

109TH CONGRESS
1ST SESSION

H. R. 4400

To amend the Internal Revenue Code of 1986 to provide for a credit which is dependent on enactment of State qualified scholarship tax credits and which is allowed against the Federal income tax for charitable contributions to education investment organizations that provide assistance for elementary and secondary education.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2005

Mr. FRANKS of Arizona (for himself, Mr. ADERHOLT, Mr. AKIN, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mr. BISHOP of Utah, Mr. BLUNT, Mr. BOEHNER, Mr. CALVERT, Mr. CANTOR, Mr. CHABOT, Mr. CHOCOLA, Mr. COLE of Oklahoma, Mrs. JO ANN DAVIS of Virginia, Mr. DOOLITTLE, Mr. EHLERS, Mr. FEENEY, Mr. FERGUSON, Ms. FOXX, Mr. GARRETT of New Jersey, Mr. GERLACH, Mr. GOODE, Mr. GREEN of Wisconsin, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. HENSARLING, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. ISTOOK, Mr. JINDAL, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. KINGSTON, Mr. KLINE, Mr. KOLBE, Mr. LEWIS of Kentucky, Mr. MARCHANT, Mr. MCHENRY, Mr. MILLER of Florida, Mr. MURPHY, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. PAUL, Mr. PENCE, Mr. PITTS, Mr. PUTNAM, Mr. RADANOVICH, Mr. RENZI, Ms. ROS-LEHTINEN, Mr. RYUN of Kansas, Mr. SHADEGG, Mr. SMITH of New Jersey, Mr. SOUDER, Mr. SULLIVAN, Mr. TIAHRT, Mr. TIBERI, Mr. WAMP, Mr. WELDON of Florida, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for a credit which is dependent on enactment of State qualified scholarship tax credits and which is allowed against the Federal income tax for charitable contribu-

tions to education investment organizations that provide assistance for elementary and secondary education.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Children’s Hope Act
 5 of 2005”.

6 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO EDUCATION**
 7 **INVESTMENT ORGANIZATIONS.**

8 (a) IN GENERAL.—Subpart B of part IV of sub-
 9 chapter A of chapter 1 of the Internal Revenue Code of
 10 1986 (relating to other credits) is amended by inserting
 11 after section 30C the following new section:

12 **“SEC. 30D. CONTRIBUTIONS TO EDUCATION INVESTMENT**
 13 **ORGANIZATIONS.**

14 “(a) IN GENERAL.—There shall be allowed as a cred-
 15 it against the tax imposed by this chapter for the taxable
 16 year the aggregate amount of qualified contributions for
 17 the taxable year.

18 “(b) LIMITATION.—The amount allowed as a credit
 19 under subsection (a) for a taxable year shall not exceed
 20 \$100 (\$200 in the case of a joint return).

21 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of
 22 this section—

23 “(1) IN GENERAL.—The term ‘qualified con-
 24 tribution’ means a charitable contribution (as de-

1 fined by section 170(c)) to an education investment
2 organization.

3 “(2) EDUCATION INVESTMENT ORGANIZA-
4 TION.—The term ‘education investment organiza-
5 tion’ means any organization described in section
6 170(c)(2) if—

7 “(A) normally not less than 90 percent of
8 the annual cash contributions to such organiza-
9 tion are disbursed in the form of grants to stu-
10 dents for qualified elementary and secondary
11 education expenses, and

12 “(B) not less than $\frac{1}{2}$ of such disburse-
13 ments are to students who are eligible for free
14 or reduced-cost lunches under the school lunch
15 program established under the Richard B. Rus-
16 sell National School Lunch Act.

17 “(3) QUALIFIED ELEMENTARY AND SECONDARY
18 EDUCATION EXPENSES.—The term ‘qualified ele-
19 mentary and secondary education expenses’ has the
20 meaning given such term by section 530(b)(4), ex-
21 cept that ‘child’ shall be substituted for ‘beneficiary’
22 and ‘a child’ shall be substituted for ‘the designated
23 beneficiary of the trust’ in clauses (i) and (iii) of
24 subparagraph (A).

25 “(4) STATE CREDIT MUST BE TAKEN FIRST.—

1 “(A) No credit shall be allowed to a tax-
2 payer under this section for a taxable year un-
3 less, for the taxable year, the taxpayer is al-
4 lowed on the taxpayer’s State tax return the
5 minimum State qualified scholarship tax credit
6 (as defined in section 3 of the Children’s Hope
7 Act of 2003).

