

HOUSE BILL NO. 793  
INTRODUCED BY J. WELLS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAX CREDIT FOR CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATIONS FOR INDIVIDUAL INCOME TAXES AND CORPORATION TAXES; DEFINING "SCHOOL TUITION ORGANIZATION"; PROVIDING THAT A QUALIFIED SCHOOL IS A PRIVATE PRIMARY OR SECONDARY SCHOOL OR A SPECIFIED POSTSECONDARY EDUCATIONAL INSTITUTION; PROVIDING A CARRYFORWARD FOR THE CREDIT; 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. Credit for contributions to school tuition organization.** (1) There is allowed a credit against the tax imposed by chapter 31 or this chapter in an amount equal to the voluntary cash contributions made by the taxpayer during the tax year to a school tuition organization. The amount of the credit may not exceed \$2,000.

(2) If the amount of the tax credit exceeds the taxpayer's liability or if the claimant does not have taxable income, the taxpayer may carry forward unused tax credits for up to 5 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.

(3) The credit allowed by this section is in lieu of:

(a) any deduction for the contribution pursuant to section 170 of the Internal Revenue Code, 26 U.S.C. 170, and taken for state tax purposes pursuant to 15-30-121; and

(b) a credit for contributions to the university system or private college foundations under 15-30-163 or 15-31-135.

(4) The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer.

(5) A school tuition organization that receives a voluntary cash contribution pursuant to subsection (1) shall report to the department, on a form prescribed by the department, by February 28 of each year the following information:

(a) the name, address, and contact name of the school tuition organization;

- (b) the total number of contributions received during the previous calendar year;
  - (c) the total dollar amount of contributions received during the previous calendar year;
  - (d) the total number of children awarded educational scholarships or tuition grants during the previous calendar year;
  - (e) the total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year; and
  - (f) for each qualified school to which educational scholarships or tuition grants were awarded:
    - (i) the name and address of the school;
    - (ii) the number of educational scholarships and tuition grants awarded during the previous calendar year;
- and
- (iii) the total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

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

- (a) "Child with a disability" has the meaning provided in 20-7-401.
- (b) "Qualified school" means:
  - (i) a preschool for children with a disability or a nongovernmental primary school or secondary school:
    - (A) that is located in this state;
    - (B) that does not discriminate on the basis of race, color, handicap, familial status, or national origin; and
    - (C) that provides academic instruction at a place other than the student's home; and
  - (ii) the following postsecondary educational institutions:
    - (A) a unit of the Montana university system, as described in 20-25-201;
    - (B) a Montana community district, defined and organized as provided in 20-15-101;
    - (C) an accredited tribal community college located in the state of Montana; or
    - (D) a Montana private college, as defined in 15-30-163(3)(b).
- (c) "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), and that allocates at least 90% of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization, the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

**NEW SECTION. Section 2. Credit for contributions to school tuition organization.** There is a credit against the taxes otherwise due under this chapter for contributions to a school tuition organization. The credit must be computed and administered as provided in [section 1].

**NEW SECTION. Section 3. 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, and the provisions of Title 15, chapter 31, apply to [section 2].

**NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

**NEW SECTION. Section 5. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2006.

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