

HOUSE BILL NO. 320

INTRODUCED BY L. DEMING, V. RICCI, E. TILLEMAN, J. FULLER, L. JONES, A. REGIER, M. REGIER, S.

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BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING MONTANA'S ACADEMIC PROSPERITY PROGRAM FOR SCHOLARS; PROVIDING LEGISLATIVE FINDINGS, PURPOSES, AND INTENT; PROVIDING DEFINITIONS; ESTABLISHING THE MONTANA'S ACADEMIC PROSPERITY PROGRAM FOR SCHOLARS COUNCIL AND DUTIES FOR THE COUNCIL, THE DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF REVENUE, AND THE OFFICE OF PUBLIC INSTRUCTION; ALLOWING EDUCATION TAX CREDITS FOR DONATIONS TO FUND EDUCATIONAL ASSISTANCE ACCOUNTS AND FOR A PARENT'S PAYMENT OF QUALIFIED EDUCATION EXPENSES; PROVIDING FOR A PROGRAM MANAGER TO IMPLEMENT THE PROGRAM; ESTABLISHING PROCEDURES FOR THE PROGRAM MANAGER AND A PROCESS FOR REVIEW OF THE PROGRAM MANAGER'S PERFORMANCE BY THE MONTANA'S ACADEMIC PROSPERITY PROGRAM FOR SCHOLARS COUNCIL; INCLUDING PARTICIPATION IN THE PROGRAM AS AN EXEMPTION TO COMPULSORY ENROLLMENT REQUIREMENTS; REQUIRING PUBLIC SCHOOLS TO TRANSFER STUDENT RECORDS; PROVIDING AUTONOMY FOR QUALIFIED EDUCATION PROVIDERS UNDER THE PROGRAM; ESTABLISHING PARAMETERS FOR LEGAL PROCEEDINGS RELATED TO THE PROGRAM; PROVIDING RULEMAKING AUTHORITY; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-30-2120, 15-30-2303, AND 20-5-102, ~~AND 20-5-109~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 17] may be cited as the "Montana's Academic Prosperity Program for Scholars Act".

(3) The legislature intends that the MAPPS council and the program manager recognize the liberty of a parent to direct the upbringing and education of the parent's child and respect parental autonomy when the parent chooses qualified education expenses to meet the child's individual instructional education needs.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 17], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Annual educational assistance maximum" means the amount of money calculated by dividing the statewide total of BASE budgets for all school districts divided by the statewide full-time enrollment, but not ANB, on which the BASE budgets are based. The office of public instruction shall determine this calculation for the current school fiscal year annually no later than October 1 and provide the amount to the program manager. The calculation must apply to the ensuing tax year.

(2) "Corporation" has the meaning provided in 15-30-2101.

(3) "Department" means the department of administration provided for in 2-15-1001.

(4) "Donation" means a gift of cash ~~or a cash equivalent~~ made to the program manager for educational assistance and administration of MAPPS.

(5) "Educational assistance" means money expended through MAPPS on qualified education expenses on behalf of participating students either:

(a) paid from an educational assistance account; or

(b) purchased by a parent.

(6) "Educational assistance account" means a program manager's accounting of donations for educational assistance awarded on behalf of a participating student with funds derived from the MAPPS account.

(7) "Education tax credit" means a Montana income tax credit against the tax imposed by Title 15, chapters 30 and 31, for:

(a) donations made to a program manager to support MAPPS; or

(b) qualified education expenses purchased by a parent for a participating student.

(8) (a) "Eligible student" means a resident of the state who:

(i) is 5 years of age or older on or before September 10 of the year the student participates in

Amendment - 1st Reading-white - Requested by: Lee Deming - (H) Education

- 2025

69th Legislature 2025

Drafter: Pad McCracken,

HB0320.001.001

1 MAPPS and who has not yet reached 19 years of age;

2 (ii) is not enrolled full-time as defined in 20-9-311(4) in the public school system, community
3 choice schools, or public charter schools while participating in MAPPS;

4 (iii) is not receiving a scholarship from a student scholarship organization under Title 15, chapter
5 30, part 31; and

6 (iv) for eligibility for an educational assistance account, is from a household with an annual
7 household income not exceeding 500% of the federal poverty level in the year prior to application.

