

HOUSE BILL NO. 320

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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, 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".

NEW SECTION. **Section 2. Montana's academic prosperity program for scholars -- legislative**

findings -- purposes -- intent. (1) The legislature finds, pursuant to the authority and duties provided in Article

X, section 1, of the Montana constitution, that:

(a) to further the goals of developing the full educational potential of each child in the state and to support equality of educational opportunity for all students, a parent must have maximum flexibility to meet the educational needs of the parent's child;

(b) to further the state's recognition of the distinct and unique cultural heritage of American Indians and the state's commitment to advancing the educational goals of the preservation of American Indian cultural integrity, a parent must have maximum flexibility to meet the needs of the parent's children;

(c) providing opportunities for the creation of educational options capable of meeting the unique needs of students in all communities is critical to the fulfillment of each person's educational potential;

(d) expanding educational options within the state is a valid public purpose necessary to ensure equal educational opportunity for all children of the state and is vital to the preservation of liberty and the economic competitiveness and cultural enrichment of the state; and

(e) it is vital to the economic competitiveness and success of the state and its residents to create pathways to accessible educational options that:

(i) empower a parent to direct the education of the parent's children;

(ii) inspire a student to learn at the student's full potential;

(iii) offer an education provider a variety of professional opportunities; and

(iv) incentivize educational entrepreneurship.

(2) The purposes of [sections 1 through 17] are to:

(a) offer a parent greater flexibility to meet the educational needs of the state's diverse student population;

(b) support greater familial autonomy and responsibility for the education of children to improve educational outcomes and lifelong success; and

(c) provide an option to educate Montana students through a privately funded income tax credit education program whose participation by a parent and donor is voluntary, and which is in addition to the state's obligation to provide and fund the state's share of the cost of a basic system of public schools.

(3) The legislature intends that the MAPPS council and the program manager recognize the liberty

1 of a parent to direct the upbringing and education of the parent's child and respect parental autonomy when the
2 parent chooses qualified education expenses to meet the child's individual instructional education needs.

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

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

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

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

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

15 (5) "Educational assistance" means money expended through MAPPS on qualified education
16 expenses not exceeding the annual educational assistance maximum on behalf of participating students either:

17 (a) paid from an educational assistance account; or

18 (b) purchased by a parent.

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

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

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

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

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

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

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

(ii) is not ~~enrolled full-time as defined in~~ counted for more than one-quarter-time enrollment under 20-9-311(4) in the public school system, community choice schools, or public charter schools while participating in MAPPS;

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

(iv) for eligibility for an educational assistance account, is from a household with an annual household income not exceeding ~~500%~~ 300% of the federal poverty level in the year prior to application.

(b) A student participating in the Montana special needs equal opportunity education savings account program pursuant to Title 20, chapter 7, part 17, ~~who meets the requirements of subsection (8)(a)~~ is not an eligible student.

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

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

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

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

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

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

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

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

(c) solicits donations to and administers the MAPPS account, administers educational assistance 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 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

1 education programs, including those similar to MAPPS;

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

3 (d) the applicant's most recent audit report and proof of tax-exempt status under section 501(c)(3)

4 of the Internal Revenue Code, 26 U.S.C. 501(c)(3); and

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

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

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

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

20

21 **NEW SECTION. Section 6. MAPPS council -- determining qualified education expenses --**

22 **appeals process -- reporting.** (1) The MAPPS council shall develop and update annually a comprehensive list
23 of qualified education expenses by October 1. The council may update the list throughout the year. The list
24 must be developed and updated after a review of best practices for approved expenses from other states with
25 similar programs and after consultation with the program manager, educators, parents, and others providing
26 educational services. In developing the list, considering requests for review, and handling appeals under this
27 section, the council shall respect and comply with the intent of the legislature as described in [section 2] and be
28 consistent with the legislative goals for education under 20-1-102 and the basic instructional program for pupils

1 referenced in 20-7-111.

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

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

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

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

11 (c) The appeal procedure must include:

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

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

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

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

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

24

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

26 **expenses -- rulemaking.** (1) There is an education tax credit allowed against the tax imposed by Title 15,

27 chapter 30, available to a parent of a participating student in MAPPS for the purchase of qualified education

28 expenses for the participating student.