8 “(B) No credit shall be allowed to a tax-
9 payer under this section for such taxable year
10 for any contributions that were taken into ac-
11 count for purposes of such State qualified
12 scholarship tax credit.

13 “(d) SPECIAL RULES.—

14 “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-
15 tion shall be allowed under any provision of this
16 chapter for any expense for which a credit is allowed
17 under this section.

18 “(2) TIME WHEN CONTRIBUTIONS DEEMED
19 MADE.—For purposes of this section, a taxpayer
20 shall be deemed to have made a contribution to an
21 education investment organization on the last day of
22 the preceding taxable year if the contribution is
23 made on account of such taxable year and is made
24 not later than the time prescribed by law for filing

1 the return for such taxable year (not including ex-
 2 tensions thereof).”.

3 (b) SCHOLARSHIPS FROM EDUCATION INVESTMENT
 4 ORGANIZATIONS EXCLUDED FROM INCOME.—Section 74
 5 of such Code (relating to prizes and awards) is amended
 6 by adding at the end the following new subsection:

7 “(d) SCHOLARSHIPS FROM EDUCATION INVESTMENT
 8 ORGANIZATIONS.—Gross income does not include
 9 amounts received as a scholarship from an education in-
 10 vestment organization (as defined in section 30D(c)(2))
 11 for qualified elementary and secondary education expenses
 12 (as defined in section 30D(c)(3)). Such scholarship shall
 13 not be taken into account for purposes of determining eli-
 14 gibility for any Federal program.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
 16 for such subpart B is amended by inserting after the item
 17 relating to section 30C the following new item:

“Sec. 30D. Contributions to education investment organizations.”.

18 (d) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 December 31, 2004.

21 **SEC. 3. FEDERAL SCHOLARSHIP TAX CREDIT CONDITIONED**
 22 **ON STATE QUALIFIED SCHOLARSHIP TAX**
 23 **CREDIT.**

24 (a) IN GENERAL.—For purposes of section 30D(e)
 25 of the Internal Revenue Code of 1986 (as added by section

1 2 of this Act) a scholarship tax credit shall not be treated
2 as a State qualified scholarship tax credit unless the re-
3 quirements of subsection (b) are met.

4 (b) REQUIREMENTS RELATING TO STATE QUALIFIED
5 SCHOLARSHIP TAX CREDIT.—

6 (1) IN GENERAL.—For purposes of subsection
7 (a), the requirements of this subsection are met only
8 if—

9 (A) the tax credit is for an amount of not
10 less than \$250 per taxpayer and is allowed
11 against the State income tax (property tax for
12 those States that don't have income tax) for the
13 amount of voluntary cash contributions made
14 by the taxpayer during the taxable year to a
15 school tuition organization described in para-
16 graph (2),

17 (B) the excess of such credit over tax li-
18 ability may be carried forward for not more
19 than five years,

20 (C) if the taxpayer does not require, as a
21 condition of the contribution, that the contribu-
22 tion must benefit a specific child, and

23 (D) such credit is not allowable for direct
24 donations to private schools.

1 (2) SCHOOL TUITION ORGANIZATION.—For pur-
2 poses of paragraph (1), a school tuition organization
3 is described in this paragraph if such organization—

4 (A) is an organization operating in the
5 State and is described in section 501(c)(3), and
6 is exempt from tax under section 501(a), of the
7 Internal Revenue Code of 1986,

8 (B) expends at least 90 percent of its an-
9 nual cash contributions for educational scholar-
10 ships or tuition grants to children to allow them
11 to attend any qualified school chosen at the sole
12 discretion of their parents, and

13 (C) disburses at least 90 percent of its an-
14 nual cash contributions within one year of their
15 receipt.

16 (3) QUALIFIED SCHOOL.—For purposes of
17 paragraph (2), the term “qualified school” means
18 any elementary school or secondary school that is lo-
19 cated in the State in which the taxpayer resides and
20 does not discriminate on the basis of race, color,
21 handicap, familial status, or national origin and that
22 satisfies the requirements prescribed by State law
23 for such schools as of December 31, 2004.

24 (4) EDUCATIONAL SCHOLARSHIPS OR TUITION
25 GRANTS.—The term “educational scholarship or a

1 tuition grant” means any scholarship or grant
2 awarded for qualified elementary and secondary edu-
3 cation expenses (as defined in section 530(b)(4) of
4 the Internal Revenue Code of 1986).

5 (c) STATE.—For purposes of this section, the term
6 “State” means any of the several States.

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