

111TH CONGRESS
1ST SESSION

H. R. 1833

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

APRIL 1, 2009

Mr. FRANKS of Arizona (for himself, Mr. BURTON of Indiana, Mr. BROUN of Georgia, Mr. LAMBORN, Mr. KLINE of Minnesota, Mr. DANIEL E. LUNGREN of California, Mr. KING of Iowa, Mr. BISHOP of Utah, Mr. CAMPBELL, Mr. BLUNT, Mr. GERLACH, Mr. SOUDER, Mr. HENSARLING, Mr. COLE, Mr. HOEKSTRA, Mrs. BACHMANN, and Mr. PITTS) 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 contributions 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Children’s Hope Act
3 of 2009”.

4 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO EDUCATION**
5 **INVESTMENT ORGANIZATIONS.**

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

10 **“SEC. 30E. CONTRIBUTIONS TO EDUCATION INVESTMENT**
11 **ORGANIZATIONS.**

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

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

19 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of
20 this section—

21 “(1) IN GENERAL.—The term ‘qualified con-
22 tribution’ means a charitable contribution (as de-
23 fined by section 170(c)) to an education investment
24 organization.

25 “(2) EDUCATION INVESTMENT ORGANIZA-
26 TION.—The term ‘education investment organiza-

tion’ means any organization described in section 170(c)(2) if—

“(A) normally not less than 90 percent of the annual cash contributions to such organization are disbursed in the form of grants to students for qualified elementary and secondary education expenses, and

“(B) not less than $\frac{1}{2}$ of such disbursements are to students who are eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act.

“(3) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term ‘qualified elementary and secondary education expenses’ has the meaning given such term by section 530(b)(3), except that ‘child’ shall be substituted for ‘beneficiary’ and ‘a child’ shall be substituted for ‘the designated beneficiary of the trust’ in clauses (i) and (iii) of subparagraph (A).

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

“(A) No credit shall be allowed to a taxpayer under this section for a taxable year unless, for the taxable year, the taxpayer is allowed on the taxpayer’s State tax return the

1 minimum State qualified scholarship tax credit
2 (as defined in section 3 of the Children’s Hope
3 Act of 2009).

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

9 “(d) SPECIAL RULES.—

10 “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-
11 tion shall be allowed under any provision of this
12 chapter for any expense for which a credit is allowed
13 under this section.

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

23 (b) SCHOLARSHIPS FROM EDUCATION INVESTMENT
24 ORGANIZATIONS EXCLUDED FROM INCOME.—Section 74

1 of such Code (relating to prizes and awards) is amended
 2 by adding at the end the following new subsection:

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

11 (c) CLERICAL AMENDMENT.—The table of sections
 12 for such subpart B is amended by inserting after the item
 13 relating to section 30D the following new item:

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

14 (d) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 2008.

17 **SEC. 3. FEDERAL SCHOLARSHIP TAX CREDIT CONDITIONED**
 18 **ON STATE QUALIFIED SCHOLARSHIP TAX**
 19 **CREDIT.**

20 (a) IN GENERAL.—For purposes of section 30E(c)(4)
 21 of the Internal Revenue Code of 1986 (as added by section
 22 2 of this Act) a scholarship tax credit shall not be treated
 23 as a State qualified scholarship tax credit unless the re-
 24 quirements of subsection (b) are met.

1 (b) REQUIREMENTS RELATING TO STATE QUALIFIED
2 SCHOLARSHIP TAX CREDIT.—

3 (1) IN GENERAL.—For purposes of subsection
4 (a), the requirements of this subsection are met only
5 if—

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

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

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

20 (D) such credit is not allowable for direct
21 donations to private schools.

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

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

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

10 (C) disburses at least 90 percent of its an-
11 nual cash contributions within one year of their
12 receipt.

13 (3) QUALIFIED SCHOOL.—For purposes of
14 paragraph (2), the term “qualified school” means
15 any elementary school or secondary school that is lo-
16 cated in the State in which the taxpayer resides and
17 does not discriminate on the basis of race, color,
18 handicap, familial status, or national origin and that
19 satisfies the requirements prescribed by State law
20 for such schools as of December 31, 2008.

21 (4) EDUCATIONAL SCHOLARSHIPS OR TUITION
22 GRANTS.—The term “educational scholarship or a
23 tuition grant” means any scholarship or grant
24 awarded for qualified elementary and secondary edu-

1 cation expenses (as defined in section 30E(c)(3) of
2 the Internal Revenue Code of 1986).

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

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