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HOUSE BILL 166

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO TAXATION; ENACTING THE EQUAL OPPORTUNITY  
SCHOLARSHIP ACT; PROVIDING FOR TUITION SCHOLARSHIP  
ORGANIZATIONS TO GRANT EDUCATIONAL SCHOLARSHIPS TO LOW-INCOME  
STUDENTS TO ATTEND CERTAIN SCHOOLS; CREATING INCOME TAX AND  
CORPORATE INCOME TAX CREDITS FOR CONTRIBUTIONS TO TUITION  
SCHOLARSHIP ORGANIZATIONS THAT PROVIDE EDUCATIONAL SCHOLARSHIPS  
FOR LOW-INCOME STUDENTS TO ATTEND CERTAIN SCHOOLS OF THE  
STUDENT'S PARENTS' CHOICE.

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

**SECTION 1.** [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 5 of this act may be cited as the "Equal Opportunity  
Scholarship Act".

**SECTION 2.** [NEW MATERIAL] DEFINITIONS.--As used in the  
Equal Opportunity Scholarship Act:

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1           A. "certification document" means the document  
2 issued by the department to an organization verifying that the  
3 organization is a tuition scholarship organization and  
4 contributions to that organization for equal opportunity  
5 scholarships may be claimed as an equal opportunity scholarship  
6 tax credit;

7           B. "contribution receipt" means a document  
8 developed by the taxation and revenue department pursuant to  
9 the Equal Opportunity Scholarship Act and provided to a tuition  
10 scholarship organization that in turn provides the document to  
11 an individual or corporate contributor that is a taxpayer that  
12 intends to claim an equal opportunity scholarship tax credit as  
13 a receipt for a contribution to the tuition scholarship  
14 organization;

15           C. "department" means the public education  
16 department;

17           D. "educational scholarship" means a tuition grant  
18 or other grant of funds to an eligible student to cover all or  
19 part of the costs of that student at a qualified school,  
20 including transportation costs;

21           E. "eligible student" means a student who:

22                   (1) is a member of a household for which the  
23 total annual income does not exceed an amount used to qualify  
24 for a reduced-price lunch through the federal school lunch  
25 programs established pursuant to 42 USCA Sections 1751 through

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1 1769, as amended; provided that once a student receives a  
2 scholarship pursuant to the Equal Opportunity Scholarship Act,  
3 the student shall remain eligible regardless of household  
4 income until the student graduates from high school or reaches  
5 twenty-one years of age;

6 (2) attended a New Mexico public school for  
7 the semester prior to first receiving an educational  
8 scholarship pursuant to the Equal Opportunity Scholarship Act  
9 or is starting school in New Mexico for the first time; and

10 (3) resides in New Mexico while receiving a  
11 scholarship from a tuition scholarship organization;

12 F. "equal opportunity scholarship tax credit" means  
13 the equal opportunity scholarship income tax credit provided in  
14 the Income Tax Act and the equal opportunity scholarship  
15 corporate income tax credit provided in the Corporate Income  
16 and Franchise Tax Act;

17 G. "parent" means a guardian, custodian or other  
18 person with authority to act on behalf of a child;

19 H. "qualified school" means a public or nonpublic  
20 elementary, middle or secondary school located in New Mexico to  
21 which a parent has chosen to send an eligible student;

22 I. "relative" means a person related by affinity or  
23 consanguinity to the third degree;

24 J. "tuition grant" means a grant of funds for the  
25 purpose of covering the costs of tuition for a qualified

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1 school; and

2 K. "tuition scholarship organization" means an  
3 organization that provides educational scholarships to students  
4 attending qualified schools of their parents' choice and that  
5 meets the criteria established in the Equal Opportunity  
6 Scholarship Act.

7 SECTION 3. [NEW MATERIAL] TUITION SCHOLARSHIP  
8 ORGANIZATION--CERTIFICATION.--

9 A. An organization may seek certification from the  
10 department as a tuition scholarship organization by submitting  
11 an application for certification to the department.

