HOUSE BILL NO. 859

INTRODUCED BY S. KLAKKEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INCOME TAX CREDIT FOR A CONTRIBUTION TO A COMMUNITY IMPROVEMENT ORGANIZATION; PROVIDING THAT THE CREDIT MAY BE CLAIMED AGAINST THE INDIVIDUAL OR CORPORATE INCOME TAX; PROVIDING AN AGGREGATE LIMIT FOR THE TOTAL AMOUNT OF CREDITS CLAIMED; PROVIDING DEFINITIONS; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Credit for cash contribution to community improvement organization -- definitions.** (1) Subject to subsection (4), a taxpayer or corporation is allowed a credit against the tax imposed by chapter 30 or 31 for a cash contribution to a community improvement organization. The amount of the credit is equal to the amount of the cash contribution, not to exceed the lesser of 10% of the Montana taxable income claimed on the return, or $3,000.

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

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

(3) The credit allowed under this section may not exceed the taxpayer's income tax liability but may be carried forward 3 years. The entire amount of the tax credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(4) (a) (i) The aggregate amount of tax credits allowed under this section is $2 million a year in tax year 2026 and $5 million a year in tax year 2027 and subsequent tax years except as provided in this subsection (4)(a).

(ii) Beginning in 2027, by December 31 of each year, the department shall determine if 80% of the aggregate limit provided for in subsection (4)(a)(iii) in cash contributions was preapproved by the department. If this condition is satisfied, the aggregate amount of tax credits allowed must be increased by 20% for the succeeding tax years.

(iii) If the aggregate limit is increased in any tax year, the department shall use the new limit as the base aggregate limit for succeeding tax years until a new aggregated limit is established under the provisions of subsection (4)(a)(ii).

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

(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) On receiving a cash contribution under this part, a community improvement organization shall seek preapproval, in a manner prescribed by the department, that the amount of tax credit sought by the taxpayer is available under the aggregate limit under subsection (4).

(b) On preapproval by the department, a community improvement organization shall issue a receipt, in a form prescribed by the department, to each contributing taxpayer indicating the amount of the cash contribution received and preapproval of the tax credit.

(c) A taxpayer shall provide a copy of the receipt when claiming the tax credit.

(7) Pursuant to 5-4-104, the legislature finds that the purpose of the tax credit provided for in this section is to encourage more donations to community improvement organizations while simultaneously empowering taxpayers to prioritize their tax dollars for use in the state.

(8) For the purposes of this section, the following definitions apply:

(a) (i) "Community improvement organization" means a tax-exempt organization under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), that performs fundraising activities or fund distribution to enhance, remodel, or support a public facility that is owned by the state or a local government unit.

(ii) The term does not include an organization with paid employees or board members.

(b) "Local government unit" means a city, county, town, unincorporated municipality or village, or special taxing unit or district and any commission, board, bureau, or other office of the unit.

NEW SECTION. **Section 2. Credit for funding to community improvement organization -- corporate tax credit.** There is a credit against tax liability under this chapter for a donation made to a community improvement organization 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; and

(d) the credit for cash contributions to a community improvement organization provided for in [sections 1 and 2].

(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 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].

NEW SECTION. **Section 5. Effective date.** [This act] is effective January 1, 2026.

NEW SECTION. **Section 6. Applicability.** [This act] applies to income tax years beginning on or after January 1, 2026.

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