

## SENATE BILL NO. 410

INTRODUCED BY L. JONES

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3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO TAX CREDITS FOR  
5 ELEMENTARY AND SECONDARY EDUCATION; ALLOWING INCOME TAX CREDITS FOR  
6 ~~TAXPAYER-DIRECTED TAX PAYMENTS DONATIONS~~ TO PUBLIC SCHOOLS AND ~~FOR DONATIONS TO~~  
7 STUDENT SCHOLARSHIP ORGANIZATIONS; PROVIDING SUPPLEMENTAL FUNDING TO PUBLIC  
8 SCHOOLS FOR INNOVATIVE EDUCATION; ESTABLISHING GEOGRAPHIC REGIONS AND DISTRICTS FOR  
9 SUPPLEMENTAL FUNDING DISTRIBUTIONS; CREATING A STATE SPECIAL REVENUE ACCOUNT;  
10 ESTABLISHING OPERATING REQUIREMENTS, REVIEW PROCESSES, AND TERMINATION PROCEDURES  
11 FOR STUDENT SCHOLARSHIP ORGANIZATIONS; PROVIDING THAT THE AMOUNT OF A SCHOLARSHIP  
12 IS NOT TAXABLE INCOME; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY  
13 APPROPRIATION; AMENDING SECTIONS 15-30-2110, 15-30-2618, 15-31-511, 17-7-502, AND 20-9-543, MCA;  
14 AND PROVIDING ~~AN IMMEDIATE~~ A DELAYED EFFECTIVE DATE, ~~A RETROACTIVE~~ AN APPLICABILITY  
15 DATE, AND A TERMINATION DATE."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18  
19 NEW SECTION. Section 1. Purpose. Pursuant to 5-4-104, the legislature finds that the purpose of  
20 innovative educational programs is to enhance the curriculum of public schools with supplemental private  
21 contributions through tax replacement programs. THE TAX CREDIT FOR TAXPAYER DONATIONS UNDER [SECTIONS 1  
22 THROUGH 6] MUST BE ADMINISTERED IN COMPLIANCE WITH ARTICLE V, SECTION 11(5), AND ARTICLE X, SECTION 6, OF  
23 THE MONTANA CONSTITUTION.

24  
25 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 6], the following definitions  
26 apply:

- 27 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE PROVIDED FOR IN 2-15-1301.  
28 ~~(+)~~(2) "Eligible public school" means a Montana public school.  
29 ~~(-)~~(3) "Geographic region" has the meaning provided in [section 3].  
30 ~~(+)~~(4) "Innovative educational program" means an advanced academic program that enhances the

1 curriculum or academic program of an eligible public school and that is not part of the regular academic program  
 2 of an eligible public school. The instruction, program, or other activities offered through an innovative educational  
 3 program must include at least one of the following characteristics:

4 (a) provides different focus, methodology, skill training, or delivery, including internet-based and distance  
 5 learning technologies, than is provided in a typical academic program of a public school;

6 (b) is accessible before or after public school hours, on weekends, as a year-round program, as an  
 7 extension of the public school year, or in a combination of these characteristics;

8 (c) uses specialized instructional materials, instructors, or instruction not provided by a public school;

9 (d) uses internships and other work-based learning opportunities for a student that supplements the  
 10 curriculum or academic program of a student and provides a student with the opportunity to apply the knowledge  
 11 and skills learned in the academic program; or

12 (e) offers instruction or programming that provides credits or advanced placement, or both, at a 2-year  
 13 or 4-year college or university.

14 ~~(4)~~(5) "Large district" has the meaning provided in [section 3].

15 ~~(5)~~(6) "Quality educator" has the meaning provided in 20-4-502.

16 ~~(6)~~(7) "Taxpayer" has the meaning provided in 15-30-2101.

17

18 **NEW SECTION. Section 3. Establishment of geographic regions and large districts -- innovative**

19 **educational program.** (1) (a) Geographic regions are established on the basis of county boundaries and are  
 20 designed to achieve approximate statewide equity among the eleven regions in terms of the number of trustees  
 21 on school boards located within the applicable regions. The equity must be reviewed periodically by the  
 22 superintendent of public instruction by dividing the number of trustees serving on school boards located within  
 23 the applicable region, including trustees on school boards referenced in subsection (2), by the total number of  
 24 geographic regions and large districts.

25 (b) The geographic regions are established as follows:

26 (i) 1st region: Flathead, Lake, and Lincoln Counties;

27 (ii) 2nd region: Blaine, Hill, and Phillips Counties;

28 (iii) 3rd region: Daniels, Roosevelt, Sheridan, and Valley Counties;

29 (iv) 4th region: Dawson, Garfield, McCone, Prairie, Richland, and Wibaux Counties;

30 (v) 5th region: Cascade, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland

1 Counties;

2 (vi) 6th region: Mineral, Missoula, Ravalli, and Sanders Counties;

3 (vii) 7th region: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, and Silver Bow Counties;

4 (viii) 8th region: Broadwater, Gallatin, Meagher, Park, and Sweet Grass Counties;

5 (ix) 9th region: Big Horn, Carbon, Stillwater, Treasure, and Yellowstone Counties;

6 (x) 10th region: Carter, Custer, Fallon, Powder River, and Rosebud Counties; and

7 (xi) 11th region: Chouteau, Glacier, Lewis and Clark, Liberty, Pondera, Teton, and Toole Counties.

