

**Bill Analysis and Fiscal Impact Report  
Taxation and Revenue Department**

February 4, 2026

**Bill:**  
HB-193

**Sponsor:**  
Representative Rod Montoya

**Short Title:**  
Scholarships For Private Ed & Tax Credits

**Description:**  
This bill creates “school tuition organizations.” The purpose of school tuition organizations is to award educational scholarships to certain low-income students to attend private schools. The bill also creates educational scholarship personal income tax (PIT) and corporate income tax (CIT) credits for taxpayers who contribute to a school tuition organization. The credit is equal to their contribution, up to \$700 for single individuals or married individuals filing separately, and up to \$1,400 for heads of household, surviving spouses, married individuals filing jointly or corporate income tax filers. A taxpayer must apply for certification of eligibility for the credit with the Public Education Department (PED). Any portion of the credit that exceeds the taxpayer’s liability will not be refunded but may be carried forward for three consecutive taxable years.

**Effective Date, Applicability, and Contingency Language:**  
Not specified or 90 days following adjournment (May 20, 2026). Sections 2 and 3 of this Act apply to tax years beginning on or after January 1, 2026.

**Taxation and Revenue Department Analyst:**  
Sara Grubbs

**Estimated Revenue Impact\***

FY26	FY27	FY28	FY29	FY30	Recurring or Non-Recurring	Fund(s) Affected
--	(\$2,900)	(\$3,100)	(\$3,300)	(\$3,500)	R	General Fund

\* In thousands of dollars. Parentheses ( ) indicate a revenue loss. \*\* Recurring (R) or Non-Recurring (NR).

**Methodology for Estimated Revenue Impact:**  
The Taxation and Revenue Department (Tax & Rev) cannot anticipate how many taxpayers will contribute and how much they will contribute, since it depends on whether organizations can provide eligible educational scholarships and if the credit will incentivize contributions. Tax & Rev identified over 15,000 organizations in New Mexico that have been granted an exemption from federal income tax as described in section 501(c)(3) of the Internal Revenue Code. However, it is unknown how many of these organizations will seek certification from the PED as a tuition scholarship organization, or how many new 501(c)(3) organizations may be created for that purpose.

Tax & Rev therefore estimated the impact using two sources of data on students at private schools, starting with the most recent data from the National Center for Education Statistics’ Private School Universe Survey. This survey tabulates the annual number of private school students by state. In the 2021-2022 academic year, the most recent year available, there were 16,909 private school students in New Mexico.

The nonprofit organization, EdChoice, provides information on multiple state tax programs that reduce the cost of attending private schools, including tax credit tuition scholarship programs.<sup>1</sup> Using a sample of 12 states that offer education scholarship tuition credits for scholarship granting organizations from 2020 to 2024, Tax & Rev assumes an annual increase in the number of students served of 6.6% from the sample analysis as a proxy for growth in private school students in New Mexico.

Tax & Rev used both sources to calculate a ratio between the number of low-income students attending private schools and receiving a tuition scholarship compared to the total number of private school students in the state to estimate the number of low-income private school students that may be eligible to receive scholarships in New Mexico. It is assumed these students and school tuition organizations are eligible and certified when applicable.

Tax & Rev assumes the taxpayers contributing to school tuition organizations will be higher income taxpayers or corporations. Tax & Rev also assumes the amount of donations needed to support a growth rate of 6.6% of low-income students attending private schools with a tuition scholarship. Tax & Rev assumed the maximum credit per taxpayer, ranging from \$700 to \$1,400 depending on filing status or applicable tax credit, will be used against the taxpayers' tax liability.

Eligible taxpayers are assumed to have PIT or CIT liabilities that will be able to claim the full credit amount (\$700 or \$1,400 depending on filing status) leaving a minimal amount to be carried over.

#### **Policy Issues:**

PIT represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 16% of the state's recurring General Fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). Like several states, New Mexico computes its income tax based on the federal definition of "adjusted gross income" (AGI) and ties to other statutes in the federal tax code. This is referred to as "conformity" to the federal tax code. The PIT is an important tax policy tool that has the potential to further both horizontal equity by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay.

CIT is a volatile source of revenue for many states. Providing additional corporate tax incentives increases volatility.

Investing in education through this credit may positively impact communities and improve lives. The bill may foster educational opportunities for lower-income children and youth with the option of attending private school. Nineteen states offer an education scholarship income tax credit. In most states, the number of low-income students served has steadily increased.

While the bill provides educational opportunities to lower-income students, the tax benefits will likely accrue solely to higher-income taxpayers and corporations, as lower-income taxpayers are less likely have disposable income to contribute or to have income tax liability against which to offset the credit.

The effect of this bill will be to reduce revenues from PIT and CIT, which fund public education and other critical government services. An alternative to fostering educational opportunities for private schools would be to use income tax revenues to increase funding and investment to continue improving access to, and the quality of, public education in New Mexico.

