a certification be valid
5 for more than 2 tax years.

6 (i) The department shall issue a decision related to the certification of a student scholarship
7 organization no more than 60 days following the date on which the department received the student scholarship
8 organization's application for certification.

9 (ii) If the department finds that a student scholarship organization has not complied with the
10 requirements of this part, the department shall deny certification.

11 (iii) A student scholarship organization that is denied certification must be granted 30 days to rectify
12 the causes for the denial. If the organization fails to rectify the causes for the denial, the department shall issue
13 a final denial of certification. A final denial of certification may not be appealed.

14 (iv) A student scholarship organization that has received a final denial of certification may reapply
15 for certification with the department for the tax year following the tax year for which the denial was issued.

16 (v) A student scholarship organization that has not been certified under this section may not
17 accept donations eligible for the tax credit under 15-30-3111. The organization shall disburse all remaining
18 scholarship funds from previous donations in accordance with the requirements in this part.

19 (a)(b) shall obligate at least 90% of its annual revenue from donations eligible for the tax credit under
20 15-30-3111 for scholarships. For the purpose of this calculation:

21 (i) the cost of the annual fiscal review provided for in 15-30-3105(1)(b) may be paid out of the total
22 donations before calculation of the 90% minimum obligation amount; and

23 (ii) all donations subject to the 90% minimum obligation amount that are received in 1 calendar
24 year must be paid out in scholarships within the 3 calendar years following the donation.

25 (b)(c) may not limit, restrict, or reserve scholarships for use at a particular single education provider
26 or any particular type of education provider and shall allow an eligible student to enroll with any qualified
27 education provider of the parents' or legal guardian's choice;

28 (e)(d) shall provide scholarships to eligible students to attend instruction offered by a qualified

education provider;

(d)(e) may not provide a scholarship to an eligible student for an academic year that exceeds the per-pupil average of total public school expenditures calculated in 20-9-570;

(e)(f) shall maintain separate accounts for scholarship funds and operating funds;

(f)(g) may transfer funds to another student scholarship organization with prior written notice to the department;

(g)(h) shall maintain an application process under which scholarship applications are accepted, reviewed, approved, and denied; ~~and~~

(h)(i) shall comply with payment and reporting requirements in accordance with 15-30-3104 and 15-30-3105; and

(j) shall maintain on its public website:

(i) a detailed description of the organization's scholarship application and scholarship award processes;

(ii) a list of the qualified education providers to which the student scholarship organization awarded scholarships in the previous school year; and

(iii) the following language prominently displayed: Scholarships from this student scholarship organization may be used at any qualified education provider of the parent's or legal guardian's choice.

(2) An organization that fails to satisfy the conditions of this section is subject to termination as provided in 15-30-3113. (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)"

Section 3. Section 15-30-3105, MCA, is amended to read:

"15-30-3105. (Temporary) Reporting requirements for student scholarship organizations. (1)

Each student scholarship organization shall:

(a) ~~submit a notice to the department of its intent to operate as a student scholarship organization prior to accepting donations~~ submit an application to the department for certification as a student scholarship organization pursuant to 15-30-3103(1)(a);

(b) complete an annual fiscal review of its accounts by an independent certified public accountant within 120 days after the close of the calendar year that discloses for each of the 3 most recently completed

1 calendar years:

2 (i) the total number and dollar value of individual and corporate contributions;

3 (ii) the total number and dollar value of scholarships obligated to eligible students;

4 (iii) the total number and dollar value of scholarships awarded to eligible students;

5 (iv) the number and amount of scholarships awarded to each qualified education provider that is
6 not a tutor; and

7 (iv)(v) the cost of the annual fiscal review;

8 (c) submit the annual fiscal review report to the department within 150 days of the close of the
9 calendar year; and

10 (d) by December 31 of each year, submit to the department links to the website containing the
11 information required by 15-30-3103(1)(j).

12 (2) The department shall provide written notice to a student scholarship organization that fails to
13 submit the annual fiscal review report, and the organization has 30 days from receipt of the notice to submit the
14 report.

15 (3) An organization that fails to satisfy the conditions of this section is subject to termination as
16 provided in 15-30-3113. (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021.)"

17

18 **Section 4.** Section 15-30-3106, MCA, is amended to read:

19 **"15-30-3106. (Temporary) Student scholarship organizations -- listing on website.** The
20 department shall maintain on its website a hyperlink to a current list of all:

21 (1) student scholarship organizations that have ~~provided notice~~ been certified pursuant to 15-30-
22 3105(1)(a); and

23 (2) scholarship award policies adopted and published by each student scholarship organization
24 pursuant to 15-20-3103(1)(j);

25 (2)(3) ~~qualified education providers that accepted scholarship funds from a student scholarship~~
26 ~~organization~~ the names of qualified education providers to which each student scholarship organization awarded
27 scholarships in the previous calendar year;

28 (4) the number and amount of scholarships provided to each qualified education provider that is

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Drafter: Julie Johnson,

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1 not a tutor in the previous calendar year; and

2 (5) hyperlinks to each student scholarship organization's website. (Terminates December 31,

3 2029--sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)"

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5 **NEW SECTION. Section 5. Legislative intent.** It is the intent of the legislature that the department of
6 revenue implement the provisions of [this act] with one-half of a full-time-equivalent position.

7 - END -