8 (2) (a) Large districts are established as each of the seven largest school districts in the state based on  
9 combined pupil enrollment from kindergarten through the 12th grade.

10 (b) The seven largest school districts are established as follows:

11 (i) Billings;

12 (ii) Butte;

13 (iii) Bozeman;

14 (iv) Great Falls;

15 (v) Helena;

16 (vi) Kalispell; and

17 (vii) Missoula.

18 (3) The superintendent of public instruction shall make recommendations to the education and local  
19 government interim committee regarding any adjustments to the regions and large districts necessary to preserve  
20 equity and fairness.

21  
22 **NEW SECTION. Section 4. Distribution of supplemental revenue to public schools -- innovative**

23 **educational program.** (1) The superintendent of public instruction shall:

24 (a) obligate at least 95% of its annual revenue from the educational improvement account provided for  
25 in [section 5] for supplemental funding to eligible public schools for innovative educational programs and  
26 technology deficiencies;

27 (b) provide innovative educational program or technology deficiency supplemental funding to eligible  
28 public schools; and

29 (c) distribute supplemental funding from the educational improvement account to each geographic region  
30 and each large district in a manner that provides proportionate funding based on the amount of ~~money directed~~

1 ~~by taxpayers~~ DONATIONS under [section 13] in each of the respective geographic regions and large districts. In  
 2 distributing the supplemental funding, the superintendent of public instruction shall ~~set the maximum receivable~~  
 3 ~~amount~~ DETERMINE THE ALLOCATION for each school DISTRICT in a geographic region ~~or large district~~ based on a  
 4 THE ratio of the ~~school's~~ SCHOOL DISTRICT'S number of quality educators COMPARED to the total number of quality  
 5 educators in the ~~school's~~ SCHOOL DISTRICT'S geographic region ~~or large district~~.

6 (2) (a) Subject to subsection (2)(b), the superintendent of public instruction shall use the taxpayer's  
 7 residential address and allocate the supplemental funding to the geographic region or large district schools that  
 8 serve the taxpayer's residence. If a residential address is served by schools that are part of a large district and  
 9 a smaller district, then the superintendent of public instruction must allocate the supplemental funding between  
 10 the large district and the geographic region of the smaller district based on the ~~number of grades~~ AVERAGE  
 11 NUMBER BELONGING served by each district.

12 (b) A taxpayer may specify the geographic region or large district in which the supplemental funding must  
 13 be used. IF A TAXPAYER SPECIFIES THAT AN ALLOCATION IS TO BE USED IN A:

14 (I) GEOGRAPHIC REGION, THE ALLOCATION MAY NOT BE USED IN A LARGE DISTRICT; AND

15 (II) LARGE DISTRICT, THE ALLOCATION MAY NOT BE USED IN A GEOGRAPHIC REGION.

16 (3) The supplemental funding must be deposited in the district's school flexibility fund provided for in  
 17 20-9-543. EACH DISTRICT SHALL REPORT THE EXPENDITURE OF SUPPLEMENTAL FUNDING FOR SPECIFIC SCHOOLS TO THE  
 18 SUPERINTENDENT OF PUBLIC INSTRUCTION.

19  
 20 NEW SECTION. Section 5. Educational improvement account -- revenue allocated --  
 21 appropriations from account. (1) There is an educational improvement account in the state special revenue  
 22 fund established in 17-2-102. The funds in the account must be administered by the superintendent of public  
 23 instruction.

24 (2) ~~Taxpayer-directed tax payments must be paid into the account as provided in [section 13].~~ THE  
 25 DEPARTMENT SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL ACCEPT DONATIONS FOR THE PURPOSE OF FUNDING  
 26 INNOVATIVE EDUCATIONAL PROGRAMS AND DEPOSIT THE DONATIONS INTO THE ACCOUNT. THE DEPARTMENT SHALL  
 27 PREAPPROVE TAX CREDITS FOR DONATIONS AS PROVIDED IN [SECTION 13]. IN ORDER TO IMPLEMENT AND ADMINISTER THE  
 28 PROVISIONS OF [SECTIONS 1 THROUGH 6], THE DEPARTMENT AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL  
 29 EXCHANGE TAXPAYER INFORMATION AND DEVELOP POLICIES TO PREVENT THE UNAUTHORIZED DISCLOSURE OF  
 30 CONFIDENTIAL RECORDS AND INFORMATION.

1 (3) Interest and earnings on the account must be deposited in the account.

2 (4) ~~Appropriations may be made from MONEY IN~~ the account IS STATUTORILY APPROPRIATED, AS PROVIDED  
3 IN 17-7-502, to the superintendent of public instruction for administrative expenses and for supplemental funding  
4 to public schools as provided in [section 4].

5  
6 **NEW SECTION. Section 6. Rulemaking.** The superintendent of public instruction may adopt rules,  
7 prepare forms, and maintain records that are necessary to implement and administer [sections 1 through 6].

