



AN ACT REVISING LAWS RELATED TO THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; REMOVING THE ASSESSMENT REQUIREMENTS FOR QUALIFIED EDUCATION PROVIDERS; REVISING LIMITS ON SCHOLARSHIP AMOUNTS; ALLOWING TAX CREDITS EARNED UNDER THE PROGRAMS TO BE CARRIED FORWARD; REVISING THE TAX CREDIT LIMIT AND THE AGGREGATE LIMIT OF CREDITS UNDER THE PROGRAMS; REVISING THE PREAPPROVAL PROCESS FOR THE TAX CREDIT SCHOLARSHIP PROGRAM; STREAMLINING THE DONATION PROCESS FOR THE INNOVATIVE EDUCATION PROGRAM; EXTENDING THE TERMINATION DATE FOR THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; AMENDING SECTIONS 15-30-3101, 15-30-3102, 15-30-3103, 15-30-3104, 15-30-3106, 15-30-3110, 15-30-3111, AND 15-30-3113, MCA; AMENDING SECTION 33, CHAPTER 457, LAWS OF 2015; REPEALING SECTIONS 20-9-901, 20-9-902, 20-9-903, 20-9-904, 20-9-905, AND 20-9-906, MCA; REPEALING SECTIONS 24, 25, 26, AND 27, CHAPTER 457, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.

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

Section 1. Section 15-30-3101, MCA, is amended to read:

"15-30-3101. (Temporary) Purpose. Pursuant to 5-4-104, the legislature finds that the purpose of student scholarship organizations is to provide parental and student choice in education with private ~~contributions~~ donations through tax replacement programs. ~~The tax credit for taxpayer donations under this part must be administered in compliance with Article V, section 11(5), and Article X, section 6, of the Montana constitution.~~ (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

Section 2. Section 15-30-3102, MCA, is amended to read:

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

- (1) "Department" means the department of revenue provided for in 2-15-1301.
- (2) "Donation" means a gift of cash.
- ~~(2)(3)~~ (3) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on or before September 10 of the year of attendance and has not yet reached 19 years of age.
- ~~(3)~~ "Geographic region" has the meaning provided in 20-9-903.
- ~~(4)~~ "Large district" has the meaning provided in 20-9-903.
- (4) "Innovative educational program" includes any of the following:
 - (a) transformational learning as defined in 20-7-1602;
 - (b) advanced opportunity as defined in 20-7-1503;
 - (c) any program, service, instructional methodology, or adaptive equipment used to expand opportunity for a child with a disability as defined in 20-7-401;
 - (d) any courses provided through work-based learning partnerships or for postsecondary credit or career certification; and
 - (e) technology enhancements, including but not limited to any expenditure incurred for purposes specified in 20-9-533.
- (5) "Partnership" has the meaning provided in 15-30-2101.
- (6) "Pass-through entity" has the meaning provided in 15-30-2101.
- (7) "Qualified education provider" means an education provider that:
 - (a) is not a public school;
 - (b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or national accreditation organization; or
 - (ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;
 - (c) is not a home school as referred to in 20-5-102(2)(e);
 - ~~(d) administers a nationally recognized standardized assessment test or criterion-referenced test and:~~
 - ~~(i) makes the results available to the child's parents or legal guardian; and~~
 - ~~(ii) administers the test for all 8th grade and 11th grade students and provides the overall scores on a~~

~~publicly accessible private website or provides the composite results of the test to the office of public instruction for posting on its website;~~

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

and

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

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

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

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

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

(c) provides educational scholarships to eligible students without limiting student access to only one education provider.

(10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

Section 3. Section 15-30-3103, MCA, is amended to read:

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

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

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

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

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

(c) shall provide scholarships to eligible students to attend instruction offered by a qualified education provider;

(d) may not provide a scholarship to an eligible student for an academic year that exceeds 50% of the per-pupil average of total public school expenditures calculated in 20-9-570;

~~(e) shall ensure that the organization's average scholarship for an academic year does not exceed 30% of the per-pupil average of total public school expenditures calculated in 20-9-570;~~

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

~~(g)~~(f) may transfer funds to another student scholarship organization;

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

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

(2) An organization that fails to satisfy the conditions of this section is subject to termination as provided in 15-30-3113. (Terminates December 31, 2023 ~~2029--sec. 33, Ch. 457, L. 2015.~~)"

Section 4. Section 15-30-3104, MCA, is amended to read:

"15-30-3104. (Temporary) Tuition payment limitation. (1) A student scholarship organization shall deliver the scholarship funds directly to the qualified education provider selected by the parents or legal guardian of the child to whom the scholarship was awarded. The qualified education provider shall immediately notify the parents or legal guardian that the payment was received.