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

(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 tax credit not used in the year earned must be carried first to the earliest tax 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 both [section 8(4)(a)(iii)] and subsection (4)(a)(iii) was of this section were preapproved by the department of revenue. If ~~this condition is both of these conditions are~~ satisfied, the aggregate limit of tax credits under this section must be increased by ~~25%-20%~~ for the succeeding tax year, not to exceed \$10 million.

(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).

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

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

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

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

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

1 participating student.

2 (6) Following preapproval by the department of revenue, the program manager shall issue a
3 receipt of approval for an education tax credit in a form prescribed by the department of revenue to the parent
4 of the participating student indicating the value of the credit.

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

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

9 (9) A parent may be subject to a standard risk-based audit requested by the department of
10 revenue of qualified education expenses and payments under MAPPS if the department of revenue has just
11 cause. An audit under this subsection may not be regular, arbitrary, discriminatory, or capricious.

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

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

16
17 **NEW SECTION. Section 8. Education tax credits for donations to MAPPS account.** (1) A
18 taxpayer or corporation is allowed a credit against the tax imposed by Title 15, chapter 30 or 31, for donations
19 made to the program manager for deposit in the MAPPS account. The donor may not direct or designate
20 donations to a specific student, parent, legal guardian, or qualified education provider. The amount of the
21 education tax credit allowed is equal to the amount of the donation, not to exceed \$200,000 in a single tax year.

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

25 (3) The education tax credit allowed under this section may not exceed the taxpayer's income tax
26 liability but may be carried forward for 3 years. The entire amount of the education tax credit not used in the
27 year earned must be carried first to the earliest year in which the credit may be applied and then to each
28 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 both [section 7(4)(a)(iii)] and subsection (4)(a)(iii) ~~was of~~ this section were preapproved by the department of revenue. If ~~this condition is both of these conditions are~~ satisfied, the aggregate limit of tax credits under this section must be increased by ~~25%-20%~~ for the succeeding tax year, not to exceed \$10 million.

(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).

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

(9) 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) 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:

(a) develop and execute a statewide outreach and education plan to ensure that all Montana parents and donors are aware of and understand MAPPS;

(b) maintain a website with information on:

(i) application procedures and timelines;

(ii) the availability of education tax credits;

(iii) qualified education expenses and qualified education providers;

(iv) the council's process for requesting review of education expenses and appealing the decision of the program manager; and

(v) frequently asked questions for taxpayers, parents, and education providers; and

(c) answer questions about the program and how to comply with its requirements.

(2) (a) No later than the third Friday in October, the program manager shall make applications available for education tax credits for parents under [section 7] and for educational assistance accounts under [section 11].

(b) The application must require information to ensure a student's eligibility and allow a parent to request an amount of educational assistance up to the annual educational assistance maximum.

(c) Each eligible student requires a separate application.

(d) If a student is eligible for an educational assistance account, the student's parent may apply for both an education tax credit for parents under [section 7] and for an educational assistance account under [section 11], but a participating student may not receive educational assistance in a tax year in excess of the annual educational assistance maximum.

(e) The application period must close by the third Friday of January, and the program manager

1 shall determine participating students as described in [section 10].

2

3 **NEW SECTION. Section 10. Program manager duties -- participating student determination --**

4 **prioritization -- lotteries.** (1) After receiving applications as described in [section 9], the program manager
5 shall, as quickly as possible and no later than the third Friday of February, determine participating students for
6 the education tax credits for parents under [section 7] and for educational assistance accounts under [section
7 11] as described in this section.

8 (2) Following the first year of MAPPS, the program manager shall prioritize participating students
9 from the applications in the following order:

10 (a) participating students from the prior year; and

11 (b) eligible students who are siblings of participating students from the prior year on a first-come,
12 first-served basis.

13 (3) In the first year of MAPPS and in subsequent years after first applying the prioritization under
14 subsection (2):

15 (a) if the amount of educational assistance requested by parents applying for education tax credits
16 for purchasing qualified education expenses under [section 7] exceeds the aggregate cap for tax credits for
17 parents purchasing qualified education expenses under [section 7], the program manager shall conduct a
18 lottery of applicants as described in subsection (4); and

19 (b) if the amount of educational assistance requested by parents applying for educational
20 assistance accounts under [section 11] exceeds either the aggregate cap for tax credits for donations to the
21 MAPPS account under [section 8] or the amount of available funds in the MAPPS account, the program
22 manager shall conduct a lottery of applicants as described in subsection (4).