8  
9 **NEW SECTION. Section 7. Purpose.** Pursuant to 5-4-104, the legislature finds that the purpose of  
10 student scholarship organizations is to provide parental and student choice in education with private contributions  
11 through tax replacement programs. THE TAX CREDIT FOR TAXPAYER DONATIONS UNDER [SECTIONS 7 THROUGH 17]  
12 MUST BE ADMINISTERED IN COMPLIANCE WITH ARTICLE V, SECTION 11(5), AND ARTICLE X, SECTION 6, OF THE MONTANA  
13 CONSTITUTION.

14  
15 **NEW SECTION. Section 8. Definitions.** As used in [sections 7 through 17], the following definitions  
16 apply:

17 (1) "Department" means the department of revenue provided for in 2-15-1301.

18 (2) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on  
19 or before September 10 of the year of attendance and has not yet reached 19 years of age.

20 (3) "Geographic region" has the meaning provided in [section 3].

21 (4) "Large district" has the meaning provided in [section 3].

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

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

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

25 (a) is not a public school;

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

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

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

- 1 (d) administers a nationally recognized standardized assessment test or criterion-referenced test and:  
 2 (i) makes the results available to the child's parents or legal guardian; and  
 3 (ii) administers the test for all 8th grade and 11th grade students and provides the overall scores on a  
 4 publicly accessible private website or provides the composite results of the test to the office of public instruction  
 5 for posting on its website;
- 6 (e) satisfies the health and safety requirements prescribed by law for private schools in this state; and  
 7 (f) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.
- 8 (8) "Small business corporation" has the meaning provided in 15-30-3301.  
 9 (9) "Student scholarship organization" means a charitable organization in this state that:  
 10 (a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, 26  
 11 U.S.C. 501(c)(3);  
 12 (b) allocates not less than 90% of its annual revenue for scholarships to allow students to enroll with any  
 13 qualified education provider; and  
 14 (c) provides educational scholarships to eligible students without limiting student access to only one  
 15 education provider.  
 16 (10) "Taxpayer" has the meaning provided in 15-30-2101.

17  
 18 **NEW SECTION. Section 9. Requirements for student scholarship organizations.** (1) A student  
 19 scholarship organization:

- 20 (a) shall obligate at least 90% of its annual revenue for scholarships. For the purpose of this calculation:  
 21 (i) the cost of the annual fiscal review provided for in [section 11(1)(b)] may be paid out of the total  
 22 contributions before calculation of the 90% minimum obligation amount; and  
 23 (ii) all contributions subject to the 90% minimum obligation amount that are received in 1 calendar year  
 24 must be paid out in scholarships within the 3 calendar years following the contribution.
- 25 (b) may not restrict or reserve scholarships for use at a particular education provider or any particular  
 26 type of education provider and shall allow an eligible student to enroll with any qualified education provider of the  
 27 parents' or legal guardian's choice;
- 28 (c) shall provide scholarships to eligible students to attend instruction offered by a qualified education  
 29 provider;
- 30 (d) may not provide a scholarship to an eligible student for an academic year that exceeds 50% of the

1 per-pupil average of total public school expenditures calculated in [section 22];

2 (e) shall ensure that the organization's average scholarship for an academic year does not exceed 30%  
3 of the per-pupil average of total public school expenditures calculated in [section 22];

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

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

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

8 (i) shall comply with payment and reporting requirements in accordance with [sections 10 and 11].

9 (2) An organization that fails to satisfy the conditions of this section is subject to termination as provided  
10 in [section 16].

11  
12 **NEW SECTION. Section 10. Tuition payment limitation.** (1) A student scholarship organization shall  
13 deliver the scholarship funds directly to the qualified education provider selected by the parents or legal guardian  
14 of the child to whom the scholarship was awarded. The qualified education provider shall immediately notify the  
15 parents or legal guardian that the payment was received.

16 (2) A parent or legal guardian of an eligible student may not accept one or more scholarship awards from  
17 a student scholarship organization for an eligible student if the total amount of the awards exceeds 50% of the  
18 per-pupil average of total public school expenditures calculated in [section 22]. This limitation applies to each  
19 eligible student of a parent or legal guardian.

20  
21 **NEW SECTION. Section 11. Reporting requirements for student scholarship organizations.** (1)  
22 Each student scholarship organization shall:

23 (a) submit a notice to the department of its intent to operate as a student scholarship organization prior  
24 to accepting donations;

25 (b) complete an annual fiscal review of its accounts by an independent certified public accountant within  
26 120 days after the close of the calendar year that discloses for each of the 3 most recently completed calendar  
27 years:

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

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

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

1 (iv) the cost of the annual fiscal review;  
 2 (c) submit the annual fiscal review report to the department within 150 days of the close of the calendar  
 3 year.

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

6 (3) An organization that fails to satisfy the conditions of this section is subject to termination as provided  
 7 in [section 16].

8  
 9 **NEW SECTION. Section 12. Student scholarship organizations -- listing on website.** (1) The  
 10 department shall maintain on its website a hyperlink to a current list of all:

11 (a) student scholarship organizations that have provided notice pursuant to [section 11(1)(a)]; and  
 12 (b) qualified education providers that accepted scholarship funds from a student scholarship organization.

13 (2) The list must include:  
 14 (a) a statistical compilation of the information received from the student scholarship organizations; and  
 15 (b) a hyperlink to the qualified education provider's overall testing scores contained on a publicly  
 16 accessible private website or to the office of public instruction's website pursuant to [section 8(7)(d)(ii)].