(2) A parent or legal guardian of an eligible student may not accept one or more scholarship awards from a student scholarship organization for an eligible student if the total amount of the awards exceeds 50% of the per-pupil average of total public school expenditures calculated in 20-9-570. This limitation applies to each eligible student of a parent or legal guardian. (Terminates December 31, 2023 ~~2029--sec. 33, Ch. 457, L. 2015.~~)"

Section 5. Section 15-30-3106, MCA, is amended to read:

"15-30-3106. (Temporary) Student scholarship organizations -- listing on website. (1) The

department shall maintain on its website a hyperlink to a current list of all:

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

~~(b)(2)~~ qualified education providers that accepted scholarship funds from a student scholarship organization.

~~(2)~~ The list must include:

~~(a)~~ a statistical compilation of the information received from the student scholarship organizations;

and

~~(b)~~ a hyperlink to the qualified education provider's overall testing scores contained on a publicly accessible private website or to the office of public instruction's website pursuant to 15-30-3102(7)(d)(ii).

(Terminates December 31, ~~2023~~ 2029 --sec. 33, Ch. 457, L. 2015.)"

Section 6. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to ~~the educational improvement account provided for in 20-9-905~~ a school district for the purpose of providing supplemental funding to ~~public schools~~ the school district for innovative educational programs and ~~technology deficiencies. The taxpayer may direct the donation to a geographic region or a large district as provided in 20-9-904 (2)(b).~~ The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$450~~ \$150. A district shall deposit a donation made for an innovative educational program into the district's miscellaneous programs fund and shall limit the expenditure of the donation to expenditures for innovative educational programs of the district.

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

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability. There is

no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.

~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 \$1 million per year beginning in tax year 2016 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this subsection (4)(a).

(ii) Beginning in 2017, by August 1 2023, by December 31 of each year, the department shall determine if ~~\$3 million or the 80%~~ of the aggregate limit provided for in subsection (5)(a)(iii) (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by ~~40% 20%~~ for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 (5)(a)(ii) (4)(a)(ii).

~~(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.~~

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

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6) After consultation with the superintendent of public instruction, the department may develop an internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax~~

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

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

(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December 31, 2023 ~~2029~~ sec. 33, Ch. 457, L. 2015.)"

Section 7. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax credit before making a donation. (Terminates December 31, ~~2023~~ 2029—~~sec. 33, Ch. 457, L. 2015.~~)"

Section 8. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection ~~(5)(4)~~, a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative

educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer

for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax credit before making a donation. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

Section 9. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax credit before making a donation. (Terminates December 31, ~~2023~~ 2029—~~sec. 33, Ch. 457, L. 2015.~~)"

Section 10. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection ~~(5)(4)~~, a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative

educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer

for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax credit before making a donation. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

Section 11. Section 15-30-3110, MCA, is amended to read:

"15-30-3110. (Temporary) Credit for providing supplemental funding to public schools -- innovative educational program. (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to the educational improvement account provided for in 20-9-905 for the purpose of providing supplemental funding to public schools for innovative educational programs and technology deficiencies. The taxpayer may direct the donation to a geographic region or a large district as provided in 20-9-904(2)(b). The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in donations was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of donations for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ After consultation with the superintendent of public instruction, the department may develop an internet-based registration system that provides taxpayers with the opportunity to obtain preapproval for a tax credit before making a donation. (Terminates December 31, ~~2023~~ 2029—~~sec. 33, Ch. 457, L. 2015.~~)"

Section 12. Section 15-30-3111, MCA, is amended to read:

"15-30-3111. (Temporary) Qualified education tax credit for ~~contributions~~ donations to student scholarship organizations. (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate ~~contributions~~ donations to a parent, legal guardian, or specific qualified

education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$150.

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

(b) A ~~contribution~~ donation by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability. There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.