23 (4) (a) If a lottery under subsection (3)(a) or (3)(b) is required, the program manager shall contract
24 with a third-party vendor to conduct the lottery by assigning one lottery entry for each family with eligible
25 students applying to MAPPS who were not admitted under the prioritization pursuant to subsection (2) for entry
26 into the appropriate lottery or both lotteries if a parent of an eligible student applied for both an educational
27 assistance account under [section 11] and education tax credits for parents under [section 7].

28 (b) The program manager shall ensure that the third-party vendor has no access to information

1 from the applications.

2 (c) A lottery conducted under subsection (3)(b) must be used to establish a waitlist. If additional
3 funding is received or a participating student withdraws from MAPPS prior to expending funds from the
4 student's educational assistance account, the program manager shall award an educational assistance account
5 based on a student's placement on the waitlist. The waitlist from the prior year does not carry over to a
6 subsequent year.

7 (d) If a lottery is conducted under this section, the lottery must be conducted in a public meeting
8 convened by the MAPPS council.

9 (5) Following a lottery, the program manager shall determine additional participating students in
10 family groups based on the order established by the lottery.

11
12 **NEW SECTION. Section 11. Program manager duties -- administering MAPPS account and**
13 **educational assistance accounts.** (1) (a) The program manager shall solicit donations to MAPPS, administer
14 the MAPPS account, and award and fund educational assistance accounts as described in this section. The
15 program manager may accept donations to MAPPS not qualifying for the education tax credit for purposes
16 including but not limited to educational assistance, operations, administration, and marketing.

17 (b) The program manager may accept donations qualifying for a federal tax credit subject to
18 requirements of the applicable federal tax credit. Donations accepted under this subsection (1)(b) are not
19 incorporated in MAPPS.

20 (2) The program manager shall:

21 (a) allocate to the MAPPS account not less than 90% of its annual revenue from donations to
22 MAPPS eligible for the education tax credit under [section 8] for payment of qualified education expenses
23 funded through educational assistance accounts; and

24 (b) allocate to a separate operating account not more than 10% of its annual revenue from
25 donations to MAPPS eligible for the education tax credit under [section 8] to MAPPS for operational purposes.

26 (3) Following the determination of participating students whose parents have applied for an
27 educational assistance account, the program manager shall establish an educational assistance account for
28 each participating student with funding equal to the annual educational assistance maximum, unless a lesser

amount was requested by the parent in the parent's application.

(4) The program manager shall promptly pay an invoice for a qualified education expense from a participating student's educational assistance account on request of the participating student's parent and shall send funds directly to a qualified education provider on behalf of a participating student for a qualified education expense.

(5) The program manager shall implement a commercially viable, cost-effective, and parent-friendly system for payment of qualified education expenses from educational assistance accounts to parents and qualified education providers by electronic or online funds transfer, and the program manager may contract with one or more entities to operate these systems.

(6) (a) Remaining funds in a participating student's educational assistance account at the end of a tax year may remain in the student's account for payment of qualified education expenses on behalf of the student in subsequent years so long as the student remains an eligible student.

(b) Unused funds at the time a participating student becomes ineligible for any reason must revert to the MAPPS account.

(7) The program manager may not restrict or reserve educational assistance for use with a particular qualified education provider or prohibit a participating student to enroll with a qualified education provider.

(8) The identity of a parent or a participating student receiving educational assistance from an educational assistance account under this section is confidential.