17  
 18 **NEW SECTION. Section 13. Credit for providing supplemental funding to public schools --**  
 19 **~~directed tax payment~~ -- innovative educational program.** (1) Subject to subsection (5), a taxpayer or  
 20 corporation is allowed a credit against the tax imposed by chapter 30 or 31 for ~~taxpayer-directed tax payments~~  
 21 DONATIONS MADE to the educational improvement account provided for in [section 5] for the purpose of providing  
 22 supplemental funding to public schools for innovative educational programs and technology deficiencies. The  
 23 ~~donor TAXPAYER~~ may direct ~~a contribution~~ THE DONATION to a geographic region or a large district AS PROVIDED IN  
 24 [SECTION 4(2)(B)]. The amount of the credit allowed for the ~~taxpayer-directed tax payment~~ is equal to the amount  
 25 of the donation, not to exceed \$150.

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

29 (b) A ~~contribution~~ DONATION by an estate or trust qualifies for the credit. Any credit not used by the estate  
 30 or trust may be attributed to each beneficiary of the estate or trust in the same proportion used to report the



1 beneficiary's income from the estate or trust for Montana income tax purposes.

2 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability.

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

6 (5) (a) (i) The aggregate amount of ~~taxpayer-directed tax payments~~ TAX CREDITS allowed under this  
7 section is \$3 million beginning in tax year ~~2015~~ 2016.

8 (ii) Beginning in ~~2016~~ 2017, by August 1 of each year, the department shall determine if \$3 million OR THE  
9 AGGREGATE LIMIT PROVIDED FOR IN SUBSECTION (5)(A)(III) in ~~directed tax payments~~ DONATIONS were made by  
10 ~~taxpayers~~ or preapproved by the department. If this condition is satisfied, the aggregate amount of ~~directed tax~~  
11 ~~payments~~ TAX CREDITS allowed must be increased by 10% for ~~each~~ THE succeeding tax year YEARS.

12 (III) IF THE AGGREGATE LIMIT IS INCREASED IN ANY TAX YEAR, THE DEPARTMENT SHALL USE THE NEW LIMIT AS THE  
13 BASE AGGREGATE LIMIT FOR SUCCEEDING TAX YEARS UNTIL A NEW AGGREGATED LIMIT IS ESTABLISHED UNDER THE  
14 PROVISIONS OF SUBSECTION (5)(A)(II).

15 (b) The department shall approve the amount of ~~TAX credits~~ DONATIONS for taxpayers on a first-come,  
16 first-served basis and post a notice on its website advising taxpayers when the aggregate limit is in effect. If a  
17 taxpayer makes a ~~directed tax payment~~ DONATION after total ~~directed tax payments~~ DONATIONS claimed exceeds  
18 the aggregate limit, the taxpayer's return will be processed without regard to the credit. ~~If a disallowance creates~~  
19 ~~an underpayment of tax liability, then the department shall notify the taxpayer of the disallowed claim and the~~  
20 ~~taxpayer has 60 days to pay the underpayment that is attributable to the disallowed claim before interest and~~  
21 ~~penalties are assessed under 15-1-216.~~

22 ~~(c) Subject to subsection (7), to claim credit under this section, a taxpayer shall attach a form that is~~  
23 ~~approved by the department to the taxpayer's tax return confirming that a directed tax payment was made.~~

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

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

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

30 (7) After consultation with the superintendent of public instruction, the department may develop an

1 internet-based registration system that provides ~~donors~~ TAXPAYERS with the opportunity to obtain preapproval for  
 2 a tax credit before making a ~~contribution~~ DONATION.

3  
 4 **NEW SECTION. Section 14. Qualified education tax credit for contributions to student scholarship**  
 5 **organizations.** (1) Subject to subsection (5), a taxpayer or corporation is allowed a credit against the tax imposed  
 6 by chapter 30 or 31 for donations made to a student scholarship organization. The donor may not direct or  
 7 designate contributions to a parent, legal guardian, or specific qualified education provider. The amount of the  
 8 credit allowed is equal to the amount of the donation, not to exceed \$150.

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

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

15 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability.

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

18 (5) (a) (i) The aggregate amount of tax credits allowed under this section is \$3 million beginning in tax  
 19 year ~~2015~~ 2016.

20 (ii) Beginning in ~~2016~~ 2017, by August 1 of each year, the department shall determine if \$3 million OR THE  
 21 AGGREGATE LIMIT PROVIDED FOR IN SUBSECTION (5)(A)(III) in tax credits were ~~claimed by taxpayers or~~ preapproved  
 22 by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased  
 23 by 10% for ~~each~~ THE succeeding tax ~~year~~ YEARS.

24 (III) IF THE AGGREGATE LIMIT IS INCREASED IN ANY TAX YEAR, THE DEPARTMENT SHALL USE THE NEW LIMIT AS THE  
 25 BASE AGGREGATE LIMIT FOR SUCCEEDING TAX YEARS UNTIL A NEW AGGREGATED LIMIT IS ESTABLISHED UNDER THE  
 26 PROVISIONS OF SUBSECTION (5)(A)(II).

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

1 notify the taxpayer of the disallowed claim and the taxpayer has 60 days to pay the tax that is attributable to the  
 2 disallowed claim before interest and penalties are assessed under 15-1-216.