~~(4) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is ~~\$3~~ \$1 million per year beginning in tax year 2016 2022 and \$2 million per year in tax year 2023 and subsequent tax years except as provided in this subsection (4)(a).

(ii) Beginning in ~~2017, by August 1 2023, by December 31~~ of each year, the department shall determine if ~~\$3 million or the 80% of the~~ aggregate limit provided for in subsection ~~(5)(a)(iii) (4)(a)(iii)~~ in tax credits was preapproved by the department. If this condition is satisfied, the aggregate amount limit of tax credits allowed must be increased by ~~40% 20%~~ for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii) (4)(a)(ii)~~.

~~(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.~~

(b) The aggregate limit under this subsection (4) applies to the year in which a donation is made

regardless of whether the full credit is claimed in that tax year or carried forward.

~~(6)~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)~~(6) ~~The department may develop an internet-based registration system that provides donors with the opportunity to obtain preapproval for a tax credit before making a contribution.~~ (a) On receiving a donation under this part, a student scholarship organization shall seek preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the aggregate limit under subsection (4).

(b) On preapproval by the department, a student scholarship organization shall issue a receipt, in a form prescribed by the department, to each contributing taxpayer indicating the value of the donation received and preapproval of the tax credit.

(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit. (Terminates December 31, 2023 ~~2029~~ ~~sec. 33, Ch. 457, L. 2015.~~)"

Section 13. Section 15-30-3111, MCA, is amended to read:

"15-30-3111. (Temporary) Qualified education tax credit for contributions to student scholarship organizations. (1) Subject to subsection ~~(5)~~(4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A contribution by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ The department may develop an internet-based registration system that provides donors with

the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31, 2023 ~~2029~~—sec. 33, Ch. 457, L. 2015.)"

Section 14. Section 15-30-3111, MCA, is amended to read:

"15-30-3111. (Temporary) Qualified education tax credit for contributions to student scholarship organizations. (1) Subject to subsection ~~(5)~~(4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A contribution by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~(4)(a)(iii) in tax credits was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(ii)~~ (4)(a)(ii).

(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ The department may develop an internet-based registration system that provides donors with the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31, 2023 ~~2029--sec. 33, Ch. 457, L. 2015.~~)"

Section 15. Section 15-30-3111, MCA, is amended to read:

"15-30-3111. (Temporary) Qualified education tax credit for contributions to student scholarship organizations. (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A contribution by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ The department may develop an internet-based registration system that provides donors with the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31, ~~2023~~ 2029 ~~sec. 33, Ch. 457, L. 2015.~~)"

Section 16. Section 15-30-3111, MCA, is amended to read:

"15-30-3111. (Temporary) Qualified education tax credit for contributions to student scholarship organizations. (1) Subject to subsection ~~(5)~~ (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A contribution by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)~~(4) (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(iii)~~ (4)(a)(ii).

(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)~~(5) A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)~~(6) The department may develop an internet-based registration system that provides donors with the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31, 2023 ~~2029~~—sec. 33, Ch. 457, L. 2015.)"

Section 17. Section 15-30-3111, MCA, is amended to read:

"15-30-3111. (Temporary) Qualified education tax credit for contributions to student scholarship organizations. (1) Subject to subsection ~~(5)~~(4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or designate contributions to a parent, legal guardian, or specific qualified education provider. The amount of the credit allowed is equal to the amount of the donation, not to exceed ~~\$150~~ \$200,000.

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

(b) A contribution by an estate or trust qualifies for the credit. Any credit not used by the estate or trust may be attributed to each beneficiary 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 credit allowed under this section may not exceed the taxpayer's income tax liability but may

be carried forward 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) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the donation is made, as determined by the taxpayer's accounting method.~~

~~(5)(4)~~ (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax year 2016.

(ii) Beginning in 2017, by August 1 of each year, the department shall determine if \$3 million or the aggregate limit provided for in subsection ~~(5)(a)(iii)~~ (4)(a)(iii) in tax credits was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 10% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department 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 ~~(5)(a)(ii)~~ (4)(a)(ii).

(b) The department shall approve the amount of tax credits for taxpayers on a first-come, first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a taxpayer makes a donation after total donations claimed exceeds the aggregate limit, the taxpayer's return will be processed without regard to the credit.

~~(6)(5)~~ A credit is not allowed under this section with respect to any amount deducted by the taxpayer for state 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, deduction, or credit for a charitable contribution that exceeds the amount for which the credit is allowed under this section.

