

1 HOUSE BILL NO. 922

2 INTRODUCED BY R. GREGG, S. FITZPATRICK, B. LER, K. ZOLNIKOV, J. GILLETTE, B. MITCHELL, G.

3 OVERSTREET

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING EDUCATION TAX CREDITS;
6 ESTABLISHING A TAX CREDIT FOR PARENTS WITH CHILDREN OBTAINING EDUCATION IN A
7 NONPUBLIC SCHOOL; PROVIDING PARITY IN AGGREGATE LIMITS AVAILABLE TO ADDRESS
8 EDUCATIONAL NEEDS OF STUDENTS IN PUBLIC AND NONPUBLIC SCHOOL SETTINGS; PROVIDING A
9 DEFINITION; AMENDING SECTIONS 15-30-2303 AND 15-30-3110, MCA; AND PROVIDING AN
10 APPLICABILITY DATE AND A TERMINATION DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. **Section 1. Tax credit for parents with children obtaining education in**
15 **nonpublic schools.** (1) A resident taxpayer who is the parent or legal guardian of an eligible student is allowed
16 a credit against the tax imposed by 15-30-2103 in the amount of \$250 for each eligible student each year. The
17 credit is in recognition of expenses ordinarily incurred by a parent or legal guardian of a child obtaining
18 education in a nonpublic school as described in 20-5-102(2)(e).

19 (2) The education tax credit allowed under this section may not exceed the taxpayer's income tax
20 liability but may be carried forward for 3 years. The entire amount of the tax credit not used in the year earned
21 must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax
22 year. The credit must be claimed by filing a Montana income tax return.

23 (3) An eligible student may not be claimed by more than one taxpayer.

24 (4) The taxpayer shall attest in a manner prescribed by the department of revenue that their
25 student meets the definition of an eligible student when filing their taxes.

26 (5) For the purposes of this section, "eligible student" means a student who is:

27 (a) a Montana resident and who is 5 years of age or older on or before September 10 of the tax
28 year for which a credit is claimed and has not yet reached 19 years of age; and

(b) obtaining education in a nonpublic school as described in 20-5-102(2)(e).

Section 2. Section 15-30-2303, MCA, is amended to read:

"15-30-2303. Tax credits subject to review by interim committee. (1) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and during each biennium commencing 8 years thereafter:

(a) the credit for donations to innovative educational programs provided for in 15-30-2334, 15-30-3110, and 15-31-158;

(b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159; and

(c) the adoption tax credit provided for in 15-30-2321.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and during each biennium commencing 8 years thereafter:

(a) the credit for infrastructure use fees provided for in 17-6-316;

(b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162;

(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6; and

(d) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2025, and during each biennium commencing 8 years thereafter:

(a) the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(b) the credit for unlocking state lands provided for in 15-30-2380;

(c) the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175; and

(d) the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2027, and during each biennium commencing 8 years thereafter:

(a) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173;

(b) the earned income tax credit provided for in 15-30-2318;

(c) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009; and

(d) the credit for contractor's gross receipts provided for in 15-50-207; and

(e) the credit for parents with children obtaining education in a nonpublic school provided for in [section 1].

(5) The revenue interim committee shall review the tax credits scheduled for review and make recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or terminate.

(6) The revenue interim committee shall review the credits using the following criteria:

(a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;

(b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

(c) whether the credit has out-of-state beneficiaries;

(d) the timing of costs and benefits of the credit and how long the credit is effective;

(e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and

(f) the extent to which benefits of the credit affect the larger economy. (Subsection (3)(c) terminates December 31, 2028--sec. 4, Ch. 391, L. 2023; subsection (3)(d) terminates December 31, 2028--sec. 2, Ch. 576, L. 2023; subsection (1)(c) terminates December 31, 2031--sec. 6, Ch. 493, L. 2023.)"

Section 3. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit

1 against the tax imposed by chapter 30 or 31 for donations made to a school district for the purpose of providing
2 supplemental funding to the school district for innovative educational programs. The amount of the credit
3 allowed is equal to the amount of the donation, not to exceed \$200,000.

4 (2) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-
5 through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the
6 same proportion as used to report the entity's income or loss.

7 (b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust
8 may be attributed to each beneficiary of the estate or trust in the same proportion used to report the
9 beneficiary's income from the estate or trust for Montana income tax purposes.

10 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability but
11 may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried
12 first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

13 (4) (a) (i) The aggregate amount of tax credits allowed under this section is \$2 million per year in
14 tax year 2023 and \$5 million per year in tax year 2024 and subsequent tax years except as provided in this
15 subsection (4)(a).

16 (ii) Beginning in 2024, by December 31 of each year, the department shall determine if 80% of the
17 aggregate limit provided for in subsection ~~(4)(a)(iii)~~ ~~(4)(a)(iv)~~ in donations was preapproved by the department.
18 If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% for the
19 succeeding tax years.

20 (iii) The aggregate limit on tax credits for innovative educational programs under this section must
21 be the greater of the limits calculated under (4)(a)(i) and (4)(a)(ii) or the sum of the tax credits claimed in the
22 prior tax year for donations to student scholarship organizations under 15-30-2335 and 15-31-159 plus the tax
23 credit for parents with children obtaining education in a nonpublic school under [section 1].

24 ~~(iii) (iv)~~ If the aggregate limit is increased in any tax year, the department shall use the new limit as the
25 base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of
26 ~~subsection-subsections (4)(a)(ii) and (4)(a)(iii).~~

27 (b) The aggregate limit under this subsection (4) applies to the year in which a donation is made
28 regardless of whether the full credit is claimed in that tax year or carried forward.

1 (5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer
2 for state tax purposes as a charitable contribution to a charitable organization qualified under section 501(c)(3)
3 of the Internal Revenue Code, 26 U.S.C. 501(c)(3). This section does not prevent a taxpayer from:

4 (a) claiming a credit under this section instead of a deduction; or

5 (b) claiming an exclusion, deduction, or credit for a charitable contribution that exceeds the amount
6 for which the credit is allowed under this section.

7 (6) (a) On receiving a donation under this part, a school district shall seek preapproval, in a
8 manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under
9 the aggregate limit under subsection (4).

10 (b) On preapproval by the department, a school district shall issue a receipt, in a form prescribed
11 by the department, to each contributing taxpayer indicating the value of the donation received and preapproval
12 of the tax credit.

13 (c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.

14 (7) (a) A school district may not retain donations under this section that exceed either:

15 (i) the greater of \$50,000 or 15% of the school district's maximum general fund budget; or

16 (ii) 20% of the total aggregate amount provided for in subsection (4).

17 (b) If a school district receives donations that exceed the amounts provided for in subsection
18 (7)(a), the school district shall remit the excess funds within 30 days to the superintendent of public instruction
19 for deposit in the account provided for in 20-9-250.

20 (c) The superintendent of public instruction shall distribute funds received under subsection (7)(b)
21 to school districts as described in 20-9-250. A school district shall deposit funds received under this subsection
22 (7)(c) into the school district flexibility fund and use them for out-of-pocket pupil costs provided for in 20-7-
23 1506(5)(a).

24 (8) A school district shall deposit retained donations into the school district's miscellaneous
25 programs fund and shall limit the expenditure of the donation to expenditures for innovative educational
26 programs of the school district. (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L.
27 2023, sec. 12, Ch. 558, L. 2023.)"

28

1 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
2 integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

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4 NEW SECTION. **Section 5. Applicability.** [This act] applies to tax years beginning after December
5 31, 2025.

7 NEW SECTION. **Section 6. Termination.** [Section 1] terminates December 31, 2029.

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