3 (c) Subject to subsection (7), to claim the tax credit under this section, a taxpayer shall attach a form that  
 4 is approved by the department to the taxpayer's tax return confirming that a donation was made. The form must  
 5 be signed by the student scholarship organization and include the taxpayer's name, address, tax identification  
 6 number, the amount of the contribution, and the date of the contribution.

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

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

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

13 (7) The department may develop an internet-based registration system that provides donors with the  
 14 opportunity to obtain preapproval for a tax credit before making a contribution.

15  
 16 **NEW SECTION. Section 15. Report to revenue and transportation interim committee -- student**  
 17 **scholarship organizations.** Each biennium, the department shall provide to the revenue and transportation  
 18 interim committee a list of student scholarship organizations receiving contributions from businesses and  
 19 individuals that are granted tax credits under [section 14]. The listing must detail the tax credits claimed under  
 20 the individual income tax in chapter 30 and the corporate income tax in chapter 31.

21  
 22 **NEW SECTION. Section 16. Review determination -- termination -- confidentiality.** (1) Subject to  
 23 subsection (7), the department is authorized to examine any books, papers, records, or memoranda relevant to  
 24 determining whether a student scholarship organization is in compliance with [sections 8, 9, and 11].

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

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

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

5 (i) will be removed from the list of eligible student scholarship organizations provided in [section 12] and  
6 notified of the removal; AND

7 (ii) shall within 15 calendar days of receipt of notice from the department of removal from the eligible list:  
8 ~~———(A) cease all operations as a student scholarship organization and transfer all scholarship account funds~~  
9 ~~to a properly operating student scholarship organization; and~~

10 ~~———(B) provide written notice to all applicants that have been preapproved for a tax credit that the~~  
11 ~~organization is not allowed to operate as a student scholarship organization and that the applicant has 45 days~~  
12 ~~from the date the organization was removed from the eligible list to transfer preapproval status to another student~~  
13 ~~scholarship organization.~~

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

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

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

20 (7) The identity of donors who make ~~directed tax payments~~ DONATIONS to the educational improvement  
21 account provided for in [section 5] or donations to a student scholarship organization is confidential tax  
22 information that is subject to the provisions of 15-30-2618.

23  
24 NEW SECTION. **Section 17. Rulemaking.** The department may adopt rules, prepare forms, and  
25 maintain records that are necessary to implement and administer [sections 7 through 17].

26  
27 NEW SECTION. **Section 18. Credit for providing supplemental funding to public schools --**  
28 **~~directed tax payment~~ -- innovative educational program.** There is a credit against tax liability under this  
29 chapter for a ~~taxpayer-directed tax payment~~ DONATION MADE to the educational improvement account as provided  
30 in [section 13].

1  
 2           **NEW SECTION. Section 19. Qualified education individual income tax credit for contributions to**  
 3 **student scholarship organization.** There is a credit against tax liability under this chapter for a charitable  
 4 donation made to a student scholarship organization as provided in [section 14].

5  
 6           **NEW SECTION. Section 20. Credit for providing supplemental funding to public schools --**  
 7 **corporate ~~directed tax payment~~ CREDIT -- innovative educational program.** There is a credit against tax  
 8 liability under this chapter for a ~~taxpayer-directed tax payment~~ DONATION MADE to the educational improvement  
 9 account as provided in [section 13].

10  
 11           **NEW SECTION. Section 21. Qualified education corporate credit for contributions to student**  
 12 **scholarship organization.** There is a credit against tax liability under this chapter for a charitable donation made  
 13 to a student scholarship organization as provided in [section 14].

14  
 15           **NEW SECTION. Section 22. Statewide average per-pupil spending.** (1) The superintendent of public  
 16 instruction shall calculate the per-pupil average of total public school expenditures in Montana for the second  
 17 most recently completed school fiscal year by August 1 of the ensuing school fiscal year and make the calculation  
 18 available to the public. The calculation is made by dividing total expenditures calculated in subsection (2) by total  
 19 pupils calculated in subsection (3).

20           (2) Funds to be included in total school expenditures for the second most recently completed school year  
 21 include but are not limited to:

- 22           (a) district general fund expenditures;  
 23           (b) transportation;  
 24           (c) bus depreciation;  
 25           (d) food services;  
 26           (e) tuition;  
 27           (f) retirement;  
 28           (g) miscellaneous programs;  
 29           (h) traffic education;  
 30           (i) nonoperating fund;

- 1 (j) lease-rental agreement;
- 2 (k) compensated absence fund;
- 3 (l) metal mines tax reserve;
- 4 (m) state mining impact;
- 5 (n) impact aid;
- 6 (o) litigation reserve;
- 7 (p) technology acquisition;
- 8 (q) flexibility fund;
- 9 (r) debt service;
- 10 (s) building reserve; and
- 11 (t) interlocal agreement.

12 (3) Total pupils are computed using an amount equal to the per-pupil average, but not the per-ANB  
13 average provided in 20-9-311, for Montana school districts for the second most recently completed school year.

14

15 **Section 23.** Section 15-30-2110, MCA, is amended to read:

16 **"15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the  
17 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,  
18 and in addition includes the following:

19 (a) (i) interest received on obligations of another state or territory or county, municipality, district, or other  
20 political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana  
21 under federal law;

22 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.  
23 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

24 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a  
25 reduction of Montana income tax liability;

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

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

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

1 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of  
2 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution  
3 of the same estate or trust for the same tax period; and

4 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after  
5 December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted  
6 gross income.

