

Montana School Tax Credits

DESCRIPTION/DEFINITION:

Tax Credit Programs: Montana has two similar tax credits for qualified education contributions. Both of the tax credits are available to individuals, estates or trusts, corporations, partnerships, and LLCs. Taxpayers may claim both credits in a single year. The statewide cap on aggregate donations to each tax credit program for 2024 was \$5 million. Once an aggregate threshold is reached for a credit, subsequent donations made for that credit will be unavailable as a Montana credit but can be claimed as an itemized deduction for a charitable contribution.

Eligible education organizations are state approved student scholarship organizations (SSOs) or Montana public school districts (PSD). The Revenue department must preapprove all credits before a taxpayer may claim a tax credit. To obtain preapproval, taxpayers donate directly to the SSO or PSD. Then, the SSO or PSD must timely report the donation on the Montana Department of Revenue's Education Donation Portal to reserve a tax credit for the taxpayer. If there is enough aggregate credit available and the taxpayer has not already met the donation threshold, it is automatically preapproved.

The two credits:

- A. The Student Scholarship Organization Tax Credit, is available to taxpayers who donate to an approved Student Scholarship Organization (SSO) which then provides scholarships for eligible students to attend instruction offered by a qualified education provider. The "dollar for dollar" education tax credit program was established in 2015 with scholarships first available during the 2016-17 school year for private school attendance or tutoring. The size of the tax credit was raised by Legislative action in 2021 and allows an individual taxpayer to donate a maximum of \$200,000 to approved SSOs. Students eligible to receive scholarships from SSOs are Montana residents over the age of five on or before Sept. 10, but not older than 19 of the year of attendance.

The statewide cap on aggregate tax credit student scholarship donations for 2024 was \$5 million. Under the law, SSOs are obligated to spend at least 90% of the annual revenue from donations eligible for the tax credit for scholarships, and the donated money received in one (1) calendar year must be paid out in scholarships within the three (3) calendar years following the donation. Under the law spelled out in HB 408 (passed 2023), a "qualified education provider" means an education provider that is not a public school, may or may not be an accredited provider or tutor, may not be considered a home school but satisfies the health and safety requirements prescribed by law for private schools in Montana.

Eligible education organizations are state approved student scholarship organizations (SSOs).

- B. The Innovative Educational Program Tax Credit, also established in 2015, is a program for the purpose of providing supplemental funding to MT public school districts for innovative educational programs (IEC). During the 2021 legislature, the amount a donor could claim as a tax credit was raised to a \$200,000 maximum per person/organization (up from the previous limit of \$150 per person/organization).

Taxpayers must donate directly to local school districts, which will then submit the donations to the state for the inclusion in the tax credit program up to the current aggregate state program cap (\$5 million in 2024; \$6 million in 2025.) Donations received after the aggregate cap is reached may not be taken as a tax credit, but can be claimed as an itemized charitable tax deduction.

Eligible organizations are Montana public school districts.

The amount of each tax credit is equal to the amount of the donation, up to \$200,000 per taxpayer. Married taxpayers filing jointly may take a tax credit of up to \$400,000 for each tax credit. Taxpayers may claim both

tax credit options in a single year, however taxpayers cannot claim these credits and deduct the same amount as a charitable contribution. Both credits are subject to two thresholds: 1) each credit is limited to an aggregate threshold of the total amount of tax credit that may be taken by all taxpayers in a given tax year; 2) each tax credit is limited to a per taxpayer threshold of \$200,000. In 2024, the aggregate amount that can be claimed by taxpayers for each tax credit is \$5,000,000. In 2025 and until 2029, if 80% of the previous year's credits are claimed, the aggregate amount will increase each year by 20%; otherwise, the aggregate amount will remain the same as the previous year.

<https://mtrevenue.gov/publications/tax-credits-for-qualified-education-contributions-guide/>

RATIONALE:

- A. The Student Scholarship Tax Credit program stated rationale is to facilitate greater parental choice of schools for their children and to be able to use public funding to accommodate their choice to attend private schools.
- B. Donations made through the Innovative Educational Tax Credit program can be used to fund what the state describes as “an advanced academic program that enhances the curriculum or academic program of an eligible public school” and that is not part of the school’s everyday curriculum. Permitted uses include transformational learning, advanced opportunity courses, programs and services for children with disabilities, work-based learning and postsecondary education partnerships, technology enhancements and capital improvements or equipment necessary to support innovative programs.

REGULATORY RESPONSIBILITY

The Student Scholarship Program is under the direction and supervision of OPI.