8 (b) A student participating in the Montana special needs equal opportunity education savings
9 account program pursuant to Title 20, chapter 7, part 17, who meets the requirements of subsection (8)(a) is an
10 eligible student.

11 (9) "MAPPS account" means a segregated account held by the program manager consisting of
12 donations collected by the program manager to pay for qualified education expenses of participating students.
13 Funds in the MAPPS account are allocated by the program manager to support the educational assistance
14 accounts of participating students.

15 (10) "MAPPS council" or "council" means the council established in [section 4].

16 (11) "Montana's academic prosperity program for scholars" or "MAPPS" means the program created
17 in [sections 1 through 17].

18 (12) "Parent" means the legal parent, guardian, caretaker, or individual or entity with authority and
19 responsibility to enroll a child in school or otherwise provide educational instruction.

20 (13) "Participating student" means a student participating in MAPPS who receives educational
21 assistance.

22 (14) "Program manager" means the charitable not-for-profit organization contracted by the
23 department after collaboration with the MAPPS council that:

24 (a) is lawfully authorized to do business in this state;

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

27 (c) solicits donations to and administers the MAPPS account, administers educational assistance
28 for participating students, and requests education tax credit preapprovals as set forth in [sections 1 through 17].

(15) (a) "Qualified education expense" means an expenditure for a participating student's educational needs consistent with 20-1-102 and approved by the MAPPS council pursuant to [section 6]. The term may include but is not limited to educationally related expenses for:

(i) tuition and fees at a nonpublic primary or secondary school, institution of higher education, summer education program, specialized after-school education program, or for career or technical courses;

(ii) textbooks, curriculum, or other instructional materials, including but not limited to any supplemental materials or associated online instruction required to fulfill the educational requirements of a qualified education provider;

(iii) fees for assessments and examinations, including but not limited to advanced placement examinations, examinations related to college or university admission, career credentialing examinations, and fees for preparatory courses for exams;

(iv) educational services and therapies, which may include occupational, behavioral, physical, speech-language, audiology, and other therapies designed to facilitate student learning;

(v) tutoring services provided by an individual or a tutoring facility;

(vi) educational software and multimedia materials;

(vii) transportation to and from a qualified education provider for the purpose of accessing a qualified education expense; and

(viii) other educational resources and services as determined by the MAPPS council pursuant to [section 4].

(b) The term does not include expenses for child care.

(16) "Qualified education provider" means an individual or entity delivering educational services to fulfill a student's instructional needs that is listed with the program manager and:

(a) (i) is a nonpublic school;

(ii) is a business, individual, nonprofit organization, or other entity that offers educational materials or services that are qualified education expenses; or

(iii) is a postsecondary institution;

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

(ii) is not accredited and has informed the parent of a participating student that the provider is not accredited and is not seeking accreditation; and

(c) satisfies health and safety requirements applicable to the education provider, as prescribed by law.

(17) "Taxpayer" has the meaning provided in 15-30-2101.

NEW SECTION. Section 4. MAPPS council -- membership. (1) (a) There is an autonomous MAPPS council with authority, consistent with legislative intent as stated in [section 2], to:

(i) assist the department of administration in choosing a program manager;

(ii) oversee the work of the program manager; and

(iii) develop a list of qualified education expenses.

(b) The council is allocated to the department of administration for administrative purposes, as prescribed in 2-15-121(2), except as provided in this section.

(2) The council consists of five members who are appointed by the governor.

(3) Members appointed to the council shall represent a diverse group of stakeholders who are supportive of MAPPS, including parents, grandparents, private school leaders and board members, education entrepreneurs, and business leaders. All members of the council must have a demonstrated understanding of and commitment to expanding educational options within the state as a valid public purpose necessary to ensure equal educational opportunity for all children of the state, to preserve the liberty of parents to direct the education of their children, and to enhance the economic competitiveness and cultural enrichment of the state.

(4) (a) Initial appointments to the council must be for staggered terms as follows:

(i) one member with a 4-year term designated as the initial presiding officer of the council for 2 years;

(ii) two members with 3-year terms; and

(iii) two members with 2-year terms.