~~(7)(6)~~ The department may develop an internet-based registration system that provides donors with the opportunity to obtain preapproval for a tax credit before making a contribution. (Terminates December 31, 2023 ~~2029~~ sec. 33, Ch. 457, L. 2015.)"

Section 18. Section 15-30-3113, MCA, is amended to read:

"15-30-3113. (Temporary) Review determination -- termination -- confidentiality. (1) Subject to subsection (7), the department is authorized to examine any books, papers, records, or memoranda relevant to determining whether a student scholarship organization is in compliance with 15-30-3102, 15-30-3103, and 15-30-3105.

(2) If a student scholarship organization is not in compliance, the department shall provide to the organization written notice of the specific failures and the organization has 30 days from the date of the notice to correct deficiencies. If the organization fails to correct all deficiencies, the department shall provide a final written notice of the failure to the organization. The organization may appeal the department's determination of failure to comply according to the uniform dispute review procedure in 15-1-211 within 30 days of the date of the notice.

(3) (a) If a student scholarship organization does not seek review under 15-1-211 or if the dispute is not resolved, the department shall issue a final department decision.

(b) The final department decision for a student scholarship organization must provide that the student scholarship organization:

(i) will be removed from the list of eligible student scholarship organizations provided in 15-30-3106 and notified of the removal; and

(ii) shall within 15 calendar days of receipt of notice from the department of removal from the eligible list cease all operations as a student scholarship organization and transfer all scholarship account funds to a properly operating student scholarship organization.

(4) A student scholarship organization that receives a final department decision may seek review of the decision from the state tax appeal board pursuant to 15-2-302.

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

(6) If a student scholarship organization files an appeal pursuant to this section, the organization may continue to operate until the decision of the court is final.

(7) The identity of donors who make donations to ~~the educational improvement account provided for in 20-9-905~~ school districts to support innovative educational programs or donations to a student scholarship organization is confidential tax information that is subject to the provisions of 15-30-2618. (Terminates

December 31, 2023 ~~2029~~--sec. 33, Ch. 457, L. 2015.)"

Section 19. Repealer. The following sections of the Montana Code Annotated are repealed:

- 20-9-901. (Temporary) Purpose.
- 20-9-902. (Temporary) Definitions.
- 20-9-903. (Temporary) Establishment of geographic regions and large districts -- innovative educational program.
- 20-9-904. (Temporary) Distribution of supplemental revenue to public schools -- innovative educational program.
- 20-9-905. (Temporary) Educational improvement account -- revenue allocated -- appropriations from account.
- 20-9-906. (Temporary) Rulemaking.

Section 20. Section 33, Chapter 457, Laws of 2015, is amended to read:

"Section 33. Termination. [This act] terminates December 31, 2023 ~~2026~~ 2029."

Section 21. Repealer. Sections 24, 25, 26, and 27, Chapter 457, Laws of 2015, are repealed.

Section 22. 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.

Section 23. Effective date -- applicability. (1) Except as provided in subsections (2) through (7), [this act] is effective July 1, 2021.

(2) [Sections 1 through 6, 12, 18, 19, and 21] are effective October 1, 2021, and apply to the income tax year beginning after December 31, 2021.

(3) [Sections 7 and 13] are effective January 1, 2022, and apply to the income tax year beginning after December 31, 2021.

(4) [Sections 8 and 14] are effective January 1, 2023, and apply to the income tax year beginning after December 31, 2022.

(5) [Sections 9 and 15] are effective January 1, 2024, and apply to the income tax year beginning after December 31, 2023.

(6) [Sections 10 and 16] are effective January 1, 2025, and apply to the income tax year beginning after December 31, 2024.

(7) [Sections 11 and 17] are effective July 1, 2025, and apply to income tax years beginning after June 30, 2025.

Section 24. Termination. (1) [Sections 7 and 13] terminate December 31, 2022.

(2) [Sections 8 and 14] terminate December 31, 2023.

(3) [Sections 9 and 15] terminate December 31, 2024.

(4) [Sections 10 and 16] terminate December 31, 2025.

(5) [Section 25] terminates January 1, 2025.

(6) [Sections 1 through 6 and 11, 12, 17, and 18] terminate December 31, 2029.

