

1 HOUSE BILL 444

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Yvette Herrell

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT FOR
12 CONTRIBUTIONS MADE TO CERTAIN ORGANIZATIONS FOR TUITION
13 SCHOLARSHIPS FOR STUDENTS IN PRIVATE SCHOOLS; PROVIDING AN
14 INCOME TAX CREDIT FOR CONTRIBUTIONS MADE TO PUBLIC SCHOOLS FOR
15 SUPPORT OF AN EXTRACURRICULAR ACTIVITY.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of the Income Tax Act is enacted
19 to read:

20 "[NEW MATERIAL] TUITION SCHOLARSHIP INCOME TAX CREDIT.--

21 A. Prior to January 1, 2021, a taxpayer who is not
22 a dependent of another taxpayer may apply for, and the
23 department may allow, a tax credit for a contribution made to a
24 school tuition organization if a receipt has been received from
25 the organization certifying that the contribution will be used

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1 for educational scholarships or tuition grants for one or more
2 students. The tax credit may be claimed in an amount equal to
3 the total contributions made during the taxable year for which
4 the tax credit is claimed but shall not exceed one thousand
5 dollars (\$1,000) in any taxable year. The tax credit provided
6 by this section may be referred to as the "tuition scholarship
7 income tax credit".

8 B. The tuition scholarship income tax credit shall
9 not be allowed for a contribution that is included in the
10 taxpayer's itemized deductions, as defined in the Internal
11 Revenue Code, for the taxable year.

12 C. Married individuals who file separate returns
13 for a taxable year in which they could have filed a joint
14 return may each claim only one-half of the tuition scholarship
15 income tax credit that would have been allowed on a joint
16 return.

17 D. A taxpayer may claim a tuition scholarship
18 income tax credit for the taxable year in which the taxpayer
19 makes a qualifying contribution. To receive a tuition
20 scholarship income tax credit, a taxpayer shall apply to the
21 department on forms and in the manner prescribed by the
22 department.

23 E. That portion of a tuition scholarship income tax
24 credit that exceeds a taxpayer's income tax liability in the
25 taxable year in which the tuition scholarship income tax credit

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1 is claimed may be carried forward for a maximum of five years
2 but shall not be refunded to the taxpayer. The tuition
3 scholarship income tax credit shall not be transferred to
4 another taxpayer.

5 F. The department shall provide a format for a
6 standardized receipt to be issued by a school tuition
7 organization to indicate the tuition scholarship income tax
8 credit value of a contribution to the school tuition
9 organization. The department may require a taxpayer claiming
10 the tuition scholarship income tax credit to submit a copy of
11 the receipt with the taxpayer's claim for the tax credit.

12 G. A taxpayer allowed a tuition scholarship income
13 tax credit shall report the amount of the tax credit to the
14 department in a manner required by the department.

15 H. The department shall compile an annual report on
16 the tuition scholarship income tax credit that shall include
17 the number of taxpayers approved by the department to receive
18 the tax credit, the aggregate amount of tax credits approved
19 and any other information necessary to evaluate the
20 effectiveness of the tax credit. Beginning in 2017, the
21 department shall compile and present the annual report to the
22 revenue stabilization and tax policy committee and the
23 legislative finance committee with an analysis of the
24 effectiveness and cost of the tax credit.

25 I. As used in this section:

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1 (1) "qualified school" means an accredited
2 private elementary or secondary school in New Mexico;

3 (2) "school tuition organization" means an
4 organization that:

5 (a) demonstrates to the department that
6 it has been granted exemption from the federal income tax as an
7 organization described in Section 501(c)(3) of the Internal
8 Revenue Code;

9 (b) provides financial assistance in the
10 form of educational scholarships or tuition grants to students
11 allowing them to attend any qualified school of their parents'
12 choice; provided that no more than: 1) five thousand one
13 hundred dollars (\$5,100) may be provided to assist each student
14 entering kindergarten through eighth grade; or 2) six thousand
15 four hundred (\$6,400) may be provided to assist each student
16 entering ninth through twelfth grades; and

17 (c) expends one hundred percent of its
18 tax-credit-qualifying revenues for educational scholarships or
19 tuition grants for students enrolled in a qualified school; and

20 (3) "tax-credit-qualifying revenue" means a
21 contribution to a school tuition organization for which a
22 receipt, as provided in Subsection F of this section, has been
23 issued by the organization to the donor of the contribution."

24 SECTION 2. A new section of the Income Tax Act is enacted
25 to read:

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1 "[NEW MATERIAL] EXTRACURRICULAR ACTIVITY CONTRIBUTION
2 INCOME TAX CREDIT.--

3 A. A taxpayer who is not a dependent of another
4 taxpayer may apply for, and the department may allow, a tax
5 credit for a contribution made to an eligible school for the
6 support of an extracurricular activity if a receipt has been
7 received from the school certifying that the contribution will
8 be used for an extracurricular activity for one or more
9 students enrolled in the school. The tax credit may be claimed
10 in an amount equal to the total contributions made during the
11 taxable year for which the tax credit is claimed but shall not
12 exceed five hundred dollars (\$500) in any taxable year. The
13 tax credit provided by this section may be referred to as the
14 "extracurricular activity income tax credit".

15 B. The extracurricular activity income tax credit
16 shall not be allowed for a contribution that is included in the
17 taxpayer's itemized deductions, as defined in the Internal
18 Revenue Code, for the taxable year.

19 C. Married individuals who file separate returns
20 for a taxable year in which they could have filed a joint
21 return may each claim only one-half of the extracurricular
22 activity income tax credit that would have been allowed on a
23 joint return.

24 D. A taxpayer may claim an extracurricular activity
25 income tax credit for the taxable year in which the taxpayer

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1 makes a qualifying contribution. To receive an extracurricular
2 activity income tax credit, a taxpayer shall apply to the
3 department on forms and in the manner prescribed by the
4 department.

5 E. That portion of an extracurricular activity
6 income tax credit that exceeds a taxpayer's income tax
7 liability in the taxable year in which the extracurricular
8 activity income tax credit is claimed may be carried forward
9 for a maximum of five years but shall not be refunded to the
10 taxpayer. The extracurricular activity income tax credit shall
11 not be transferred to another taxpayer.

12 F. The department shall provide a format for a
13 standardized receipt to be issued by an eligible school to
14 indicate the extracurricular activity income tax credit value
15 of a contribution to the school. The department may require a
16 taxpayer claiming the extracurricular activity income tax
17 credit to submit a copy of the receipt with the taxpayer's
18 claim for the tax credit.

19 G. A taxpayer allowed an extracurricular activity
20 income tax credit shall report the amount of the tax credit to
21 the department in a manner required by the department.

22 H. The department shall compile an annual report on
23 the extracurricular activity income tax credit that shall
24 include the number of taxpayers approved by the department to
25 receive the tax credit, the aggregate amount of tax credits

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1 approved and any other information necessary to evaluate the
2 effectiveness of the tax credit. Beginning in 2017, the
3 department shall compile and present the annual report to the
4 revenue stabilization and tax policy committee and the
5 legislative finance committee with an analysis of the
6 effectiveness and cost of the tax credit.

7 I. As used in this section:

8 (1) "eligible school" means a public school in
9 New Mexico that is a middle school or junior high school, an
10 elementary school that enrolls students in grade six or a high
11 school that enrolls students in grade nine; and

12 (2) "extracurricular activity" means athletic,
13 co-curricular and other extracurricular activities sanctioned
14 by the New Mexico activities association."

15 SECTION 3. APPLICABILITY.--The provisions of this act
16 apply to taxable years beginning on or after January 1, 2015.