MT Dept. of Revenue has regulatory responsibility for the Innovative Education Tax Credit Program with additional oversight by OPI.

<https://leg.mt.gov/bills/2023/billhtml/HB0393.htm>

OUTCOMES

Over the three-year period (2022, 2023, and 2024), a possibility of \$8 million dollars flowed to student scholarship organizations and \$8 million to select public school districts as a part of Tax Credits for Qualified Education Contributions Programs. NOTE: Data for the 2022 and 2023 student scholarship organization tax credit was not available due to an error on the Dept. of Revenue education portal website for those two years.

For 2024, the current aggregate cap of \$5 million for each tax credit program donations was reached before the end of March. By law, the aggregate tax credit threshold will be raised to \$6 million for each program in 2025. In addition, by reaching at least 80 percent of the threshold each of the next four years, the threshold for the following year will be raised by 20 percent per year, further diverting taxable income from the general fund pot of monies available to support public schools and other state needs. Thus, by reaching the 80 percent threshold in 2025 and thereafter, the total would go from \$10 M this year, to \$20.68 M total combined by 2028 for both programs. Assuming demand for these programs continues, they will double in size by 2028 to \$20.68 million diverted from the general fund.

A. Student Scholarship Organization Tax Credits

By March 4, 2024, the \$5 million cap for Student Scholarship Tax Credit contributions had been reached, with records showing 243 individuals and organizations claiming the tax credit. Of the donations, 216 donations were made by individuals totaling \$2,762,530 and 26 donations were made by businesses totaling \$2,237,470. A total of \$15,500 was invalidated as a tax credit likely as a result of

already reaching the established yearly cap. Fifteen (15) SSOs received the tax credit dollars with nearly \$2 million dollars received by one single organization. Unfortunately, the MT Revenue department website fails to reveal either the total number of students receiving scholarships or the total amount of scholarship money dispersed per year. Therefore, it is impossible to ascertain the contributions made to select Montana students through the program or the number of tax credit scholarships made available to private school student scholars. Accountability and transparency of this program utilizing public monies is lacking. See the table below for more detail on the Student Scholarship Tax Credit Program.

Student Scholarship Organization Tax Credits 2024

Tax Credit Donors

217	Number of Donations by Individuals
26	Number of Donations by Businesses
\$2,762,530	Total TC\$s claimed by individuals
\$2,237,470	Total TC\$s claimed by businesses

SSO Recipients

15	Number of SSOs receiving TC\$s
\$1,944,020	Largest \$ value of tax credits to one SSO
\$10,000	Smallest \$ value of tax credits to one SSO
4	# of SSOs rated 3 Star (Good) by Charity Navigator
1	# of SSOs rated 2 Star (Needs Improvement) by Charity Navigator
5	# of SSOs listed, but not rated by Charity Navigator
5	# of SSOs neither listed nor rated by Charity Navigator
\$15,500	\$ amount of invalidated TC\$s
3/4/24	Date TC Cap Reached
Unknown	Total \$ amount & # of scholarships dispersed

\$5,000,000 Total Amount of SSO TC\$s received

Source of Information: MT Dept of Revenue <https://www.mtrevenue.gov/>

TC\$ = Tax Credit Dollars

Charity Navigator: Provides a research tool for donors. Based on research, analysis and constituent feedback, the non-profit CN rates charitable organizations on a 0 to 4 star scale based on financial stability and adherence to best practices for accountability, transparency and results reporting.

NOTE: SSO Tax Credit information is unavailable for years 2022 & 2023 due to an error on the MT Revenue website duplicating 2024 info for both 2022 and 2023.

For the \$5 million SSO tax credit dollars, the 15 SSOs could legally retain 10 percent or \$500,000 of the donations for administration of the program.

B. Innovation Education Program Tax Credits: As shown in the table below, the MT Revenue Dept. reported the following Innovative Education Program Tax Credits claimed and received for the period of 2022 through 2024. These tax credit donations do not reduce state funding earmarked for education, but rather reduce the overall amount in the state’s general fund. However, in 2024 this tax credit program left 90% of Montana schools without the benefit of such donations, thus significantly reducing educational equity for MT students. It is apparent that the program has created a system of winners and losers among public school districts based on the wealth of area

residents, supporters of some of the schools and/or the time of existing school staff to develop, market, and solicit donor funding for projects. From an equity issue, the fact that over 90% of schools received zero dollars is a red flag issue for MT students; the void is especially true in lower income areas of the state.