12 B. To be certified as a tuition scholarship  
13 organization by the department, the organization shall provide  
14 documentation as deemed appropriate by the department to verify  
15 that:

16 (1) the tuition scholarship organization has  
17 been granted an exemption from federal income tax as an  
18 organization described in Section 501(c)(3) of the federal  
19 Internal Revenue Code of 1986;

20 (2) the tuition scholarship organization has  
21 awarded or intends to award educational scholarships to  
22 eligible students who are attending or plan to attend qualified  
23 schools;

24 (3) the scholarships are funded from  
25 contributions that the tuition scholarship organization has

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1 received in or prior to the current calendar year or  
2 anticipates receiving during the remainder of the calendar year  
3 and:

4 (a) at least ninety percent of the  
5 contributions received during a calendar year for which the  
6 tuition scholarship organization issues a contribution receipt  
7 to an individual or corporate taxpayer for purposes of  
8 obtaining an equal opportunity scholarship tax credit is  
9 awarded by the organization as educational scholarships and all  
10 revenue from interest or investments is expended solely on  
11 educational scholarships; and

12 (b) a scholarship award to an eligible  
13 student shall not exceed eighty percent of the three-year  
14 rolling average of the state equalization guarantee  
15 distribution for the eligible student as calculated for the  
16 associated program units;

17 (4) the tuition scholarship organization  
18 distributes periodic scholarship payments as checks that are  
19 issued to an eligible student's parent, that are mailed to the  
20 qualified school in which the eligible student is enrolled and  
21 that require the endorsement of the parent prior to deposit of  
22 the check;

23 (5) educational scholarships awarded by the  
24 tuition scholarship organization are portable during the school  
25 year and can be used at any qualified school that accepts the

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1 eligible student according to a parent's wishes; provided that  
2 the scholarship shall be prorated between schools based on the  
3 number of days attended at each school by the eligible student;

4 (6) criminal background checks on all of the  
5 tuition scholarship organization's employees and board members  
6 have been conducted by the organization, with the understanding  
7 that individuals who might reasonably pose a risk to the sound  
8 fiscal management of the funds of the organization shall be  
9 excluded from employment or governance, and all pertinent  
10 findings on employees and board members have been provided to  
11 the department for review and approval;

12 (7) the tuition scholarship organization has  
13 in place systems to provide for financial accountability,  
14 including independent annual audits that shall be submitted to  
15 the department in the form of a financial information report  
16 that complies with generally accepted accounting procedures as  
17 specified by the department and is certified to be free of  
18 material misstatements by the certified public accountant who  
19 performed the audit; and

20 (8) the tuition scholarship organization is  
21 financially viable and receives or is likely to receive  
22 donations of fifty thousand dollars (\$50,000) or more during a  
23 school year by filing with the department prior to the start of  
24 the school year a surety bond payable to the state in an amount  
25 equal to the aggregate amount of contributions expected to be

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1 received during the school year.

2 SECTION 4. [NEW MATERIAL] TUITION SCHOLARSHIP  
3 ORGANIZATION--DUTIES.--

4 A. No later than thirty days prior to the start of  
5 a new school year or the start of a new semester, a tuition  
6 scholarship organization shall provide to the department the  
7 names of eligible students who received scholarships and the  
8 students' previous school district or charter school  
9 affiliation. The tuition scholarship organization shall  
10 provide verification that the qualified students have been  
11 awarded a tuition scholarship and have enrolled in a public or  
12 nonpublic school for the new school year or the new semester.