Section 25. Contingent termination -- legislative intent -- specific findings -- report to legislative finance committee. (1) The legislature intends to provide the tax relief provided by [this act] while also preventing the loss of federal funds that are available to the state as part of the recently enacted American Rescue Plan Act, Public Law 117-2. The contingent termination provisions in subsections (2) through (5) are limited to the duration of time established by each subsection and are necessary based on the lack of information available to the legislature from the federal government at the time of enactment of [this act].

(2) [Sections 7 and 13] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made in calendar year 2021.

(3) [Sections 8 and 14] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2022, and December 31, 2022.

(4) [Sections 9 and 15] terminate on the date that the budget director provides the certification

provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2023, and December 31, 2023.

(5) [Sections 10 and 16] terminate on the date that the budget director provides the certification provided for in subsection (7). In order to be effective, the certification must be made between October 1, 2024, and December 31, 2024.

(6) (a) The budget director shall continually evaluate whether implementation of a section of [this act] will:

(i) result in a reduction of funds from the American Rescue Plan Act; or

(ii) require the state to repay or refund to the federal government pursuant to the American Rescue Plan Act.

(b) The budget director shall consider guidance from:

(i) the federal government about the American Rescue Plan Act;

(ii) court decisions about the American Rescue Plan Act;

(iii) amendments to the American Rescue Plan Act;

(iv) any information provided by the attorney general; and

(v) other relevant information about the American Rescue Plan Act.

(c) If the budget director determines that the implementation of a section of [this act] may satisfy the criteria in subsection (6)(a) based on the guidance in subsection (6)(b), the budget director shall notify the legislative finance committee of the preliminary determination. The budget director's notification of the preliminary determination may occur after January 1 but no later than December 10 of each of the calendar years 2021, 2022, 2023, and 2024. Within 20 days of notification, the legislative finance committee shall provide the budget director with any recommendations concerning the preliminary determination. The budget director shall consider any recommendations of the legislative finance committee.

(7) If the budget director determines that the implementation of a section of [this act] would more likely than not satisfy the criteria in subsection (6)(a) based on the guidance in subsection (6)(b) and the recommendations of the legislative finance committee in subsection (6)(c), the budget director shall provide certification in writing to the legislative finance committee and the code commissioner of the occurrence of the relevant contingency provided for in subsections (2) through (5).

- END -

I hereby certify that the within bill,
HB 279, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 279

INTRODUCED BY S. BERGLEE, M. BINKLEY, J. CARLSON, J. FULLER, W. GALT, S. GIST, E. HILL, J. HINKLE, C. HINKLE, J. KASSMIER, C. KNUDSEN, R. KNUDSEN, W. MCKAMEY, B. MERCER, B. MITCHELL, T. MOORE, F. NAVE, M. NOLAND, J. READ, A. REGIER, V. RICCI, J. SCHILLINGER, K. SEEKINS-CROWE, D. SKEES, M. STROMSWOLD, J. TREBAS, B. TSCHIDA, S. VINTON, K. ZOLNIKOV

AN ACT REVISING LAWS RELATED TO THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; REMOVING THE ASSESSMENT REQUIREMENTS FOR QUALIFIED EDUCATION PROVIDERS; REVISING LIMITS ON SCHOLARSHIP AMOUNTS; ALLOWING TAX CREDITS EARNED UNDER THE PROGRAMS TO BE CARRIED FORWARD; REVISING THE TAX CREDIT LIMIT AND THE AGGREGATE LIMIT OF CREDITS UNDER THE PROGRAMS; REVISING THE PREAPPROVAL PROCESS FOR THE TAX CREDIT SCHOLARSHIP PROGRAM; STREAMLINING THE DONATION PROCESS FOR THE INNOVATIVE EDUCATION PROGRAM; EXTENDING THE TERMINATION DATE FOR THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; AMENDING SECTIONS 15-30-3101, 15-30-3102, 15-30-3103, 15-30-3104, 15-30-3106, 15-30-3110, 15-30-3111, AND 15-30-3113, MCA; AMENDING SECTION 33, CHAPTER 457, LAWS OF 2015; REPEALING SECTIONS 20-9-901, 20-9-902, 20-9-903, 20-9-904, 20-9-905, AND 20-9-906, MCA; REPEALING SECTIONS 24, 25, 26, AND 27, CHAPTER 457, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.