Education Innovation Program Tax Credits by Year			
<u>2022</u>	<u>2023</u>	<u>2024</u>	
<u>Recipient Schools</u>			
827	826	834	# of Public Schools in Montana
10	31	76	# of Public Schools receiving TC\$
1.20	3.75	9.11	Percent all Public Schools receiving TC\$
98.80	96.25	90.89	Percent all Public Schools receiving NO TC\$
\$1,000	\$1,000	\$500	Lowest TC\$ amount received by one school
1	1	1	Lowest # of TC\$ gifts received by one school
8	19	33	Highest # of TC\$ gifts received by one school
\$694,000	\$895,500	\$628,600	Largest total TC\$ received by one school
<u>Tax Credit Donors</u>			
20	84	315	# of Individuals claiming tax credits
\$938,000	\$1,868,000	\$4,344,585	TC\$s claimed by individuals
3	12	36	# of businesses claiming tax credits
\$62,000	132,000	\$655,415	TC\$ total claimed by businesses
\$0	\$68,500	\$227,001	Dollars received above TC\$ Cap
1/3/22	1/20/23	1/23/24	Date TC\$ Cap reached
\$1,000,000	\$2,000,000	\$5,000,000	Total Educ. Innovation 1
Source of information: MT Dept of Revenue			https://www.mtrevenue.gov
TC\$ = Tax Credit Dollars			

Each of the 2024 aggregate caps were attained by the end of March, thus, the threshold for each option will rise to \$6 million in 2025. By reaching 80 percent of the threshold for each of the next four years, each subsequent yearly threshold will raise by 20 percent per year.

SOURCE OF INFORMATION: Mt Dept. of Revenue Tax Credits for Qualified Education

Contributions. <https://mtrevenue.gov>

MT Office of Public Instruction. <https://opi.gov>

Montana Code Annotated 2023, TITLE 15. TAXATION, CHAPTER 30. INDIVIDUAL INCOME TAX, Part 31. Tax Credit for Qualified Education Contributions

https://leg.mt.gov/bills/mca/title_0150/chapter_0300/part_0310/section_0110/0150-0300-0310-0110.html

Montana 64th Legislature, "[An Act Generally Revising Laws Related to Tax Credits for Elementary and Secondary Education](https://leg.mt.gov/bills/2015/BillPdf/SB0410.pdf)," SB 410, enacted on May 8, 2015.

<https://leg.mt.gov/bills/2015/BillPdf/SB0410.pdf>

Montana 67th Legislature, "[An Act Revising Laws Related to the Tax Credit Scholarship Program and The Innovative Educational Program](https://leg.mt.gov/bills/2021/billhtml/HB0279.htm)," HB 279, enacted on May 12, 2021.

<https://leg.mt.gov/bills/2021/billhtml/HB0279.htm>

Montana 68th Legislature, "[An Act Revising the Student Scholarship Organization and Innovative Educational Program Income Tax Credits](https://leg.mt.gov/bills/2023/HB0499/HB0408_1.pdf)," HB 408, enacted on May 18, 2023
https://leg.mt.gov/bills/2023/HB0499/HB0408_1.pdf

CONSEQUENCES, INTENDED AND UNINTENDED

A total of \$10 million in tax income has been routed to the education of Montana K-12 students which is a positive. However, the potential impact for all Montana students is troubling. For each of the past three years of the education innovation tax credit program, less than 10 percent of the state's schools have been recipients of the educational innovation program tax credit monies which raises the issue of the equitable distribution among schools to meet the needs of all students in the state. One may surmise from examining the data that the schools benefiting from the program are fortunate enough to be located in areas inhabited or supported by wealthier taxpayers or in systems with the staffing needed to develop and sell innovative programs to potential donors. One must ask, however, about the equity for students attending the other 90 plus percent of schools in the state.

The \$10 million for both tax credit programs diverted from the Montana revenue stream could have been available to help meet funding desperately needed by all Montana public schools.

The tax credits donated for student scholarships has the effect of using public funding for students in private and religious schools which, unless seeking state certification, are not required to adhere to Montana education accountability and certified teaching standards. As noted in the chart, most of the SSOs receiving scholarship funds are either not rated highly, not rated at all, or not even listed by Charity Navigator.

Based on the experience of other states, schools in less wealthy population areas often do not receive the benefit of much of the tax credit monies in support of educational opportunities for their students. While the private schools indicate enrollment openness to all students, requirements and location may preclude the actual attendance by many students. The consequence across the nation for this type of education tax credit program providing private school scholarships (or vouchers) has been the resegregation of K-12 education.

In other states, an argument in favor of this type of program is that it doesn't change the overall need for funding for education, just changes the way it is distributed. However, in many cases, tax credit scholarship students were already attending private schools and were not using public funds. The net effect of these program was to increase the amount of funding needed overall for education, as many of these students were not included in public funding before.