13 B. A tuition scholarship organization shall ensure  
14 that a school participating in the tuition scholarship  
15 organization's scholarship program certifies that the school:

- 16 (1) is in compliance with all health and  
17 safety laws or rules that apply to schools;
- 18 (2) holds a valid occupancy permit as required  
19 by applicable laws;
- 20 (3) does not discriminate in admissions on the  
21 basis of race, color or national origin;
- 22 (4) provides academic accountability to  
23 parents of the students in the program by regularly reporting  
24 to the parent on the student's academic and developmental  
25 progress;

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1 (5) ensures that every school employee with  
2 unsupervised access to students has undergone a background  
3 check as described in Subsection B of Section 22-10A-5 NMSA  
4 1978;

5 (6) has no paid staff or board members who are  
6 also staff or board members of the tuition scholarship  
7 organization or who are relatives of the staff or board members  
8 of the tuition scholarship organization;

9 (7) gives enrollment preference to eligible  
10 students who were enrolled at the school in the prior year and  
11 to siblings of eligible students already admitted to or  
12 attending the school; and

13 (8) is a qualified school and, if the school  
14 has more applications for educational scholarships from  
15 eligible students than positions available for students  
16 receiving scholarships, the school fills the available  
17 scholarship positions only by using a random selection process.

18 C. By June 1 of each year beginning in 2013, a  
19 tuition scholarship organization shall report the following  
20 information to the department and the taxation and revenue  
21 department:

22 (1) the name and address of the tuition  
23 scholarship organization;

24 (2) the total number and dollar amount of  
25 contributions received for which contribution receipts were

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1 issued during the calendar year ending on December 31 of the  
2 prior year;

3 (3) the total number and dollar amount of all  
4 educational scholarships awarded during the calendar year  
5 ending on December 31 of the prior year; and

6 (4) the total number and dollar amount of  
7 educational scholarships awarded to eligible students during  
8 the calendar year ending on December 31 of the prior year.

9 D. A tuition scholarship organization shall:

10 (1) provide to each individual and corporate  
11 contributor of funds dedicated for educational scholarships a  
12 contribution receipt that shall be completed according to  
13 taxation and revenue department requirements;

14 (2) maintain a list by the sequential number  
15 on the contribution receipt identifying to whom each copy is  
16 issued, the amount and date of the contribution and any other  
17 information deemed necessary by the taxation and revenue  
18 department to allow the contributor to receive an equal  
19 opportunity scholarship tax credit; and

20 (3) account for all copies of contribution  
21 receipts damaged, destroyed, lost or otherwise unusable.

22 SECTION 5. [NEW MATERIAL] DEPARTMENT--DUTIES.--

23 A. The department shall administer the Equal  
24 Opportunity Scholarship Act.

25 B. The department shall:

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1 (1) provide the name of each certified tuition  
2 scholarship organization to the taxation and revenue department  
3 by no later than thirty days after issuing the certification  
4 document to the tuition scholarship organization;

5 (2) upon notification by the tuition  
6 scholarship organization, calculate the associated program  
7 units for an eligible student receiving an educational  
8 scholarship that would have been generated under the funding  
9 formula using the current year unit value and determine the  
10 dollar amount of that student's program cost, if that student  
11 were to have enrolled in the student's previous school for the  
12 new school year or the new semester;

13 (3) if an eligible student receiving an  
14 educational scholarship withdraws prior to the start of a new  
15 school year, deduct that student's program cost from the  
16 student's previous school district or charter school state  
17 equalization guarantee distribution allocation prior to  
18 distribution;

19 (4) if an eligible student receiving an  
20 educational scholarship withdraws between semesters, make a  
21 prorated reduction in the school district's or charter school's  
22 distribution for the remainder of the school year and not  
23 distribute the funds attributed to the adjustments, which shall  
24 remain undistributed and shall revert to the general fund at  
25 the end of the fiscal year;

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1 (5) engage an auditor to conduct a financial  
2 and program audit of a tuition scholarship organization, at the  
3 expense of the tuition scholarship organization, if there is  
4 evidence of fraud or failure to comply with the Equal  
5 Opportunity Scholarship Act;

6 (6) deny, suspend or revoke the certification  
7 of a tuition scholarship organization for purposes of the equal  
8 opportunity scholarship tax credit if the department determines  
9 that the organization has intentionally and substantially  
10 failed to comply with the requirements of the Equal Opportunity  
11 Scholarship Act; and

12 (7) notify the taxation and revenue department  
13 if the certification of an organization as a tuition  
14 scholarship organization is denied, suspended or revoked within  
15 ten days of the denial, suspension or revocation.

