

SENATE BILL NO. 549

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INCOME TAX BENEFIT FOR PRIMARY AND
SECONDARY EDUCATION EXPENSES; ESTABLISHING AN INCOME TAX CREDIT FOR CERTAIN
PRIMARY AND SECONDARY EDUCATION EXPENSES FOR A PUBLIC EDUCATION; PROVIDING
DEFINITIONS; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Primary and secondary education expenses credit -- definitions. (1)

There is allowed a credit against the tax imposed by 15-30-2103 for education expenses that are paid by a
parent, guardian, or teacher as provided in this section.

(2) The credit is equal to the lesser of the amount paid for education expenses or \$1,250.

(3) ~~If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the
excess must be refunded to the claimant. The credit may be claimed even if the claimant has no taxable
income under this chapter.~~ THE CREDIT ALLOWED BY THIS SECTION MAY NOT BE REFUNDED IF THE TAXPAYER HAS A
TAX LIABILITY LESS THAN THE AMOUNT OF THE CREDIT.

(4) Pursuant to 5-4-104, the legislature finds that the purpose of the tax credit provided for in this
section is to assist parents, guardians, and teachers with the increasing costs of providing a primary and
secondary education to a child ~~IN PUBLIC SCHOOL.~~

(5) As used in this section, the following definitions apply:

(a) "Education expenses" means the following expenses for the benefit of an individual to receive
an education from an education provider:

(i) ~~school tuition charged by an education provider,~~ SCHOOL TUITION CHARGED BY AN EDUCATION
PROVIDER, fees, textbooks, software, or other instructional materials or services;

- 1 (ii) an educational program or course using electronic or offsite delivery methods, including but not
2 limited to tutoring, distance learning programs, online programs, and technology delivered learning programs;
3 (iii) curriculum, including supplemental materials necessary for the curriculum;
4 (iv) tutoring;
5 (v) educational therapies or services, including but not limited to occupational, behavioral,
6 physical, speech-language, and audiology therapies from licensed or certified practitioners or providers,
7 including licensed or certified paraprofessionals or educational aides;
8 (vi) state or nationally recognized assessment tests, advanced placement exams, entrance
9 examinations at an eligible postsecondary institution, or other assessment instruments;
10 (vii) services provided by a public school in the state, including individual classes and
11 extracurricular activities;
12 (viii) consumable education supplies, such as paper, pens, and markers;
13 (ix) transportation required for another allowable educational service; and
14 (x) fees paid to a cooperative educational program.

15 (b) "Education provider" means an education provider for individuals in kindergarten through 12th
16 grade in the state that is::

- 17 (i) ~~a public school;~~
18 (ii) ~~accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or~~
19 ~~national accreditation organization;~~
20 (iii) ~~a nonaccredited provider or tutor and has informed the child's parents or legal guardian in~~
21 ~~writing at the time of enrollment that the provider or tutor is not accredited and is not seeking accreditation; or~~
22 (iv) ~~a home school that complies with the provisions of 20-5-109.~~

23 (I) A PUBLIC SCHOOL;

24 (II) ACCREDITED, HAS APPLIED FOR ACCREDITATION, OR IS PROVISIONALLY ACCREDITED BY A STATE,
25 REGIONAL, OR NATIONAL ACCREDITATION ORGANIZATION; OR

26 (III) A NONACCREDITED PROVIDER OR TUTOR AND HAS INFORMED THE CHILD'S PARENTS OR LEGAL
27 GUARDIAN IN WRITING AT THE TIME OF ENROLLMENT THAT THE PROVIDER OR TUTOR IS NOT ACCREDITED AND IS NOT
28 SEEKING ACCREDITATION.

(c) "Teacher" means a person that provides instruction to students that is employed by an education provider. The term includes licensed or certified paraprofessionals or educational aides that are employed by an education provider.

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

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

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

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

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

(d) the primary and secondary education expenses credit provided for in [section 1].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

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2 NEW SECTION. **Section 4. Applicability.** [This act] applies to income tax years beginning on or after
3 January 1, 2026.

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