SENATE BILL NO. 267

INTRODUCED BY D. FERN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A TAX CREDIT FOR CHARITABLE GIFTS TO A PUBLIC INFRASTRUCTURE PROJECT; PROVIDING FOR THE CREDIT AMOUNT; IDENTIFYING ELIGIBLE INFRASTRUCTURE PROJECTS; PROVIDING A DEFINITION; 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. Credit for charitable gift to public infrastructure.** (1) A taxpayer is allowed a credit against the taxes imposed by Title 15, chapter 31, or this chapter in an amount equal to 50% of the present value of the aggregate amount of a charitable gift made by the taxpayer during the year to a certified public infrastructure project.

(2) The credit provided for in this section may not exceed $500,000. The credit may not be refunded if it exceeds the taxpayer's tax liability but may be carried forward for 3 years.

(3) On receipt of a charitable gift for a public infrastructure project, the state or local government shall submit to the department information that is relevant to eligibility for the credit.

(4) On certification of the charitable gift, the department shall provide a receipt reporting the amount of the charitable gift and identifying the certified public infrastructure project. A taxpayer shall provide a copy of the receipt when claiming the tax credit.

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

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

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

(6) (a) If the credit allowed under this section is claimed by a small business corporation, a pass-

through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

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

~~(5)~~(7) Pursuant to 5-4-104, the purpose of this credit is to provide an incentive for charitable gifts to public infrastructure projects to acquire and construct facilities, such as health clinics, senior centers, libraries, and museums, and to recognize:

(a) the importance of charitable giving to facilitate the acquisition and building of government-owned infrastructure that serves the general public; and

(b) that charitable giving relieves the state and counties of expenses that would otherwise be passed on to taxpayers.

~~(6)~~(8) As used in this section, "certified public infrastructure project" means a project to acquire or build real property:

(a) that is owned by the state or a local government;

(b) that is used to provide to the general public educational, health, or civic service needs, including clinics, senior centers, libraries, museums, and public halls; and

(c) for which the state or local government has received certification from the department that the project meets the qualifications of this section.

NEW SECTION. **Section 2. Credit for charitable gift ~~of~~ to public infrastructure.** There is a credit against tax liability under this chapter for a charitable gift to a certified public infrastructure project as provided in [section 1].

Section 3. 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.

(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; and

(e) the credit for a charitable gift to a public infrastructure project provided for in [sections 1 and 2].

(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.)"

<u>NEW SECTION.</u> **Section 4. Codification instruction.** (1) [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].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, part 1, apply to [section 2].

<u>NEW SECTION.</u> **Section 5. Applicability.** [This act] applies to income tax years beginning after December 31, 2025.

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