

HOUSE BILL NO. 433

INTRODUCED BY S. BERGLEE

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INDIVIDUAL INCOME TAX CREDIT FOR TUITION PAID FOR ELEMENTARY OR SECONDARY SCHOOL EDUCATION; LIMITING ELIGIBILITY FOR AND THE AMOUNT OF THE TAX CREDIT; REQUIRING AN INFORMATION RETURN FROM A QUALIFIED EDUCATION PROVIDER; EXTENDING RULEMAKING AUTHORITY; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, Article X, section 1(1), of the Montana Constitution guarantees equality of educational opportunity to each person of the state; and

WHEREAS, the Legislature finds that allowing lower-income parents the same ability that wealthy parents now have in selecting the school of their choice enhances equality of educational opportunity; and

WHEREAS, the Legislature strongly supports the rights of parents to choose the way in which their children are educated, consistent with their academic expectations and personal values; and

WHEREAS, the Legislature believes that competition in the educational marketplace has a strengthening effect on both public and private education and serves the long-term best interests of all students; and

WHEREAS, the Legislature supports an education policy that fosters the free movement of educational consumers to the schools of their choice; and

WHEREAS, the Legislature finds that parental choice in education can reduce the Montana property and income tax burdens and increase the amount of money available to educate each child in the public schools; and

WHEREAS, the Legislature intends, with passage of this act, to grant all parents more educational choice.

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

NEW SECTION. Section 1. Elementary and secondary education tax credit -- definitions. (1) There is a credit against the taxes otherwise due under this chapter for a payment of tuition and fees by a taxpayer to a qualified education provider for an eligible student to attend an elementary or secondary education program offered by a qualified education provider.

(2) The amount of the credit for payment of tuition and fees is up to \$1,000, as applied against the first



1 \$1,000 of qualifying education expenses, for the tax year beginning:

2 (a) January 1, 2016, but only for the amount by which those expenses have increased for the taxpayer
3 from the previous tax year;

4 (b) January 1, 2017, through the tax year ending December 31, 2018, but only for the amount by which
5 those expenses have increased for the taxpayer from the 2016 tax year; and

6 (c) on or after January 1, 2019.

7 (3) A credit is not allowed under any other provision of this chapter with respect to any amount for which
8 a credit is claimed under this section.

9 (4) The credit may not be refunded if a taxpayer has tax liability that is less than the amount of the credit.

10 (5) The credit may be used as a carryforward against taxes due under this chapter for the 5 succeeding
11 tax years. The entire amount of the credit not used in the year earned must be carried first to the earliest tax year
12 in which the credit may be applied and then to each succeeding tax year.

13 (6) In the case of a married individual filing a separate return, the amount of the credit under subsection
14 (2) may be split in proportion to each taxpayer's share of the contribution, subject to the maximum credit limitation
15 in subsection (2).

16 (7) As used in [section 2] and this section, the following definitions apply:

17 (a) "Eligible student" means a student who is:

18 (i) a Montana resident and who is 5 years of age or older on or before September 10 of the year of
19 attendance and has not yet reached 19 years of age; and

20 (ii) connected by consanguinity within the second degree to the taxpayer.

21 (b) "Qualified education provider" means an education provider that:

22 (i) is a private school or a public school that is out-of-district for the eligible student;

23 (ii) (A) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or
24 national accreditation organization; or

25 (B) is a nonaccredited provider or tutor and has informed the eligible student's parents or legal guardian
26 in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;

27 (iii) is not a home school as described in 20-5-102;

28 (iv) administers a nationally recognized normative assessment test or criterion reference test and makes
29 the results available to the eligible student's parents or legal guardian; and

30 (v) if not a public school:

- 1 (A) satisfies the health and safety requirements prescribed by law for private schools in this state; and
2 (B) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.

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4 **NEW SECTION. Section 2. Education tax credit -- information return.** (1) Each qualified education
5 provider, with the exception of a public school that is out-of-district for the eligible student, shall make an
6 information return to the department concerning the credit allowed under [section 1]. The return must show the
7 amount of the qualifying tuition payment made by an individual for each eligible student and must include the
8 individual's name, address, and social security number or taxpayer identification number. The qualified education
9 provider shall provide a copy of the return to the individual making the qualifying tuition payment.

10 (2) The return must be made under rules adopted by the department and in the form and manner
11 prescribed by the department.

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13 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified
14 as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to
15 [sections 1 and 2].

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17 **NEW SECTION. Section 4. Applicability.** [This act] applies to tax years beginning after December 31,
18 2015.

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