16 SECTION 6. A new section of the Income Tax Act is enacted  
17 to read:

18 "[NEW MATERIAL] EQUAL OPPORTUNITY SCHOLARSHIP INCOME TAX  
19 CREDIT.--

20 A. A taxpayer who files a New Mexico income tax  
21 return and is not a dependent of another taxpayer may claim,  
22 and the department may approve, a credit against the income tax  
23 liability of the taxpayer for a contribution made to a tuition  
24 scholarship organization. The credit may be approved in an  
25 amount equal to ninety percent of the total contributions made

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1 by the taxpayer to a tuition scholarship organization for which  
2 contribution receipts have been provided by that organization  
3 during the taxable year but shall not exceed fifty percent of  
4 the taxpayer's income tax liability for the taxable year. The  
5 credit provided in this section may be referred to as the  
6 "equal opportunity scholarship income tax credit".

7 B. The purpose of the equal opportunity scholarship  
8 income tax credit is to encourage individuals and businesses to  
9 contribute money to tuition scholarship organizations that  
10 provide scholarships for eligible students to attend public or  
11 nonpublic schools that are chosen by the students' parents.

12 C. To ensure that the department receives the  
13 information needed to allow an equal opportunity scholarship  
14 income tax credit, the department shall develop a contribution  
15 receipt that requests all of the information needed by the  
16 department to determine if a credit is due. The contribution  
17 receipts shall be sequentially numbered, and a charge, not to  
18 exceed fifty cents (\$.50) per numbered copy, may be charged by  
19 the department to the tuition scholarship organization.

20 D. Upon receiving notice from the public education  
21 department that an organization has been certified as a tuition  
22 scholarship organization, the taxation and revenue department  
23 shall provide sequentially numbered copies of contribution  
24 receipts to the tuition scholarship organization to be  
25 distributed by the tuition scholarship organization to its

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1 contributors to indicate the recipient, date and value of a  
2 contribution to the tuition scholarship organization and other  
3 information required by the taxation and revenue department.

4 E. The department shall require a taxpayer claiming  
5 the equal opportunity scholarship income tax credit to submit  
6 the numbered copy of the contribution receipt from the tuition  
7 scholarship organization to which the taxpayer contributed  
8 money with the taxpayer's application for the credit provided  
9 by this section.

10 F. The equal opportunity scholarship income tax  
11 credit shall not be allowed for a contribution that is included  
12 for the taxable year in the taxpayer's itemized deductions, as  
13 defined in Section 63 of the Internal Revenue Code.

14 G. A husband and wife who file separate returns for  
15 a taxable year in which they could have filed a joint return  
16 may each claim only one-half of the equal opportunity  
17 scholarship income tax credit that would have been allowed on a  
18 joint return.

19 H. A taxpayer who otherwise qualifies for and  
20 claims an equal opportunity scholarship income tax credit for a  
21 contribution made to a tuition scholarship organization by a  
22 partnership or other business association of which the taxpayer  
23 is a member may claim a credit only in proportion to the  
24 taxpayer's interest in the partnership or business association.  
25 The total credit claimed in the aggregate by all members of the

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1 partnership or business association in a taxable year with  
2 respect to a contribution made to a tuition scholarship  
3 organization, including equal opportunity scholarship corporate  
4 income tax credits claimed by a corporate member of the  
5 partnership or business association, shall not exceed the  
6 maximum credit that would have been allowable pursuant to this  
7 section if claimed by a single taxpayer.

8 I. Any amount of the equal opportunity scholarship  
9 income tax credit allowed by the department that exceeds fifty  
10 percent of the income tax liability of the taxpayer in the  
11 taxable year in which the credit is first claimed may be  
12 carried forward for three consecutive taxable years.