NEW SECTION. Section 12. Program manager -- annual review and reporting duties. (1) The

program manager shall:

(a) complete an annual fiscal review of all accounts held by the program manager related to MAPPS, including the MAPPS account, the program manager's operating account, and the council's account, if one is established, by an independent certified public accountant within 120 days after the close of the tax year, which discloses for each of the three most recently and available completed tax years:

(i) the total number and dollar value of individual and corporate contributions to the MAPPS account;

- 1 (ii) the total number and dollar value of education tax credits requested under [section 7];
- 2 (iii) the total number and dollar value of educational assistance accounts obligated to eligible
- 3 students;
- 4 (iv) the total number and dollar value of educational assistance expenditures from educational
- 5 assistance accounts;
- 6 (v) a categorization of use of qualified education expenses from educational assistance accounts;
- 7 (vi) the demographics of participating students; and
- 8 (vii) the cost of the annual fiscal review;
- 9 (b) submit the annual fiscal review report to the department and the MAPPS council within 150
- 10 days of the close of the calendar year; and
- 11 (c) assist the MAPPS council in the creation and submission of the annual joint report required
- 12 under [section 6].
- 13 (2) The annual fiscal review must include documentation from the program manager to show it has
- 14 obligated at least 90% of its annual revenue from donations to MAPPS for educational assistance accounts. For
- 15 the purposes of this calculation:
- 16 (a) the cost of the annual fiscal review provided for in this section may be paid out of the total
- 17 donations before calculation of the 90% minimum obligation amount under [section 11]; and
- 18 (b) donations subject to the 90% minimum obligation amount that are received in 1 calendar year
- 19 must be used to fund educational assistance accounts within the 3 calendar years following the donation.
- 20

21 **NEW SECTION. Section 13. Review determination, termination, and confidentiality.** (1) If the

22 program manager fails to meet the requirements in administering MAPPS under this part, the program manager

23 is subject to termination review as provided in this section. Subject to subsection (8), the department is

24 authorized to examine books, papers, records, or memoranda relevant to determine whether the program

25 manager is in compliance with the requirements of MAPPS.

26 (2) If the program manager is not in compliance, the department shall provide the MAPPS council

27 and the program manager written notice of the specific failures. The program manager shall submit a correction

28 plan acceptable to the department within 30 days from the date of the notice to correct deficiencies. If the

1 program manager fails to correct all deficiencies within 30 days or within the timeline of the correction plan
2 accepted by the department, the department shall provide final written notice of the failure to the program
3 manager and MAPPS council. The program manager may appeal the department's determination of failure to
4 comply according to the uniform dispute review procedure in 15-1-211 within 30 days of the date of the notice
5 or an agreed-on timeframe.

6 (3) (a) If the program manager does not seek review under 15-1-211 or if the dispute is not
7 resolved, the department shall issue a final department decision.

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

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

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

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

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

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

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

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

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

28 (7) If a program manager relinquishes its position or is terminated, funds in the MAPPS account

1 and unobligated funds in the operating account donated under the education tax credit under [section 8] must
2 be held in escrow until a temporary entity is chosen to manage MAPPS or a new program manager is hired and
3 begins payment of qualified education expenses.

4 (8) The identity of a taxpayer requesting or receiving an education tax credit is confidential tax
5 information that is subject to the provisions of 15-30-2618.
6

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

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

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

14 (2) A parent awarded education tax credits for the purchase of qualified education expenses:

15 (a) shall maintain records and receipts for all qualified education expenses purchased by the
16 parent; and

17 (b) may be subject to a standard risk-based audit confirming qualified education expenses under
18 MAPPS if the department of revenue has just cause and requests the audit. The audits may not be regular,
19 arbitrary, discriminatory, or capricious.
20

21 **NEW SECTION. Section 15. Responsibilities of public school districts -- student records.** A

22 public school or school district that previously enrolled a MAPPS participating student shall provide a qualified
23 education provider that has enrolled a participating student with a complete copy of the student's school
24 records, while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.
25

26 **NEW SECTION. Section 16. Qualified education providers -- autonomy.** (1) A qualified education

27 provider is not an agent of the state or federal government.

28 (2) The superintendent of public instruction or any other state agency may not regulate the

educational program of a qualified education provider that enrolls a participating student, except as provided in 20-5-109.

(3) A qualified education provider is not required to alter its creed, practices, admission policy, hiring policy, or curriculum in order to provide educational services to participating students or to accept 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].

