

HOUSE BILL 193

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Rod Montoya

AN ACT

RELATING TO PRIVATE EDUCATION; PROVIDING FOR THE AUTHORIZATION OF SCHOOL TUITION ORGANIZATIONS TO AWARD EDUCATIONAL SCHOLARSHIPS TO CERTAIN LOW-INCOME STUDENTS TO ATTEND PRIVATE SCHOOLS; CREATING THE EDUCATIONAL SCHOLARSHIP INCOME TAX CREDIT AND THE EDUCATIONAL SCHOLARSHIP CORPORATE INCOME TAX CREDIT.

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

SECTION 1. [NEW MATERIAL] SCHOOL TUITION ORGANIZATIONS--
AUTHORIZATION TO AWARD EDUCATIONAL SCHOLARSHIPS TO PRIVATE
SCHOOLS.--

A. The department may authorize a school tuition organization to award educational scholarships to eligible students to attend a private school in New Mexico of the students' parents' choice pursuant to this section.

B. A school tuition organization shall apply for

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1 authorization on forms and in a manner prescribed by the
2 department. To be eligible as a school tuition organization,
3 the organization shall:

4 (1) allocate at least ninety percent of the
5 organization's annual revenue received from contributions for
6 educational scholarships to eligible students to attend private
7 schools in New Mexico;

8 (2) not limit the availability of educational
9 scholarships to students of only one private school;

10 (3) not allow donors to designate student
11 beneficiaries as a condition of any contribution to the
12 organization or facilitate, encourage or knowingly allow the
13 exchange of beneficiary student designations;

14 (4) include on the organization's website, if
15 one exists, the percentage and total dollar amount of
16 educational scholarships awarded during the previous fiscal
17 year;

18 (5) award educational scholarships only to
19 eligible students; and

20 (6) not award educational scholarships to
21 attend a public, tribal or federal bureau of Indian education
22 school.

23 C. If an individual educational scholarship exceeds
24 the tuition of the private school that an eligible student
25 attends, the amount in excess shall be returned to the school

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tuition organization that made the award. The school tuition organization may allocate the returned amount:

- (1) as a multi-year award for that student; or
- (2) for educational scholarships for other eligible students.

D. On or before September 30 of each year, each school tuition organization shall report electronically to the department, in a form prescribed by the department, the following information:

- (1) the name, address and contact person of the school tuition organization;
- (2) the names, job titles and annual salaries of the three employees who receive the highest annual salaries from the school tuition organization;
- (3) the total number of contributions received during the previous fiscal year;
- (4) the total dollar amount of contributions received during the previous fiscal year;
- (5) the total number of eligible students awarded educational scholarships during the previous fiscal year;
- (6) the total dollar amount of educational scholarships awarded during the previous fiscal year;
- (7) the total dollar amount of money being held for eligible students' scholarships in future years,

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1 including the amount allocated as a multi-year award pursuant
2 to Paragraph (1) of Subsection C of this section, with each
3 eligible student identified;

4 (8) for each private school to which
5 educational scholarships were awarded:

6 (a) the name and address of the private
7 school;

8 (b) the number of educational
9 scholarships awarded during the previous fiscal year; and

10 (c) the total dollar amount of
11 educational scholarships awarded during the previous fiscal
12 year; and

13 (9) the cost of an audit or financial review
14 required pursuant to Subsections F and G of this section paid
15 during the fiscal year.

16 E. The department shall post on its website a
17 report of the information it receives pursuant to Subsection D
18 of this section on or before January 1 of the calendar year
19 following the year in which the information is received.

20 F. On or before September 30 of each year, a school
21 tuition organization that received five hundred thousand
22 dollars (\$500,000) or more in contributions in the previous
23 fiscal year shall provide for a financial audit of the
24 organization. The audit shall be conducted by an independent
25 certified public accountant licensed pursuant to the 1999

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1 Public Accountancy Act in accordance with generally accepted
2 auditing standards and shall evaluate the organization's
3 compliance with Paragraph (1) of Subsection B of this section.
4 The independent certified public accountant and any firm the
5 accountant is affiliated with shall be independent with respect
6 to the organization and its officers and directors, services
7 performed by the organization and all other independent
8 relationships of the organization, as prescribed by generally
9 accepted auditing standards.

10 G. On or before September 30 of each year, a school
11 tuition organization that received less than five hundred
12 thousand dollars (\$500,000) in total donations in the previous
13 fiscal year shall provide for a financial review of the
14 organization. The review shall be conducted by an independent
15 certified public accountant licensed pursuant to the 1999
16 Public Accountancy Act in accordance with generally accepted
17 standards for accounting and review services and shall evaluate
18 the organization's compliance with the fiscal requirements of
19 this section. The independent certified public accountant and
20 any firm the certified public accountant is affiliated with
21 shall be independent with respect to the organization and its
22 officers and directors, services performed by the organization
23 and all other independent relationships of the organization, as
24 prescribed by generally accepted auditing standards.

25 H. Within five days after receiving an audit or

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1 financial review, the school tuition organization shall file a
2 signed copy of the audit or financial review with the
3 department. The school tuition organization shall pay the fees
4 and costs of the audit or financial review from the
5 organization's operating budget. The fees and costs shall be
6 excluded from the calculation of revenues spent on educational
7 scholarships.

8 I. The department shall:

9 (1) maintain a public registry of authorized
10 school tuition organizations;

11 (2) make the registry available to the public
12 on request; and

13 (3) post the registry on the department's
14 website.

