

HOUSE BILL NO. 900

INTRODUCED BY F. NAVE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INCOME TAX CREDIT FOR A BUSINESS THAT DIRECTS PAYMENT PROCESSING FEES TO A CHARITABLE ORGANIZATION; PROVIDING THAT THE CREDIT MAY BE TAKEN AGAINST THE INDIVIDUAL INCOME TAX OR THE CORPORATE INCOME TAX; PROVIDING THAT THE CREDIT MAY BE CARRIED FORWARD 2 YEARS; 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. Credit for business that directs payment processing fees to charitable organization. (1) A taxpayer is allowed a credit against the tax imposed by Title 15, chapter 31, or this chapter for payment processing fees directed to a charitable organization if the payment processor reimburses the state for the credit amount in the first year the credit is claimed.

(2) The credit is equal to the amount of payment processing fees directed to a charitable organization under a contract that allows the taxpayer to direct a portion of payment processing fees to a charitable organization.

(3) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by this section for the tax year exceed the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to succeeding tax years for a period not to exceed 2 years from the tax year the credit was claimed.

(4) 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. 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.

(5) (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.

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

(a) "Charitable organization" means an organization for which a contribution qualifies as a charitable contribution as defined in 26 U.S.C. 170(c).

(b) "Payment processing fee" means a fee paid by a business to a payment processor for the purpose of processing electronic payment transactions, including but not limited to payments with a credit card, debit card, or digital wallet.

(c) "Payment processor" means a company or service that facilitates electronic transactions between businesses and their customers.

NEW SECTION. Section 2. Credit for business that directs payment processing fees to charitable organization. There is a credit against tax liability under this chapter for payment processing fees directed to a charitable organization 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 a business that directs payment processing fees to a charitable organization provided for in [sections 1 and 2].

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2023, and

1 during each biennium commencing 8 years thereafter:

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

3 (b) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-
4 2329, 15-31-161, and 15-31-162;

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

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

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

10 (a) the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-
11 2341;

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

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

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

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

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

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

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

21 and

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

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

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

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

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

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

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

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

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

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12 NEW SECTION. **Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as an
13 integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

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

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17 NEW SECTION. **Section 5. Applicability.** [This act] applies to income tax years beginning after
18 December 31, 2025.

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