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

3
4 **Section 21.** Section 15-30-2120, MCA, is amended to read:

5 **"15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1)**

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

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

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

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

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

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

18 (e) an item of income, deduction, or expense to the extent that it was used to calculate federal
19 taxable income if the item was also used to calculate a credit against a Montana income tax liability;

20 (f) a deduction for an income distribution from an estate or trust to a beneficiary that was included
21 in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal
22 Revenue Code, 26 U.S.C. 651 and 661;

23 (g) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for
24 a purpose other than an eligible medical expense or long-term care of the employee or account holder or a
25 dependent of the employee or account holder;

26 (h) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63,
27 used for a purpose other than for eligible costs for the purchase of a single-family residence;

28 (i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A

1 of the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction
2 claimed;

3 (j) for an individual taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the
4 Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction
5 claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161
6 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under
7 section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c); and

8 (k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant
9 to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3).

10 (3) To the extent they are included as income or gain or not already excluded as a deduction or
11 expense in determining federal taxable income, the following are subtracted from federal taxable income:

12 (a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance
13 with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the
14 additions and subtractions in subsections (2) and (3)(b) through ~~(3)(e)~~ (3)(p);

15 (b) if exempt from taxation by Montana under federal law:

16 (i) interest from obligations of the United States government and exempt-interest dividends
17 attributable to that interest; and

18 (ii) railroad retirement benefits;

19 (c) (i) salary received from the armed forces by residents of Montana who are serving on active
20 duty in the regular armed forces and who entered into active duty from Montana;

21 (ii) the salary received by residents of Montana for active duty in the national guard. For the
22 purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national
23 guard member pursuant to:

24 (A) Title 10, U.S.C.; or

25 (B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency
26 operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland
27 defense activity or contingency operation.

28 (iii) the amount received by a beneficiary pursuant to 10-1-1201; and

(iv) all payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law, Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(d) annual contributions and income in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(e) contributions or earnings withdrawn from a family education savings account provided for in Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified education expenses, as defined in 15-62-103, of a designated beneficiary;

(f) interest and other income related to contributions that were made prior to January 1, 2024, that are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;

(h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104;

(i) educational assistance for a participating student provided from an educational assistance account pursuant to [section 11];

~~(j)(l)~~ a payment received by a private landowner for providing public access to public land pursuant to Title 76, chapter 17, part 1;

~~(j)(k)~~ the amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not previously allowed as a deduction for Montana income tax purposes;

~~(k)(l)~~ the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

~~(h)(m)~~ the amount of the gain recognized from the sale or exchange of a mobile home park as

provided in 15-31-163;

~~(m)(n)~~ payments from the Montana end of watch trust as provided in 2-15-2041;

~~(n)(o)~~ (i) subject to subsection (9), a portion of military pensions or military retirement income as calculated pursuant to subsection (8) that is received by a retired member of:

(A) the armed forces of the United States, as defined in 10 U.S.C. 101;

(B) the Montana army national guard or the army national guard of other states;

(C) the Montana air national guard or the air national guard of other states; or

(D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and

(ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military service provided for in subsection ~~(3)(n)(i)(A)~~ ~~(3)(o)(i)(A)~~ through ~~(3)(n)(i)(D)~~ ~~(3)(o)(i)(D)~~; and

~~(o)(p)~~ the amount of the property tax rebate received under 15-1-2302.

(4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's business deductions:

(i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken; or

(ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the amount of the business expense paid when there is no corresponding state income tax credit or deduction, regardless of the credit taken.

(b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or business expenses were used to compute the credit. In the case of a partnership or small business corporation, the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.

1 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each
2 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions
3 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or
4 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not
5 apply with respect to withdrawals of contributions that reduced federal taxable income.

6 (b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for
7 in 15-62-208.

8 (6) (a) An individual who contributes to one or more accounts established under the Montana
9 achieving a better life experience program or to a qualified program established and maintained by another
10 state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of
11 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions
12 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as
13 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with
14 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or
15 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of
16 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

17 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in
18 53-25-118.

19 (7) By November 1 of each year, the department shall multiply the subtraction from federal taxable
20 income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for
21 that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must
22 be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

23 (8) (a) Subject to subsection (9), the subtraction in subsection ~~(3)(n)(i)~~ (3)(o)(i) is equal to the
24 lesser of:

25 (i) the amount of Montana source wage income on the return; or

26 (ii) 50% of the taxpayer's military pension or military retirement income.