13 J. The maximum annual aggregate of equal  
14 opportunity scholarship income tax credits and equal  
15 opportunity scholarship corporate income tax credits shall not  
16 exceed five million dollars (\$5,000,000). An application for  
17 the equal opportunity scholarship income tax credit or the  
18 equal opportunity scholarship corporate income tax credit shall  
19 be considered in the order in which the application is received  
20 by the department. Any equal opportunity scholarship income  
21 tax credit application or equal opportunity scholarship  
22 corporate income tax credit application that is unable to be  
23 taken in the year it is submitted due to the aggregate maximum  
24 limit being met in any taxable year shall be placed in a queue  
25 by the date on which the application was received to be paid

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1 first in the subsequent taxable year before the new  
2 applications for that taxable year are allowed.

3 K. The department shall compile a report annually  
4 for the revenue stabilization and tax policy committee that  
5 sets forth the number of taxpayers approved to receive equal  
6 opportunity scholarship income tax credits, the aggregate  
7 amount of credits approved and the average and median amounts  
8 of credits approved. The department shall determine every  
9 three years beginning in 2015 whether the equal opportunity  
10 scholarship income tax credit is performing the purpose for  
11 which it was created.

12 L. A taxpayer that claims an equal opportunity  
13 scholarship income tax credit pursuant to the Income Tax Act  
14 shall not also claim an equal opportunity scholarship corporate  
15 income tax credit pursuant to the Corporate Income and  
16 Franchise Tax Act or any other similar tax credit for the same  
17 contribution to a tuition scholarship organization. The equal  
18 opportunity scholarship income tax credit shall be applied to  
19 the taxpayer's tax liability before application of any other  
20 tax credit claimed for the taxable year by the taxpayer.

21 M. Acceptance of the equal opportunity scholarship  
22 income tax credit is authorization to the department to  
23 disclose the amount of the tax credit claimed by the taxpayer  
24 as needed to report fully as required by this section to the  
25 revenue stabilization and tax policy committee of the

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1 legislature.

2 N. As used in this section:

3 (1) "contribution receipt" means the document  
4 developed by the department and issued pursuant to the Equal  
5 Opportunity Scholarship Act by a tuition scholarship  
6 organization to a contributor;

7 (2) "eligible student" means a student who:

8 (a) is a member of a household for which  
9 the total annual income does not exceed an amount used to  
10 qualify for a reduced-price lunch through the federal school  
11 lunch programs established pursuant to 42 USCA Sections 1751  
12 through 1769, as amended; provided that once a student receives  
13 a scholarship pursuant to the Equal Opportunity Scholarship  
14 Act, the student shall remain eligible regardless of household  
15 income until the student graduates from high school or reaches  
16 twenty-one years of age;

17 (b) attended a New Mexico public school  
18 for the semester prior to first receiving an educational  
19 scholarship pursuant to the Equal Opportunity Scholarship Act  
20 or is starting school in New Mexico for the first time; and

21 (c) resides in New Mexico while  
22 receiving a scholarship from a tuition scholarship  
23 organization;

24 (3) "parent" means a guardian, custodian or  
25 other person with authority to act on behalf of a child; and

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1                   (4) "tuition scholarship organization" means  
2 an organization that provides educational scholarships to  
3 students attending qualified schools of their parents' choice  
4 and that meets the requirements of the Equal Opportunity  
5 Scholarship Act."

6                   SECTION 7. A new section of the Corporate Income and  
7 Franchise Tax Act is enacted to read:

8                   "[NEW MATERIAL] EQUAL OPPORTUNITY SCHOLARSHIP CORPORATE  
9 INCOME TAX CREDIT.--

10                   A. A taxpayer that files a New Mexico corporate  
11 income tax return may claim, and the department may approve, a  
12 credit against the corporate income tax liability of the  
13 taxpayer for a contribution made to a tuition scholarship  
14 organization. The credit may be approved in an amount equal to  
15 ninety percent of the total contributions made by the taxpayer  
16 to a tuition scholarship organization for which contribution  
17 receipts have been provided by that organization during the  
18 taxable year but shall not exceed fifty percent of the  
19 taxpayer's corporate income tax liability for the taxable year.  
20 The credit provided in this section may be referred to as the  
21 "equal opportunity scholarship corporate income tax credit".

