



Mike Kadas
Director

Montana Department of Revenue



Steve Bullock
Governor

February 19, 2016

To: Representative Jeff Essmann, House District 54
Members of the Revenue and Transportation Interim Committee

From: Mike Kadas, Director *MK*

Re: Information Request - Senate Bill 410 Education Tax Credits

At the November 30, 2015 Revenue and Transportation Interim Committee meeting you requested copies of all correspondence including written, email or other communications between the Governor's Office and my office at and around the time that Senate Bill 410 was sent to the Governor for his consideration for signature.

In our search we discovered one document, which is attached. The document is something we at the department call a 'blue sheet' and is a standard form we provide to the Governor's office summarizing a bill passed by the legislature.

Kadas, Mike

From: Barbour, Kristan
Sent: Thursday, April 30, 2015 4:41 PM
To: Smillie, Siri
Cc: Baerlocher, Lee; Walborn, Gene; Kadas, Mike
Subject: SB 410BlueSheet.docx
Attachments: SB 410BlueSheet.docx

SB 410 Blue Sheet from DOR.

Thanks,
Kristan

THE FOLLOWING BILL WAS RECEIVED BY THE GOVERNOR
FOR HIS APPROVAL

BILL # SB 410

DATE: 4/30/15

Completed By Mike Kadas

- HAS CONCERNS (Please describe below)
- HAS NO CONCERNS

COMMENTS:

Funding for the Department is crucial to effectively implement SB410. Absence the funding requested in the Department's fiscal note, the Department cannot guarantee a seamless implementation of SB410.

SB410 assigns many responsibilities to the Department with the two main responsibilities being auditing and programming. The unique nature of SB410, especially its limitation of the amount of tax credits that are available on a first come, first serve basis poses additional difficulties for the implementation.

Since SB410 limits the amount of tax credits available and allocates these limited tax credits on a first come, first serve system. The best way to implement a first come, first serve system is to require individuals or corporations, that are intending on donating and acquiring a tax credit, pre-register for the available credits on-line. A real-time web-based application process would be best. The real-time link would allow the Department to notify all individuals that are planning to donate funds, either to the innovative education program or the student scholarship organizations, that there is or is not tax credits available. Note both programs have a tax credit limitation of \$3,000,000.

Without the real-time link an individual could make a donation with the notion that a corresponding tax credit will accompany the donation when in fact the limit on the tax credits may have already been met.

SB410 also requires the Department to create and maintain a website that will list the student scholarship organizations (SSO), the qualified educators that have accepted funds from the SSOs, a statistical compilation of information from the SSOs, and a hyperlink that lists the qualified education provider's overall testing scores.

The auditing duties in SB410 put additional requirements on the Department that can be met if the FTE and funding request as illustrated in the fiscal note are received. SB410 requires the Department to do the following auditing related duties:

- Ensure that 90% of the donations received for student scholarship are used within 3 years
- Increase the \$3,000,000 limit on innovative education donations or student scholarships that receive a tax credit when the limit is met in the prior year
- Disallow tax credits that were not made or not available due to first come, first serve system
- Ensure a tax donation is not taken when the tax credit has been received and used
- Provide the Revenue and Transportation Interim Committee (RTIC) a list of the SSOs receiving contributions from businesses and individuals that are granted tax credits. The listing must also distinguish the amount of tax credits rewarded in chapter 30 and chapter 31.
- Ensure that the SSO's are in compliance with Sections 8, 9, and 11 of the bill.
 - Section 8 requires the Department to verify that all SSOs are 501(c)(3)s and do not provide scholarships to only one educational provider
 - Section 9's duties for the Department include;
 - permitting the cost of the annual financial review to come out of the donations prior to the calculation of the scholarship use limit of 90%,
 - ensuring a SSO does not limit the student's choice to enroll into any qualified education provider,
 - ensuring the student receiving a scholarship does not receive scholarships that exceed 50% of the per-pupil average total public school expenditures,

- ensuring the SSO's average scholarship does not exceed 30% of the per-pupil average of total public school expenditures, and
- ensuring the SSOs maintain an adequate application process.
- Section 11's duties for the Department include;
 - requiring the SSOs submit notice to the Department that they are receiving donations
 - requiring the SSOs to have independent CPAs complete annual fiscal reviews of the SSOs accounts within 120 days after the close of the calendar year. The Department must ensure that the SSOs' reviews must contain the following information:
 - Total number and value of individual and corporation donations
 - Total number and value of scholarships obligated to students
 - Total number and value of scholarships awarded to students
 - Cost of the annual review
 - The review must be received by the Department 150 days after the close of the year, failure to file with the Department can result in termination of the SSO status

SB410 requires the Department to provide written notices to the SSOs that are not in compliance with the requirements of this bill. When SSOs are not in agreement with the Department's findings, the Department will have to defend its findings in front of various tribunals.

As evident in this memo the Department's SB410 duties are extensive and warrant consideration for the funding illustrated on the submitted fiscal note.