(b) All terms after the initial term must be for 3 years. Appointment to the initial terms must be made no later than 45 days following [the effective date of this act].

(5) Each member of the council is entitled to reimbursement for expenses on approval of the

presiding officer of the council as provided in the council's bylaws.

(6) A member of the council may be removed by a majority vote of the council for any cause that renders the member unable or unfit to discharge the duties of the office, including but not limited to failure to participate in development of a comprehensive list of qualified education expenses without just cause and interference with the functions of the council as set forth in this part. Whenever a vacancy on the council exists, the governor shall appoint a member for the remaining portion of the term consistent with the requirements of subsections (3) and (4).

(7) The council is authorized to receive and expend gifts and donations of any kind from any private entity. The gifts and donations may not require conditions that do not comport with the purposes of this part. Gifts and donations under this subsection must be deposited in a segregated account held by the program manager and may be used by the council for council operations or to support MAPPS at the discretion of the council.

(8) The council shall convene and approve bylaws and officers within 30 days of being appointed under subsection (4).

(9) All council meetings are open to the public pursuant to Article II, section 9, of the Montana constitution and 2-3-203.

NEW SECTION. Section 5. MAPPS council and department of administration -- duties related to selection and oversight of program manager. (1) The council shall collaborate with and advise the department during the process of choosing and contracting with a single program manager for MAPPS. ~~When choosing the program manager, the department shall solicit and evaluate proposals from program manager applicants through limited solicitation procedures under 18-4-305 or another expedited procedure. The council shall review applicant proposals promptly to check adherence of the proposals to program manager requirements under MAPPS.~~ In reviewing the program manager applicant proposals, the MAPPS council shall review applicant proposals to check adherence of the proposals to program manager requirements under MAPPS and consider:

(a) how the applicant intends to meet statutory requirements and why the applicant believes it may best serve the public interest;

(b) the applicant's knowledge based on current or past experience administering tax credit education programs, including those similar to MAPPS;

(c) letters of recommendation from clients served by the applicant, if any;

(d) the applicant's most recent audit report and proof of tax-exempt status under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3); and

(e) indications that the applicant fully understands the imperative of fulfilling the objectives of the legislature under [section 2] and the educational needs of students and families.

(2) (a) ~~The department shall distribute program manager applications to the council as the applications are received.~~ The council shall meet no later than 10 days after the application deadline to review and determine which program manager applicants show an ability to fulfill the statutory requirements of MAPPS and invite qualified applicants to be interviewed by the council. Interviews by the council must occur no later than 14 days after issuing invitations to be interviewed. After interviewing qualified applicants, the council shall recommend to the department the applicant that shows the strongest ability, intent, and commitment to fulfill the legislative objectives and overall goals of MAPPS.

(b) After the department selects the best qualified applicant, the MAPPS council shall collaborate with the department to develop a contract with a single program manager that fulfills MAPPS requirements in the least restrictive manner.

(3) The council shall review the program manager's contract and performance every 5 years to determine whether to recommend to the department renewal, amendment and renewal, or termination of the contract consistent with the requirements of MAPPS.

(4) The department may adopt rules, consistent with legislative intent as stated in [section 2], as necessary to implement this section.

NEW SECTION. Section 6. MAPPS council -- determining qualified education expenses -- appeals process -- reporting. (1) The MAPPS council shall develop and update annually a comprehensive list of qualified education expenses by October 1. The council may update the list throughout the year. The list must be developed and updated after a review of best practices for approved expenses from other states with similar programs and after consultation with the program manager, educators, parents, and others providing

educational services. In developing the list, considering requests for review, and handling appeals under this section, the council shall respect and comply with the intent of the legislature as described in [section 2] and be consistent with the legislative goals for education under 20-1-102 and the basic instructional program for pupils referenced in 20-7-111.

(2) To provide clarity for parents and the program manager, the council may create a list of expenditures that are not allowable under MAPPS.

(3) A parent or the program manager may request that the council review an expenditure and add it to the list of qualified education expenses. The council shall convene in an expedient manner to review, deliberate, and vote on requests under this subsection.