22                   B. The purpose of the equal opportunity scholarship  
23 corporate income tax credit is to encourage corporations to  
24 contribute money to tuition scholarship organizations that  
25 provide scholarships for eligible students to attend public or

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1 nonpublic schools that are chosen by the students' parents.

2 C. To ensure that the department receives the  
3 information needed to allow an equal opportunity scholarship  
4 corporate income tax credit, the department shall develop a  
5 contribution receipt that requests all of the information  
6 needed by the department to determine if a credit is due. The  
7 contribution receipts shall be sequentially numbered, and a  
8 charge, not to exceed fifty cents (\$.50) per numbered copy, may  
9 be charged by the department to the tuition scholarship  
10 organization.

11 D. Upon receiving notice from the public education  
12 department that an organization has been certified as a tuition  
13 scholarship organization, the taxation and revenue department  
14 shall provide sequentially numbered copies of contribution  
15 receipts to a tuition scholarship organization to be  
16 distributed by the tuition scholarship organization to its  
17 contributors to indicate the recipient, date and value of a  
18 contribution to the tuition scholarship organization and other  
19 information required by the taxation and revenue department.

20 E. The department shall require a taxpayer claiming  
21 the equal opportunity scholarship corporate income tax credit  
22 to submit the numbered copy of the certification document from  
23 the tuition scholarship organization to which the taxpayer  
24 contributed money with the taxpayer's application for the  
25 credit provided by this section.

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1           F. The equal opportunity scholarship corporate  
2 income tax credit shall not be allowed for a contribution that  
3 is included for the taxable year in the taxpayer's itemized  
4 deductions, as defined in Section 63 of the Internal Revenue  
5 Code.

6           G. Any amount of the equal opportunity scholarship  
7 corporate income tax credit allowed by the department that  
8 exceeds fifty percent of the corporate income tax liability of  
9 the taxpayer in the taxable year in which the credit is first  
10 claimed may be carried forward for three consecutive taxable  
11 years.

12           H. The maximum annual aggregate of equal  
13 opportunity scholarship corporate income tax credits and equal  
14 opportunity scholarship income tax credits shall not exceed  
15 five million dollars (\$5,000,000). An application for the  
16 equal opportunity scholarship corporate income tax credit or  
17 the equal opportunity scholarship income tax credit shall be  
18 considered in the order in which the application is received by  
19 the department. Any equal opportunity scholarship corporate  
20 income tax credit or equal opportunity scholarship income tax  
21 credit that is unable to be taken in the year it is submitted  
22 due to the aggregate maximum limit being met in any taxable  
23 year shall be placed in a queue by the date on which the  
24 application was received to be paid first in the subsequent  
25 taxable year before the new applications for that taxable year

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1 are allowed.

2 I. The department shall compile a report annually  
3 for the revenue stabilization and tax policy committee that  
4 sets forth the number of taxpayers approved to receive equal  
5 opportunity scholarship corporate income tax credits, the  
6 aggregate amount of credits approved and the average and median  
7 amounts of credits approved. The department shall determine  
8 every three years beginning in 2015 whether the equal  
9 opportunity scholarship corporate income tax credit is  
10 performing the purpose for which it was created.

11 J. A taxpayer that claims an equal opportunity  
12 scholarship corporate income tax credit pursuant to the  
13 Corporate Income and Franchise Tax Act shall not also claim an  
14 equal opportunity scholarship income tax credit pursuant to the  
15 Income Tax Act or any other similar tax credit for the same  
16 contribution to a tuition scholarship organization. The equal  
17 opportunity scholarship corporate income tax credit shall be  
18 applied to the taxpayer's tax liability before application of  
19 any other tax credit claimed for the taxable year by the  
20 taxpayer.