7 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not  
8 include the following, which are exempt from taxation under this chapter:

9 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a  
10 county, municipality, district, or other political subdivision of the state and any other interest income that is exempt  
11 from taxation by Montana under federal law;

12 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.  
13 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

14 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including  
15 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

16 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income  
17 received as defined in 15-30-2101;

18 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

19 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total  
20 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in  
21 excess of \$30,000 as shown on the taxpayer's return;

22 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
23 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in  
24 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000  
25 as shown on their joint return;

26 (d) all Montana income tax refunds or tax refund credits;

27 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

28 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section  
29 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January  
30 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,

- 1 or lodging;
- 2 (g) all benefits received under the workers' compensation laws;
- 3 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the  
4 employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;
- 5 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a  
6 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 7 (j) principal and income in a medical care savings account established in accordance with 15-61-201  
8 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a  
9 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- 10 (k) principal and income in a first-time home buyer savings account established in accordance with  
11 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase  
12 of a single-family residence;
- 13 (l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition  
14 program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal  
15 Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of  
16 a designated beneficiary;
- 17 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the  
18 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 19 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of  
20 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution  
21 of the same estate or trust for the same tax period;
- 22 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch  
23 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction  
24 is not provided for federal income tax purposes;
- 25 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant  
26 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and  
27 taxpayer meet the filing requirements in 15-30-2602.
- 28 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or  
29 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;
- 30 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and



1 (s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in  
2 15-31-163; and

3 (t) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to  
4 [section 10].

5 (3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall  
6 include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as  
7 provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election  
8 is effective.

9 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business  
10 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and  
11 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  
12 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries  
13 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must  
14 be made to determine the amount of income or loss of the partnership or small business corporation.

15 (5) Married taxpayers filing a joint federal return who are required to include part of their social security  
16 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal  
17 base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement  
18 benefits when they file separate Montana income tax returns. The federal base must be split equally on the  
19 Montana return.

20 (6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section  
21 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may  
22 claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital  
23 loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss  
24 must be split equally on each return.

25 (7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and  
26 who file separate Montana income tax returns are not required to recompute allowable passive losses according  
27 to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal  
28 Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must  
29 be shown on that spouse's return; otherwise, the loss must be split equally on each return.

30 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a

1 deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.  
2 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is  
3 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

4 (9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a  
5 qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate  
6 Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return.  
7 The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted  
8 gross income.

9 (b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and  
10 related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana  
11 income tax returns may claim the same amount of the deduction that is allowed on the federal return. The  
12 deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross  
13 income.

14 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end  
15 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income  
16 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is  
17 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the  
18 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the  
19 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the  
20 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted  
21 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage  
22 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting  
23 or expected to last at least 12 months.

24 (11) (a) An individual who contributes to one or more accounts established under the Montana family  
25 education savings program or to a qualified tuition program established and maintained by another state as  
26 provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted  
27 gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each  
28 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses  
29 may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The  
30 reduction in adjusted gross income under this subsection applies only with respect to contributions to an account

1 of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the  
2 taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect  
3 to withdrawals of contributions that reduced adjusted gross income.

4 (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in  
5 15-62-208.

6 (12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection  
7 (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

8 (i) is a health care professional licensed in Montana as provided in Title 37;

9 (ii) is serving a significant portion of a designated geographic area, special population, or facility  
10 population in a federally designated health professional shortage area, a medically underserved area or  
11 population, or a federal nursing shortage county as determined by the secretary of health and human services  
12 or by the governor;

13 (iii) has had a student loan incurred as a result of health-related education; and

14 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment  
15 program described in subsection (12)(b) as an incentive to practice in Montana.

16 (b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or  
17 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as  
18 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility  
19 as a licensed health care professional.

20 (13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of  
21 capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are  
22 determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

23 (14) By November 1 of each year, the department shall multiply the amount of pension and annuity  
24 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)  
25 by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results  
26 to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the  
27 exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec.  
28 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

29

30 **SECTION 24. SECTION 15-30-2618, MCA, IS AMENDED TO READ:**

1           **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,  
2 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided  
3 by law, it is unlawful to divulge or make known in any manner:

4           (a) the amount of income or any particulars set forth or disclosed in any individual report or individual  
5 return required under this chapter or any other information secured in the administration of this chapter; or

6           (b) any federal return or federal return information disclosed on any return or report required by rule of  
7 the department or under this chapter.

8           (2) (a) The officers charged with the custody of the reports and returns may not be required to produce  
9 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or  
10 proceeding:

11           (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

12           (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes  
13 when the reports or facts shown by the reports are directly involved in the action or proceedings.

14           (b) The court may require the production of and may admit in evidence only as much of the reports or  
15 of the facts shown by the reports as are pertinent to the action or proceedings.

16           (3) This section does not prohibit:

17           (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return  
18 or report filed in connection with the taxpayer's tax;

19           (b) the publication of statistics classified to prevent the identification of particular reports or returns and  
20 the items of particular reports or returns; or

21           (c) the inspection by the attorney general or other legal representative of the state of the report or return  
22 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom  
23 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

24           (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to  
25 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing  
26 separately on the same return. The information being provided to the spouse or reported on the return, including  
27 subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and  
28 the taxpayer filed the return using a joint filing status for that tax year.