(4) (a) The council shall establish a procedure for appeal to the council by a parent whose request for payment of an expense was denied by the program manager.

(b) The appeal procedure must be structured by the council to respond to the parent quickly and efficiently. All decisions of the council are final.

(c) The appeal procedure must include:

(i) easy to follow directions on how to appeal;

(ii) a requirement to put requests for appeal in writing;

(iii) a timeframe for appeal, not to exceed 10 days following denial of a request for payment of an expense; and

(iv) a timeframe for definitive response to a parent's appeal, not to exceed 10 days past the date of the appeal.

(5) The council shall create an annual joint report with the program manager on the performance of MAPPS and submit the report to the education interim budget committee and the revenue interim committee in accordance with 5-11-210. The report must include any recommendations of the council or the program manager on how MAPPS may be improved to better meet the legislative purposes and intent as stated in [section 2], including any recommendations for statutory changes. The program manager's reports required under [section 12] must be included in the joint report.

(6) The council shall provide the department of revenue the list of qualified education expenses in January of each year.

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2 **NEW SECTION. Section 7. Education tax credit for parent purchasing qualified education**

3 **expenses -- rulemaking.** (1) There is an education tax credit allowed against the tax imposed by Title 15,
4 chapter 30, available to a parent of a participating student in MAPPS for the purchase of qualified education
5 expenses for the participating student.

6 (2) The education tax credit under this section may not exceed the annual educational assistance
7 maximum as defined in [section 3].

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

12 (4) (a) (i) The aggregate amount of tax credits under this section is \$4 million for tax year 2026 and
13 subsequent tax years, except as provided in this subsection (4).

14 (ii) Beginning in 2026, no later than December 31 of each year, the department of revenue shall
15 determine if 80% of the aggregate limit provided for in subsection (4)(a)(iii) was preapproved by the department
16 of revenue. If this condition is satisfied, the aggregate limit of tax credits must be increased by 25% for the
17 succeeding tax year.

18 (iii) If the aggregate limit is increased in a tax year, the department of revenue shall use the new
19 limit as the base aggregate limit for succeeding tax years until a new aggregated limit is established under the
20 provisions of subsection (4)(a)(ii).

21 (b) The aggregate limits under this section must apply to the tax year in which the parent of a
22 participating student purchased qualified education expenses, regardless of whether the full credit is claimed in
23 that tax year or carried forward.

24 (5) Following the determination of participating students accessing the education tax credit under
25 this section by the program manager under [section 10]:

26 (a) the parent of a participating student shall sign an attestation of use contract accepting that:

27 (i) the education tax credit is awarded solely and exclusively to assist a parent's purchase of

28 qualified education expenses; ~~and~~

(ii) the parent has sole responsibility to comply with the applicable requirements of ~~20-5-109~~

[section 21] and MAPPS; and

(iii) based on the parent's anticipated earnings, the parent has a reasonable expectation of tax liability for which the parent may claim a tax credit consistent with this section; and

(b) the program manager shall request preapproval of an education tax credit in a manner prescribed by the department of revenue for the amount of the education tax credit sought by the parent of the

participating student. The department of revenue shall preapprove an education tax credit subject to the

parent's attestation of anticipated earned income for the year the parent is requesting an education tax credit.

The department of revenue has no further obligation to examine anticipated qualified education expenses of the parent.

(6) Following preapproval by the department of revenue, the program manager shall issue a receipt of approval for an education tax credit in a form prescribed by the department of revenue to the parent

of the participating student indicating the value of the credit. The receipt of approval must clearly indicate that

the approval is based on the parent's attestation of anticipated earnings for the tax year for which a credit will be requested.

(7) A parent shall provide a copy of the receipt of approval when claiming the education tax credit.

(8) A parent shall maintain records and receipts for all qualified education expenses consistent with department of revenue and internal revenue service regulations and may be required to submit or report this information when filing a state tax return requesting an education tax credit under this section.

(9) The sole obligation of the program manager is to facilitate communication of the parent's request of an education tax credit to the department of revenue after the parent's child is determined to be a participating student under [section 10]. The program manager has no authority to approve or deny any tax credit.

