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February 14, 2011
Testimony in Opposition to SB 282

SENATE TAXATION
EXHIBIT NO. 10
DATE 2.14.11
BILL NO. SB 282

Chairman Tutvedt and Members of the Committee,

On behalf of the ACLU of Montana—a membership based organization of nearly 2,000 Montana households dedicated to defending the Constitution and the Bill of Rights – I rise in opposition to SB 282.

SB 282 appears to be an expansion of permissible tax credits, but in reality it has the potential to divert public taxpayer monies to subsidize private, religious schools – and is, in essence, a voucher program in disguise. We have serious reservations about his proposed legislation. Article X, Section 6 of the Montana Constitution clearly states that no direct or indirect appropriation from any public fund or monies shall be used to aid any school, academy, college, or university controlled in whole or part by any church, sect or denomination.

- **Tax credits use public monies to subsidize private education.** Supporters of this legislation may say that this benefit does not involve public money. Legally and economically, tax credits are public funds; when the government grants such tax benefits, it forgoes income. In the case of tax credits, for every dollar donated by a taxpayer to a religious school through a scholarship organization, the government loses revenue. This tax deduction is the functional equivalent of the government reimbursing parents for tuition paid to religious schools.
- **Tax credits for tuition paid to private schools through a scholarship organization harms our public education system by misappropriating funds that could be used to fund our public schools at constitutionally acceptable levels.** While individual taxpayers may benefit from the tax subsidy, the true beneficiary is the private school. These proposed tax diversions will harm funding for our public schools by redirecting money that would otherwise benefit our state's public schools and funneling it through the taxpayer to private schools.
- **This tax credit favors private schools over public schools.** The definition of "qualified school or program" in the bill is limited to nonpublic educational facilities or entities. Because private schools are generally religious in nature, providing them with public assistance would significantly infringe on the Constitutional value of separation of church and state.
- **There is no "double taxation" for parents who enroll their children in private schools.** Parents of private schools children argue that they should be reimbursed by the state for private school tuition and fees claiming that they are being "doubled taxed" for the education of their children. This is a myth. Private school parents voluntarily choose to send their children to private schools and thus make tuition payments; they are not taxed for doing so.

(Over)

Furthermore, all citizens pay taxes for basic services such as police, fire departments, libraries, garbage removal, street repair and public education regardless of whether they use these services without receiving a tax credit. In fact, people without children pay taxes for public education even though they do not use it. These services are provided because they make our communities stronger and safer. Under a tax credit scheme, taxpayers will face an increased taxation because they will have to make up for lost revenue due to the tax break.

This bill is poor public policy. It is a back door for funneling money from state coffers to fund religious and private schools. We urge a DO NOT PASS on SB 282.