29           (5) Reports and returns must be preserved for at least 3 years and may be preserved until the  
30 department orders them to be destroyed.

1 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the  
2 offender is an officer or employee of the state, the offender must be dismissed from office or employment and  
3 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the  
4 case of a former officer or employee, for 1 year after conviction.

5 (7) This section may not be construed to prohibit the department from providing taxpayer return  
6 information and information from employers' payroll withholding reports to:

7 (a) the department of labor and industry to be used for the purpose of investigation and prevention of  
8 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

9 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,  
10 and abuse under the workers' compensation program.

11 (8) The department may permit the commissioner of internal revenue of the United States or the proper  
12 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer  
13 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an  
14 abstract of the return of income of any individual or supply the officer with information concerning an item of  
15 income contained in a return or disclosed by the report of an investigation of the income or return of income of  
16 an individual, but the permission may be granted or information furnished only if the statutes of the United States  
17 or of the other state grant substantially similar privileges to the proper officer of this state charged with the  
18 administration of this chapter.

19 (9) On written request to the director or a designee of the director, the department shall furnish:

20 (a) to the department of justice all information necessary to identify those persons qualifying for the  
21 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of  
22 justice to administer the provisions of 61-5-105;

23 (b) to the department of public health and human services information acquired under 15-30-2616,  
24 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public  
25 assistance fraud and abuse, provided notice to the applicant has been given;

26 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and  
27 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs  
28 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and  
29 industry is an employee, an independent contractor, or self-employed;

30 (d) to the department of fish, wildlife, and parks specific information that is available from income tax

1 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and  
2 fishing licenses;

3 (e) to the board of regents information required under 20-26-1111;

4 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax  
5 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget  
6 and program planning must be the same as the information provided to the legislative fiscal analyst.

7 (g) to the department of transportation farm income information based on the most recent income tax  
8 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the  
9 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department  
10 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

11 (h) to the commissioner of insurance's office all information necessary for the administration of the small  
12 business health insurance tax credit provided for in Title 33, chapter 22, part 20;

13 (i) to the superintendent of public instruction information required under [section 5]."  
14

15 **SECTION 25. SECTION 15-31-511, MCA, IS AMENDED TO READ:**

16 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with  
17 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

18 (a) the amount of income or any particulars set forth or disclosed in any return or report required under  
19 this chapter or any other information relating to taxation secured in the administration of this chapter; or

20 (b) any federal return or information in or disclosed on a federal return or report required by law or rule  
21 of the department under this chapter.

22 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may  
23 not be ordered to produce any of them or evidence of anything contained in them in any administrative  
24 proceeding or action or proceeding in any court, except:

25 (i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

26 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of  
27 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

28 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit  
29 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the  
30 action or proceeding.

1 (3) This section does not prohibit:

2 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer  
3 who filed the return or report or to the taxpayer's authorized representative;

4 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,  
5 reports, or items from returns or reports;

6 (c) the inspection of returns and reports by the attorney general or other legal representative of the state  
7 in the course of an administrative proceeding or litigation under this chapter;

8 (d) access to information under subsection (4);

9 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of  
10 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer  
11 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of  
12 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an  
13 investigation of the income or return of a corporation. The director of revenue may not furnish that information  
14 to a person representing the United States or another state unless the United States or the other state grants  
15 substantially similar privileges to an officer of this state charged with the administration of this chapter.

16 (f) the disclosure of information to the commissioner of insurance's office that is necessary for the  
17 administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

18 (4) On written request to the director or a designee of the director, the department shall:

19 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to  
20 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection  
21 (1); ~~and~~

22 (b) provide corporate income tax and alternative corporate income tax information, including any  
23 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided  
24 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.  
25 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject  
26 to the same restrictions on disclosure outside those offices as provided in subsection (1).

27 (c) furnish to the superintendent of public instruction information required under [section 5].

28 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or  
29 public employee is convicted of violating this section, the person is dismissed from office or employment and may  
30 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case

1 of a former officer or employee, for 1 year after conviction."

2

3 **SECTION 26. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

4 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
5 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
6 need for a biennial legislative appropriation or budget amendment.

7 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
8 of the following provisions:

9 (a) The law containing the statutory authority must be listed in subsection (3).

10 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory  
11 appropriation is made as provided in this section.

12 (3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105;  
13 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310;  
14 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;  
15 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;  
16 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;  
17 19-20-604; 19-20-607; 19-21-203; 20-8-107; [section 5]; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004;  
18 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105;  
19 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-9-113;  
20 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150;  
21 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161;  
22 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

23 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
24 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
25 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
26 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
27 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
28 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
29 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded  
30 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and



1 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.  
 2 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under  
 3 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the  
 4 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331  
 5 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,  
 6 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.  
 7 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),  
 8 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,  
 9 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant  
 10 to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30,  
 11 2015.)"