Experience in Indiana with a similar tax credit program indicates that eligibility requirements were expanded over time through new legislation to significantly reduce tax revenue so much that other programs were threatened with cuts to balance state budget. In Indiana, the program started at about \$15 million in 2011, but through changes in program guidelines expanding eligibility, it is forecast to cost \$600 million in 2024. (See article on education tax credit programs in Indiana, link in the Education Briefing email under the Tax Credit section).

Finally, a lack of operational program transparency prevents a full analysis of this public funding program. To further understand and analyze the outcomes and educational efficacy of the two education tax credit programs, there is a need for the collection of data and transparency of reports showing:

- 1) the number and size of scholarships awarded by each SSO and the percent of the tax credit monies actually going to program administration.
- 2) the identity of businesses and amount of money donated via the education tax credit programs.
- 3) a break-down of demographic categories of scholarship recipients 1) by family income level (i.e. poverty level, 185% of poverty level, 185-364% of poverty level and greater than 365% of poverty level) and 2) by prior enrollment in private schools, district schools or home schooling.

According to a warning issued in July 2023 from the Montana Budget & Policy Center, “*Private School Tax Credit Allows the Rich To Pay No Taxes*”.

“Montana’s Constitution states that “the legislature shall provide a basic system of free quality public elementary and secondary schools.” Our strong public education system provides opportunities for rural and urban children across the state, allows flexibilities for locally elected school boards to adapt curriculum to the needs of the communities, and helps create a well-educated workforce.

“In 2015, the Montana Legislature passed the first private school tax credit in the state, the tax credit for contributions to student scholarship organizations, allowing public dollars to be diverted to private education. This credit was significantly expanded in 2021, increasing the original \$150 per taxpayer limit to \$200,000. The 2023 Legislature continued this trend, increasing the maximum cost to the state for the credits by 150 percent, from \$2 million to \$5 million beginning in 2024.

“Private school tax credits divert funding from public schools, are expensive, and disproportionately benefit urban and wealthier families while reducing the Legislature’s ability to find state-based solutions for improving our education system. The passage of HB 408 is a disservice to the future of Montana’s educational system.”

<https://montanabudget.org/report/six-things-to-know-tax-system>

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MT LWV POSITION: Vouchers and Tax Credits:

The Montanan Constitution states that “*the legislature shall provide a basic system of free quality public elementary and secondary schools.*” The League position is to promote efficient and equitable financing of public education, with the state funding its share of the cost, and to provide a basic education, beginning in early childhood, which produces graduates with critical thinking, reading, writing and mathematical skills. In 1997 the League adopted the following definition of a high-quality basic education: A basic education must offer all students a curriculum supported by technology, libraries and teaching staff, sufficient to provide individualized instructional programs. A basic education will produce graduates capable of critical thinking, with reading, writing and mathematical skills. Together with knowledge of science, the humanities, the arts and governmental processes, these will combine to enable them to become productive workers and active citizens.

In 1986 the League adopted a Position supporting full state funding of a high-quality basic education and of state-mandated services. The League supported equity in funding and in taxpayer effort. The League also supported state accreditation standards to ensure equal opportunity for basic education for all students. Standards define the minimum program to be offered by school districts, which are free to provide programs beyond the minimum. The League favored broadening the tax base for school districts and equitable taxes. Another League goal has been consolidation of schools and/or services, taking into consideration such factors as isolation, grade levels, and school size.

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QUESTIONS TO CONSIDER:

1. What does equity in education for Montana youth mean to you? Is a \$200,000 per taxpayer tax credit a fair way to finance preK-12th grade education for students in the state?
2. Most of the recipients of assistance from these programs in other states were previously attending private schools. Should public tax dollars flow to families who can already afford private schools?
3. Do you believe these programs will increase or diminish stratification by race and class? Why or why not?
4. Funds from the Innovative Educational Tax Credit Project went to less than 10% of the schools in the state in the 2024 school year. How does this compare with the League's position of equitable financing of public education?
5. How important is accountability to you in the use of public funds for education in Montana? Do you believe any schools or organization receiving public funds via scholarship or education tax credit programs should be accountable for and provide public academic and fiscal outcome reports?
6. Do you believe schools and organizations receiving public funds should adhere to state curriculum and teacher certification standards?
7. Given the need for more funding for public education in Montana, should Montana be diverting public funds to be used for private education, preschool through 12th grade?

Montana League of Women Voters Education Working Committee
11/22/2024