

SENATE BILL NO. 512

INTRODUCED BY J. WINDY BOY

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INDIVIDUAL INCOME TAX CREDIT FOR 50% OF QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES PAID BY THE TAXPAYER FOR EACH DEPENDENT IN PUBLIC OR NONPUBLIC ELEMENTARY OR SECONDARY GRADES, INCLUDING A HOME SCHOOL PROGRAM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Tax credit for qualifying school expenses.** (1) There is a tax credit against the taxes otherwise due under this chapter for qualified elementary and secondary education expenses paid by a resident individual taxpayer for each dependent who is under 19 years of age for the entire tax year in which the credit is claimed and who is enrolled full-time in kindergarten through 12th grade at a public or private school or in a home school in the state.

(2) The amount of the credit is equal to 50% of qualified elementary and secondary education expenses paid by the taxpayer. The amount of the credit allowed under this section may not exceed \$400 for a single taxpayer, head of household, or married taxpayers filing jointly or separately regardless of the number of dependents of the taxpayer or taxpayers. Married taxpayers filing separately on the same form may allocate the credit between spouses.

(3) The credit allowed by this section may not exceed the taxpayer's income tax liability for the current tax year. There is no carryforward or carryback of the credit permitted under this section.

(4) The taxpayer shall provide documentation to the department of all qualified elementary and secondary education expenses used to calculate the credit under this section.

(5) (a) For the purpose of this section, "qualified elementary and secondary education expenses" include:

(i) fees or tuition for instruction in a public or nonpublic elementary or secondary school during the regular school day or school year, including tutoring, class trips, driver education taken as part of the school curriculum, or summer camps, in grade-appropriate or age-appropriate curricula that:

(A) supplement curricula and instruction available during the regular school year;



1 (B) assist a dependent in improving knowledge of core curriculum areas or expanding knowledge and
2 skills under the accreditation standards; and

3 (C) and do not include the teaching of religious tenets, doctrines, or worship for the purpose of instilling
4 the tenets, doctrines, or worship;

5 (ii) expenses for textbooks, books, and other instructional materials or equipment used in public or
6 nonpublic elementary and secondary schools, including a home school program, in teaching only those subjects
7 legally and commonly taught in public or nonpublic elementary or secondary schools or in a home school program
8 in this state;

9 (iii) computer hardware and educational software that assists a dependent in improving knowledge of
10 core curriculum areas or expanding knowledge and skills, purchased for use in the taxpayer's home and not used
11 in trade or business regardless of whether the computer is required by the dependent's school;

12 (iv) clothing or uniforms required for physical education classes or choir;

13 (v) fees, materials, clothing, equipment, uniforms, or other expenses required for public or nonpublic
14 school-sponsored extracurricular activities;

15 (vi) rental fees or the purchase costs of musical instruments; and

16 (vii) equipment required for shop, home economics, or art courses.

17 (b) Qualified elementary and secondary education expenses do not include:

18 (i) tuition for nursery school or prekindergarten classes;

19 (ii) education expenses after the dependent has left high school;

20 (iii) instructional books and materials used in the teaching of religious tenets, doctrines, or worship for
21 the purpose of instilling the tenets, doctrines, or worship;

22 (iv) the cost of driving a dependent to school; and

23 (v) school hot lunches.

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25 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
26 integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 1].

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28 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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30 **NEW SECTION. Section 4. Retroactive applicability.** [This act] applies retroactively, within the

1 meaning of 1-2-109, to tax years beginning after December 31, 2008.

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