12

13 **Section 27.** Section 20-9-543, MCA, is amended to read:

14 **"20-9-543. School flexibility fund -- uses.** (1) (a) The trustees of a district shall establish a school  
 15 flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

16 (i) technological equipment enhancements and expansions considered by the trustees to support  
 17 enhanced educational programs in the classroom;

18 (ii) facility expansion and remodeling considered by the trustees to support the delivery of educational  
 19 programs or the removal and replacement of obsolete facilities;

20 (iii) supplies and materials considered by the trustees to support the delivery of enhanced educational  
 21 programs;

22 (iv) student assessment and evaluation;

23 (v) the development of curriculum materials;

24 (vi) training for classroom staff considered by the trustees to support the delivery of enhanced educational  
 25 programs;

26 (vii) purchase, lease, or rental of real property that must be used to provide free or reduced price housing  
 27 for classroom teachers;

28 (viii) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom  
 29 teachers and other certified staff, subject to collective bargaining when applicable; ~~or~~

30 (ix) increases in energy costs caused by an increase in energy rates from the rates paid by the district

1 in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other  
2 resources of the district; or

3 (x) innovative educational programs as defined in [section 2] and technology deficiencies.

4 (b) If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal  
5 year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund  
6 to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.

7 (2) The trustees of a district shall fund the school flexibility fund with the money allocated under [section  
8 4] and 20-9-542 and with the money raised by the levy under 20-9-544.

9 (3) The financial administration of the school flexibility fund must be in accordance with the financial  
10 administration provisions of this title for a budgeted fund."

11  
12 **NEW SECTION. Section 28. Codification instruction.** (1) [Sections 1 through 6] are intended to be  
13 codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 1  
14 through 6].

15 (2) [Sections 7 through 17] are intended to be codified as an integral part of Title 15, and the provisions  
16 of Title 15 apply to [sections 7 through 17].

17 (3) [Sections 18 and 19] are intended to be codified as an integral part of Title 15, chapter 30, part 23,  
18 and the provisions of Title 15, chapter 30, part 23, apply to [sections 18 and 19].

19 (4) [Sections 20 and 21] are intended to be codified as an integral part of Title 15, chapter 31, and the  
20 provisions of Title 15, chapter 31, apply to [sections 20 and 21].

21 (5) [Section 22] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions  
22 of Title 20, chapter 9, apply to [section 22].

23  
24 **COORDINATION SECTION. SECTION 29. COORDINATION INSTRUCTION.** IF BOTH SENATE BILL NO. 171 AND  
25 [THIS ACT] ARE PASSED AND APPROVED AND IF [THIS ACT] CONTAINS A SECTION THAT AMENDS 15-30-2110 AND SENATE  
26 BILL NO. 171 CONTAINS A SECTION THAT REPEALS 15-30-2110, THEN [SECTION 1] OF SENATE BILL NO. 171 MUST BE  
27 AMENDED AS FOLLOWS:

28 **"NEW SECTION. Section 1. Adjustments to federal taxable income to determine Montana taxable**  
29 **income.** (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal  
30 taxable income to determine Montana taxable income.

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

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

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

8 (c) a nonqualified withdrawal from a family education savings account provided for in Title 15, chapter  
9 62, to the extent that it was deducted from income in calculating Montana individual income taxes;

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

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

14 (f) a deduction or expense upon which a state tax credit is computed under 33-22-2006 to the extent that  
15 it was included as a deduction or expense in determining federal taxable income;

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

19 (h) for a taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal Revenue  
20 Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not to exceed  
21 the amount required to reduce the federal itemized amount computed under section 161 of the Internal Revenue  
22 Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under section 63(c) of the  
23 Internal Revenue Code, 26 U.S.C. 63(c).

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

26 (a) if exempt from taxation by Montana under federal law:

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

29 (ii) railroad retirement benefits;

30 (b) salary received from the armed forces by residents who entered into active duty from Montana and

1 are serving on active duty in the regular armed forces;

2 (c) interest and other income related to contributions that were made prior to January 1, 2016, that are  
3 retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment  
4 of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the  
5 employee or account holder;

6 (d) interest and other income related to contributions that were made prior to January 1, 2016, that are  
7 retained in a family education savings account provided for in Title 15, chapter 62, and any qualified withdrawal  
8 for payment of qualified higher education expenses;

9 (e) interest and other income related to contributions that were made prior to January 1, 2016, that are  
10 retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for  
11 payment of eligible costs for the first-time purchase of a single-family residence;

12 (f) a deduction for an income distribution from an estate or trust to a beneficiary in accordance with  
13 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)(a) through (3)(e), and (3)(g), and (3)(h); and

15 (g) for each taxpayer that has attained the age of 65, an additional subtraction of \$6,400; and

16 (h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to  
17 [section 10 of Senate Bill No. 410].

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

22  
23 NEW SECTION. Section 30. Severability. If a part of [this act] is invalid, all valid parts that are  
24 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
25 the part remains in effect in all valid applications that are severable from the invalid applications.

26  
27 NEW SECTION. Section 31. Effective date. [This act] is effective on passage and approval JANUARY  
28 1, 2016.

29  
30 NEW SECTION. Section 32. Retroactive applicability APPLICABILITY. [This act] applies retroactively;

1 within the meaning of ~~1-2-109~~, to tax years beginning after December 31, ~~2014~~ 2015.

2

3 NEW SECTION. **Section 33. Termination.** [This act] terminates December 31, ~~2024~~ 2023.

4

- END -