~~(9)(10) A parent may be subject to a standard risk-based audit requested by the department of revenue of qualified education expenses and payments under MAPPS if the department of revenue has just cause. An audit under this subsection may not be regular, arbitrary, discriminatory, or capricious. The department of revenue may investigate and examine the expenditure records of a parent claiming a tax credit under this section in the same manner and to the same extent as the department may investigate a taxpayer~~

pursuant to the department's authority under Title 15, chapter 1, part 3. The department of revenue shall refer all parent questions about qualified education expenses to the program manager.

~~(40)(11)~~ The identity of a parent requesting or receiving education tax credits under this section is confidential tax information subject to the provisions of 15-30-2618.

~~(44)(12)~~ The department of revenue may adopt rules, consistent with legislative intent as stated in [section 2], as necessary to implement this section.

NEW SECTION. Section 8. Education tax credits for donations to MAPPS account. (1) A

taxpayer or corporation is allowed a credit against the tax imposed by Title 15, chapter 30 or 31, for donations made to the program manager for deposit in the MAPPS account. The donor may not direct or designate donations to a specific student, parent, legal guardian, or qualified education provider. The amount of the education tax credit allowed is equal to the amount of the donation, not to exceed \$200,000 in a single tax year.

(2) A donation by an estate or trust qualifies for the education tax credit. A credit not used by the estate or trust may be attributed to beneficiaries of the estate or trust in the same proportion used to report the beneficiary's income from the estate or trust for Montana income tax purposes.

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

(4) (a) (i) The aggregate amount of tax credits under this section is \$4 million for tax year 2026 and subsequent tax years, except as provided in this subsection (4).

(ii) Beginning in 2026, no later than December 31 of each year, the department of revenue shall determine if 80% of the aggregate limit provided for in subsection (4)(a)(iii) was preapproved by the department of revenue. If this condition is satisfied, the aggregate limit of tax credits must be increased by 25% for the succeeding tax year.

(iii) If the aggregate limit is increased in a tax year, the department of revenue shall use the new limit as the base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (4)(a)(ii).

Amendment - 1st Reading-white - Requested by: Lee Deming - (H) Education

- 2025

69th Legislature 2025

Drafter: Pad McCracken,

HB0320.001.001

(b) The aggregate limits under this section must apply to the tax year in which a donation is made, regardless of whether the full credit is claimed in that tax year or carried forward.

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

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

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

(6) On receiving a donation for which the donor has requested a tax credit, the program manager shall, on a first-come, first-served basis, beginning no later than the third Wednesday of January, request preapproval in a manner prescribed by the department of revenue that the amount of education tax credit sought by the taxpayer is available under the aggregate limit under subsection (4).

(7) The sole obligation of the program manager is to facilitate communication of the donor's request of an education tax credit to the department of revenue pursuant to subsection (6). The program manager has no authority to approve or deny any tax credit.

~~(7)(8)~~ Following preapproval by the department of revenue, the program manager shall issue a receipt of approval for an education tax credit in a form prescribed by the department of revenue to a contributing taxpayer indicating the value of the donation received and approval of the education tax credit.

~~(8)(9)~~ A taxpayer shall provide a copy of the receipt of approval when claiming the education tax credit.

~~(9)(10)~~ The identity of a donor who donates to the program manager to fund educational assistance under MAPPS is confidential tax information subject to the provisions of 15-30-2618.

~~(10)(11)~~ The department of revenue may adopt rules, consistent with legislative intent as stated in [section 2], as necessary to implement this section.

NEW SECTION. Section 9. Program manager duties -- outreach and education -- soliciting parent applications. (1) The program manager shall:

(b) The final department decision for the program manager must provide that the program manager:

(i) be removed from eligibility for contract renewal or amendment; and

(ii) be removed from eligibility to operate as a program manager and be notified of its removal.

(c) (i) The MAPPS council shall, within 15 calendar days of the department's final decision, issue public notice of intent to hire a new program manager. The council shall allow no more than 30 days to receive applications and review, after which time the council shall select a new program manager to administer MAPPS.

(ii) The department, with assistance from the council, may contract with an entity on a temporary basis to administer MAPPS pending award of a contract to a new program manager, not to exceed the remaining term of the prior program manager's contract.