21 K. Acceptance of the equal opportunity scholarship  
22 corporate income tax credit is authorization to the department  
23 to disclose the amount of the tax credit claimed by the  
24 taxpayer as needed to report fully as required by this section  
25 to the revenue stabilization and tax policy committee of the

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1 legislature.

2 L. As used in this section:

3 (1) "contribution receipt" means the document  
4 issued pursuant to the Equal Opportunity Scholarship Act by a  
5 tuition scholarship organization to a contributor;

6 (2) "eligible student" means a student who:

7 (a) is a member of a household for which  
8 the total annual income does not exceed an amount used to  
9 qualify for a reduced-price lunch through the federal school  
10 lunch programs established pursuant to 42 USCA Sections 1751  
11 through 1769, as amended; provided that once a student receives  
12 a scholarship pursuant to the Equal Opportunity Scholarship  
13 Act, the student shall remain eligible regardless of household  
14 income until the student graduates from high school or reaches  
15 twenty-one years of age;

16 (b) attended a New Mexico public school  
17 for the semester prior to first receiving an educational  
18 scholarship pursuant to the Equal Opportunity Scholarship Act  
19 or is starting school in New Mexico for the first time; and

20 (c) resides in New Mexico while  
21 receiving a scholarship from a tuition scholarship  
22 organization;

23 (3) "parent" means a guardian, custodian or  
24 other person with authority to act on behalf of a child; and

25 (4) "tuition scholarship organization" means

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1 an organization that provides educational scholarships to  
2 students attending qualified schools of their parents' choice  
3 pursuant to the Equal Opportunity Scholarship Act."

4 SECTION 8. Section 22-8-12.1 NMSA 1978 (being Laws 1978,  
5 Chapter 128, Section 5, as amended) is amended to read:

6 "22-8-12.1. MEMBERSHIP PROJECTIONS AND BUDGET  
7 REQUESTS.--

8 A. Each local school board or governing body of a  
9 state-chartered charter school shall submit annually, on or  
10 before October 15, to the department:

11 (1) an estimate for the succeeding fiscal year  
12 of:

13 (a) the membership of qualified students  
14 to be enrolled in the basic program, adjusted for deductions  
15 due to student participation in the scholarship programs of the  
16 Equal Opportunity Scholarship Act;

17 (b) the full-time-equivalent membership  
18 of students to be enrolled in approved early childhood  
19 education programs; and

20 (c) the membership of students to be  
21 enrolled in approved special education programs, adjusted for  
22 deductions due to student participation in the scholarship  
23 programs of the Equal Opportunity Scholarship Act;

24 (2) all other information necessary to  
25 calculate program costs; and

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1                   (3) any other information related to the  
2 financial needs of the school district or state-chartered  
3 charter school as may be requested by the department.

4                   B. All information requested pursuant to Subsection  
5 A of this section shall be submitted on forms prescribed and  
6 furnished by the department and shall comply with the  
7 department's rules and procedures.

8                   C. The department shall:

9                   (1) review the financial needs of each school  
10 district or state-chartered charter school for the succeeding  
11 fiscal year; and

12                   (2) submit annually, on or before November 30,  
13 to the secretary of finance and administration the  
14 recommendations of the department for:

15                   (a) amendments to the public school  
16 finance formula;

17                   (b) appropriations for the succeeding  
18 fiscal year to the public school fund for inclusion in the  
19 executive budget document; and

20                   (c) appropriations for the succeeding  
21 fiscal year for pupil transportation and instructional  
22 materials."

23                   **SECTION 9. APPLICABILITY.**--The provisions of Sections 6  
24 and 7 of this act apply to taxable years beginning on or after  
25 January 1, 2013 but before January 1, 2017.

.188818.1

1           SECTION 10. EFFECTIVE DATE.--

2                   A. The effective date of the provisions of Sections  
3 1 through 5 and 8 of this act is July 1, 2012.

4                   B. The effective date of the provisions of Sections  
5 6 and 7 of this act is January 1, 2013.

underscoring material = new  
~~[bracketed material]~~ = delete