15 J. As used in this section:

16 (1) "department" means the public education
17 department;

18 (2) "eligible student" means a qualified
19 student, as defined in the Public School Finance Act, who
20 resides in New Mexico and is member of a household for which
21 the total annual income does not exceed an amount used to
22 qualify for a reduced-price lunch through the federal school
23 lunch programs established pursuant to 42 USCA Sections 1751
24 through 1769, as amended; provided that once a student becomes
25 an eligible student, receives an educational scholarship and

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1 continuously attends the private school, the student shall
2 remain an eligible student regardless of household income until
3 the student graduates from high school or reaches twenty-one
4 years of age, and:

5 (a) attended a public school in New
6 Mexico as a full-time student for at least one full semester
7 immediately prior to receiving an educational scholarship and
8 enrolling in and transferring to a private school; or

9 (b) attended, as a full-time student, a
10 home school in New Mexico that meets the requirements of the
11 Public School Code for at least one full semester immediately
12 prior to receiving an educational scholarship and enrolling in
13 and transferring to a private school;

14 (3) "nonprofit organization" means an
15 organization that has been granted exemption from the federal
16 income tax by the United States commissioner of internal
17 revenue as organizations described in Section 501(c)(3) of the
18 United States Internal Revenue Code of 1986, as amended or
19 renumbered; and

20 (4) "school tuition organization" means a
21 nonprofit organization with a principal place of business in
22 New Mexico that provides educational scholarships to eligible
23 students attending private schools in New Mexico of their
24 parents' choice.

25 SECTION 2. A new section of the Income Tax Act is enacted

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1 to read:

2 "[NEW MATERIAL] EDUCATIONAL SCHOLARSHIP INCOME TAX
3 CREDIT.--

4 A. A taxpayer who is not a dependent of another
5 individual and who makes a contribution to a school tuition
6 organization pursuant to Section 1 of this 2026 act may apply
7 for, and the department may allow, a credit against the
8 taxpayer's tax liability imposed pursuant to the Income Tax
9 Act. The tax credit provided by this section may be referred
10 to as the "educational scholarship income tax credit".

11 B. The amount of the tax credit allowed by this
12 section shall be in an amount equal to the amount contributed
13 to a school tuition organization in a taxable year, not to
14 exceed seven hundred dollars (\$700) for single individuals and
15 married individuals filing separate returns and one thousand
16 four hundred dollars (\$1,400) for heads of household, surviving
17 spouses and married individuals filing joint returns; provided
18 that for the taxable year beginning January 1, 2027 and each
19 taxable year thereafter, the amount of credit shall be adjusted
20 to account for inflation. The department shall allow a tax
21 credit only for a contribution certified pursuant to Subsection
22 C of this section.

23 C. A taxpayer shall apply for certification of
24 eligibility for the tax credit allowed by this section from the
25 public education department on forms and in the manner

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1 prescribed by that department. The application shall include
2 evidence of a contribution to a school tuition organization
3 made pursuant to Section 1 of this 2026 act.

4 D. A taxpayer may claim the tax credit allowed by
5 this section for the taxable year in which the taxpayer makes a
6 contribution to a school tuition organization. To receive the
7 tax credit, a taxpayer shall apply to the department on forms
8 and in the manner prescribed by the department within twelve
9 months following the calendar year in which the contribution is
10 made. The application shall include a certification made
11 pursuant to Subsection C of this section.

12 E. That portion of the credit that exceeds a
13 taxpayer's tax liability in the taxable year in which the
14 credit is claimed shall not be refunded to the taxpayer but may
15 be carried forward for the following three consecutive taxable
16 years until the amount of the tax credit is exhausted.

17 F. A taxpayer allowed a tax credit pursuant to this
18 section shall report the amount of the tax credit to the
19 department in a manner required by that department.

20 G. The credit provided by this section shall be
21 included in the tax expenditure budget pursuant to Section
22 7-1-84 NMSA 1978, including the total annual aggregate cost of
23 the credit."

24 **SECTION 3.** A new section of the Corporate Income and
25 Franchise Tax Act is enacted to read:

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1 "[NEW MATERIAL] EDUCATIONAL SCHOLARSHIP CORPORATE INCOME
2 TAX CREDIT.--

3 A. A taxpayer that makes a contribution to a school
4 tuition organization pursuant to Section 1 of this 2026 act may
5 apply for, and the department may allow, a credit against the
6 taxpayer's tax liability imposed pursuant to the Corporate
7 Income and Franchise Tax Act. The tax credit provided by this
8 section may be referred to as the "educational scholarship
9 corporate income tax credit".

10 B. The amount of the tax credit allowed by this
11 section shall be in an amount equal to the amount contributed
12 to a school tuition organization in a taxable year, not to
13 exceed one thousand four hundred dollars (\$1,400); provided
14 that for the taxable year beginning January 1, 2027 and each
15 taxable year thereafter, the amount of credit shall be adjusted
16 to account for inflation. The department shall allow a tax
17 credit only for a contribution certified pursuant to Subsection
18 C of this section.

19 C. A taxpayer shall apply for certification of
20 eligibility for the tax credit allowed by this section from the
21 public education department on forms and in the manner
22 prescribed by that department. The application shall include
23 evidence of a contribution to a school tuition organization
24 made pursuant to Section 1 of this 2026 act.

25 D. A taxpayer may claim the tax credit allowed by

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this section for the taxable year in which the taxpayer makes a contribution to a school tuition organization. To receive the tax credit, a taxpayer shall apply to the department 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.

E. That portion of the credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed shall not be refunded to the taxpayer but may be carried forward for the following three consecutive taxable years until the amount of the tax credit is exhausted.

F. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the tax credit to the department in a manner required by that department.

G. The credit provided by this section shall be included in the tax expenditure budget pursuant to Section 7-1-84 NMSA 1978, including the total annual aggregate cost of the credit."

SECTION 4. APPLICABILITY.--The provisions of Sections 2 and 3 of this act apply to taxable years beginning on or after January 1, 2026.