(d) A new program manager or a temporary entity shall adhere to all applicable MAPPS requirements, including maintaining existing participation, educational assistance accounts, prioritization, and waitlists.

(4) A program manager that receives a final department decision may seek review of the decision from the Montana tax appeal board pursuant to 15-2-302.

(5) Either party aggrieved as a result of the decision of the Montana tax appeal board may seek judicial review pursuant to 15-2-303.

(6) If a program manager files an appeal pursuant to this section, a program manager may, at the discretion of the MAPPS council, continue to operate until the decision of the court is final.

(7) If a program manager relinquishes its position or is terminated, funds in the MAPPS account and unobligated funds in the operating account donated under the education tax credit under [section 8] must be held in escrow until a temporary entity is chosen to manage MAPPS or a new program manager is hired and begins payment of qualified education expenses.

(8) The identity of a taxpayer requesting or receiving an education tax credit is confidential tax information that is subject to the provisions of 15-30-2618.

NEW SECTION. Section 14. Parent and qualified education provider responsibilities --

1 **recordkeeping -- audits.** (1) ~~(a)~~ A parent of a participating student awarded an educational assistance account
2 and a qualified education provider chosen by a parent are responsible for submitting an invoice for qualified
3 education expenses to the program manager promptly for payment.

4 ~~(b) The program manager's records for invoices and payments of qualified education expenses~~
5 ~~may be subject to periodic audits by the department of administration. The audits may not be regular, arbitrary,~~
6 ~~discriminatory, or capricious.~~

7 (2) ~~(a)~~ A parent awarded education tax credits for the purchase of qualified education expenses:
8 ~~(a)~~ shall maintain records and receipts for all qualified education expenses purchased by the
9 parent; ~~and,~~

10 (b) ~~may be subject to a standard risk-based audit confirming qualified education expenses under~~
11 ~~MAPPS if the department of revenue has just cause and requests the audit. The audits may not be regular,~~
12 ~~arbitrary, discriminatory, or capricious. The department of revenue may investigate and examine the expenditure~~
13 ~~records of a parent claiming a tax credit under [section 7] in the same manner and to the same extent as the~~
14 ~~department may investigate a taxpayer pursuant to the department's authority under Title 15, chapter 1, part 3.~~

16 **NEW SECTION. Section 15. Responsibilities of public school districts -- student records.** A
17 public school or school district that previously enrolled a MAPPS participating student shall provide a qualified
18 education provider that has enrolled a participating student with a complete copy of the student's school
19 records, while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

21 **NEW SECTION. Section 16. Qualified education providers -- autonomy.** (1) A qualified education
22 provider is not an agent of the state or federal government.

23 (2) The superintendent of public instruction or any other state agency may not regulate the
24 educational program of a qualified education provider that enrolls a participating student, except as provided in
25 ~~20-5-109 [section 21].~~

26 (3) A qualified education provider is not required to alter its creed, practices, admission policy,
27 hiring policy, or curriculum in order to provide educational services to participating students or to accept
28 payment authorized by or received directly from parents of participating students.

(4) Qualified education providers must be given maximum freedom to provide for the educational needs of participating MAPPS students without governmental control.

(5) The creation of MAPPS does not expand the regulatory authority of the state, its officers, or a school district to impose additional regulation on qualified education providers under the program beyond that reasonably necessary to enforce the requirements of MAPPS.

NEW SECTION. Section 17. Legal proceedings. (1) In a legal proceeding challenging the application of [sections 1 through 17] to a qualified education provider, the state bears the burden of establishing that the law is necessary and does not impose any undue burden on the qualified education provider.

(2) If any part of [sections 1 through 17] is challenged in state court as violating either the state or federal constitutions, parents of participating students must be permitted to intervene as of right in the lawsuit for the purposes of defending MAPPS' constitutionality. However, for the purposes of judicial administration, a court may require that all parents file a joint brief, so long as they are not required to join a brief filed on behalf of a named state defendant.

NEW SECTION. Section 18. Credit for parent purchasing qualified education expenses. There is a credit against tax liability under this chapter for a parent's purchase of qualified education expenses as provided in [section 7].