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<sup>1</sup> [www.edchoice.org](http://www.edchoice.org)

Under the Internal Revenue Code (IRC), such charitable contributions are usually deductible for federal tax purposes. Credits are more valuable than deductions, because they are a dollar-for-dollar reduction in a taxpayer's tax liability, whereas deductions only reduce taxable income, and therefore result in only a percentage of the contribution reducing overall tax liability. Under the IRC, taxpayers will likely be able to deduct the amount of their contributions under this law from their federal taxable income, for taxpayers who itemize their federal deductions, as the "school tuition organizations" must be a nonprofit organization. Because New Mexico taxable income is based on federal taxable income, a taxpayer who itemizes their federal deductions and who donates to a school tuition organization will receive two tax benefits. The first tax benefit is the federal deduction allowed for contributions to a 501(c)(3) deduction which reduces a taxpayer's federal taxable income reduces a taxpayer's New Mexico taxable income. Second, after receiving the benefit of lower New Mexico taxable income, the taxpayer can claim a tax credit against New Mexico income for the same donation.

This credit does not have a sunset date. Tax & Rev recommends a sunset date for policymakers to review the impact of tax expenditures before extending them.

#### **Technical Issues:**

[**Section 1**] Page 6, Line 22 - an eligible student is defined as a New Mexico resident whose household qualifies for a reduced-price lunch through the federal school lunch program established under 42 USCA Sections 1751 through 1769. New Mexico currently provides free lunches to all New Mexico public and charter school students regardless of income. For clarification, Tax & Rev recommends including "free or" before "reduced-price lunch" to ensure all low-income students are eligible for educational scholarships.

#### **Other Issues:**

[**Sections 2 and 3**]: The bill should identify what inflation index is to be used to adjust the credit amount to avoid ambiguity. On page 8, line 20 and page 10, line 16 after the period, Tax and Rev recommends inserting the follow language: "For the 2025 taxable year and each subsequent taxable year, the amount of credit shall be adjusted to account for inflation. The department shall make the adjustment by multiplying the credit amount by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year 2025. The result of the multiplication shall be rounded down to the nearest one dollar (\$1.00), except that if the result would be an amount less than the corresponding amount for the preceding taxable year, then no adjustment shall be made." With this addition, "consumer price index" needs to be defined on pages 9 and 11, by inserting: "As used in this section, "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30"

On Page 9, lines 4-11, and Page 10, line 25 – Page 11, lines 1-7: In Subsection D, the first sentence requires that the credit be claimed for the taxable year in which the contribution is made. But the following sentence allows the taxpayer to apply to the department for the credit within 12 months following the calendar year the contribution was made. Example: the taxpayer contributes in 2025, which can be claimed on the taxpayer's 2025 return filed in April 2026. Applying the second sentence, the taxpayer has 12 months, until December 2026, to apply for the 2025 credit. It is unknown if the taxpayer must file an amended 2025 return or can claim the credit on the 2025 return filed in 2027. To address this, Tax & Rev suggests changing both Subsections D with the following language: "A taxpayer may claim the tax credit allowed by this section for in the taxable year in which the taxpayer makes a contribution to a school tuition organization. To receive the tax credit, a taxpayer shall claim the credit on forms and in the manner prescribed by the department within twelve months following the calendar year in which the contribution is made. The application shall include a certification made pursuant to Subsection C of this section."

The certification of a tax credit by another state agency generally includes information on the amount of the credit certified and the tax year for which the credit is eligible to be claimed. For constituency with other tax credit programs, Tax & Rev suggests adding the following to the end of Sections 1 and 2, Subsections

C on page 9, line 3 and on page 10, line 24: “If the public education department determines that the taxpayer meets the requirements of this section, the department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed. The public education department shall provide the department with the certificates of eligibility issued pursuant to this subsection in a secure electronic format at regularly agreed-upon intervals.”

A new section is recommended at the end of Section 2, page 9, line 24 and Section 3, page 11 line 20 to allow PED to have rule making authority to clarify certification procedures, provide definitions, and School Tuition Organizations certifications. Tax & Rev suggests the following: “The public education department may promulgate rules to administer the certification process required by this section.”

**Administrative & Compliance Impact:**

Tax & Rev will update forms, instructions and publications and make information system changes. Staff training to administer the credit will take place. This implementation will be included in the annual tax year changes.

For Tax & Rev’s Administrative Services Division (ASD), implementing this bill will require existing two FTEs, 40 hours split between pay-band eight and 10 positions for each tax program for a total of 80 hours. Pay band eight hours are estimated at time and ½ due to extra hours worked required for implementation.

For Tax & Rev’s Information Technology Division (ITD), this bill will have a moderate impact, requiring approximately 680 hours or about 4 months for an estimated staff workload cost of \$47,063.

**Estimated Additional Operating Budget Impact\***

FY26	FY27	FY28	3 Year Total Cost	Recurring or Non-Recurring	Fund(s) or Agency Affected
--	\$5.4	--	\$5.4	NR	ASD – Staff workload
--	\$47.0	--	\$47.0	NR	ITD – Staff workload

\* In thousands of dollars. Parentheses ( ) indicate a cost saving. \*\* Recurring (R) or Non-Recurring (NR).

**Related Bills:**

Similar to HB-324 (2025 regular session), HB-105 (2025 regular session)