27 (b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

28 (i) wages, salary, tips, and other compensation for services performed in the state;

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- 1 (ii) net income from a trade, business, profession, or occupation carried on in the state; and
- 2 (iii) net income from farming activities carried on in the state.
- 3 (9) The subtractions in subsection ~~(3)(n)~~ (3)(o):
- 4 (a) may only be claimed by a person who:
- 5 (i) becomes a resident of the state after June 30, 2023; or
- 6 (ii) was a resident of the state before receiving military pension or military retirement income and
- 7 remained a resident after receiving military pension or military retirement income;
- 8 (b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a);
- 9 and
- 10 (c) are not available if a taxpayer claimed the exemption before becoming a nonresident.
- 11 (Subsection ~~(3)(e)~~ (3)(p) terminates June 30, 2025--sec. 10, Ch. 47, L. 2023; subsections ~~(3)(n)~~ (3)(o), (8), and
- 12 (9) terminate December 31, 2033--sec. 4, Ch. 650, L. 2023.)"
- 13

14 **Section 22.** Section 15-30-2303, MCA, is amended to read:

- 15 **"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits
- 16 must be reviewed during the biennium commencing July 1, 2021, and during each biennium commencing 8
- 17 years thereafter:
- 18 (a) the credit for donations to innovative educational programs provided for in 15-30-2334, 15-30-
- 19 3110, and 15-31-158;
- 20 (b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-
- 21 30-3111, and 15-31-159; and
- 22 (c) the adoption tax credit provided for in 15-30-2321;
- 23 (d) the credit for a parent purchasing qualified education expenses provided for in [sections 7 and
- 24 18]; and
- 25 (e) the credit for donations to the MAPPS account provided for in [sections 8, 19, and 20].
- 26 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and
- 27 during each biennium commencing 8 years thereafter:
- 28 (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.

(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;

- 1 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;
- 2 (c) whether the credit has out-of-state beneficiaries;
- 3 (d) the timing of costs and benefits of the credit and how long the credit is effective;
- 4 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
- 5 elimination outweigh adverse impacts; and
- 6 (f) the extent to which benefits of the credit affect the larger economy. (Subsection (3)(c)
- 7 terminates December 31, 2028--sec. 4, Ch. 391, L. 2023; subsection (3)(d) terminates December 31, 2028--
- 8 sec. 2, Ch. 576, L. 2023; subsection (1)(c) terminates December 31, 2031--sec. 6, Ch. 493, L. 2023.)"
- 9

10 **Section 23.** Section 20-5-102, MCA, is amended to read:

11 **"20-5-102. Compulsory enrollment and excuses.** (1) Except as provided in subsection (2), any

12 parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older

13 prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program

14 prescribed by the board of public education pursuant to 20-7-111 until the later of the following dates:

- 15 (a) the child's 16th birthday; or
- 16 (b) the date of completion of the work of the 8th grade.
- 17 (2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees
- 18 of the district within the first week of the school term or when the parent, guardian, or person establishes
- 19 residence in the district unless the child is any of the following:

- 20 (a) enrolled in a school of another district or state under any of the tuition provisions of this title;
- 21 (b) provided with supervised correspondence study or supervised home study under the
- 22 transportation provisions of this title;
- 23 (c) excused from compulsory school attendance upon a determination by a district judge that
- 24 attendance is not in the best interest of the child;
- 25 (d) excused by the board of trustees upon a determination that attendance by a child who has
- 26 attained the age of 16 is not in the best interest of the child and the school; or
- 27 (e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the
- 28 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). 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."

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

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

6 (3) [Section 20] is intended to be codified as an integral part of Title 15, chapter 31, and the
7 provisions of Title 15, chapter 31, apply to [section 20].
8

9 **NEW SECTION. Section 26. Severability.** If a part of [this act] is invalid, all valid parts that are
10 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
11 the part remains in effect in all valid applications that are severable from the invalid applications.
12

13 **NEW SECTION. Section 27. Effective date.** [This act] is effective on passage and approval.
14

15 **NEW SECTION. Section 28. Applicability.** [This act] applies to tax years beginning after December
16 31, 2025.
17

- END -