NEW SECTION. Section 19. Credit for donations to MAPPS account. There is a credit against tax liability under this chapter for a donation made to the MAPPS account as provided in [section 8].

NEW SECTION. Section 20. Credit for donations to MAPPS account. There is a credit against tax liability under this chapter for a donation made to the MAPPS account as provided in [section 8].

NEW SECTION. Section 21. Requirements for compulsory enrollment exemption -- MAPPS. (1) To qualify a child for exemption from compulsory enrollment under 20-5-102, a parent participating in Montana's

academic prosperity program for scholars established in [sections 1 through 17] shall:

(a) maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;

(b) provide at least the minimum aggregate hours of pupil instruction in accordance with 20-1-301; and

(c) provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111.

(2) A student participating in Montana's academic prosperity program for scholars established in [sections 1 through 17] may not have on file with the county superintendent of schools a notification to home school pursuant to 20-5-109(5). If a student has a notification to home school on file, participation by the student in Montana's academic prosperity program for scholars established in [sections 1 through 17] nullifies the notification to homeschool for the student for the applicable school year.

Section 22. Section 15-30-2120, MCA, is amended to read:

"15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1)

The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

(b) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(c) depreciation or amortization taken on a title plant as defined in 33-25-105;

(d) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal

1 and

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

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

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

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

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

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

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

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

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

19

20 **Section 24.** Section 20-5-102, MCA, is amended to read:

21 **"20-5-102. Compulsory enrollment and excuses.** (1) Except as provided in subsection (2), any
22 parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older
23 prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program
24 prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

25 (a) the child's 16th birthday; or

26 (b) the date of completion of the work of the 8th grade.

27 (2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees
28 of the district within the first week of the school term or when the parent, guardian, or person establishes

residence in the district unless the child is any of the following:

(a) enrolled in a school of another district or state under any of the tuition provisions of this title;

(b) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;

(c) excused from compulsory school attendance upon a determination by a district judge that attendance is not in the best interest of the child;

(d) excused by the board of trustees upon a determination that attendance by a child who has attained the age of 16 is not in the best interest of the child and the school; or

(e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the purposes of this subsection (2)(e), a home school is the instruction by a parent of the parent's child, stepchild, or ward in the parent's residence and a nonpublic school includes a parochial, church, religious, or private school. A child enrolled in a nonpublic or home school may enroll on a part-time basis in a public school.

(f) participating in Montana's academic prosperity program for scholars established in [sections 1 through 17] and meeting the requirements under ~~20-5-109(2)~~ [section 21]. A child participating in Montana's academic prosperity program for scholars may enroll on a part-time basis in a public school, public charter school, or community choice school."

Section 24. Section 20-5-109, MCA, is amended to read:

~~"20-5-109. Nonpublic school requirements for compulsory enrollment exemption. (1) To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school:~~

~~(1)(a) shall maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;~~

~~(2)(b) shall provide at least the minimum aggregate hours of pupil instruction in accordance with 20-1-301 and 20-1-302;~~

~~(3)(c) must be housed in a building that complies with applicable local health and safety regulations;~~

~~(4)(d) shall provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111; and~~

~~(5)(e) in the case of home schools, shall notify the county superintendent of schools of the county in~~

~~which the home school is located in each school fiscal year of the student's attendance at the school.~~

~~(2) To qualify a child for exemption from compulsory enrollment under 20-5-102, a parent participating in Montana's academic prosperity program for scholars established in [sections 1 through 17] shall:~~

~~(a) maintain records on pupil attendance and disease immunization and make the records available to the county superintendent of schools on request;~~

~~(b) provide at least the minimum aggregate hours of pupil instruction in accordance with 20-1-301;~~

~~and~~

~~(c) provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111."~~

NEW SECTION. Section 25. Codification instruction. (1) [Sections 1 through 17] are intended to be codified as a new part in Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 1 through 17].

(2) [Sections 18 and 19] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 18 and 19].

(3) [Section 20] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 20].

~~(4) [Section 21] is intended to be codified as an integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1, apply to [section 21].~~

NEW SECTION. Section 26. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 27. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 28. Applicability. [This act] applies to tax years beginning after December 31, 2025.