

113TH CONGRESS
1ST SESSION

H. R. 422

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

JANUARY 25, 2013

Mr. FRANKS of Arizona (for himself, Mr. GOSAR, Mr. SCHWEIKERT, Mr. SALMON, Mr. MULVANEY, Mrs. BLACKBURN, Mr. MESSER, Mr. LAMALFA, Mr. HULTGREN, and Mr. WEBER of Texas) 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,*
3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Children’s Hope Act of 2013”.

1 (b) FINDINGS.—Congress finds the following:

2 (1) On April 4, 2011, the United States Su-
3 preme Court ruled that opponents of Arizona’s pri-
4 vate school scholarship tax credit program may not
5 challenge the program on grounds that it violates
6 the Establishment Clause of the First Amendment.

7 (2) The Court ruled 5–4 in *Garriott v. Winn*
8 and *Arizona Christian School Tuition Organization*
9 *v. Winn* against a lawsuit by the Arizona chapter of
10 the American Civil Liberties Union, which contested
11 a tax credit program giving Arizona parents choices
12 other than their neighborhood public schools.

13 (3) The Children’s Hope Act of 2013 builds on
14 the success of the Arizona private school scholarship
15 tax credit program. Thus far, Arizona taxpayers
16 have raised more than \$430 million for scholarships
17 since 1998. In 2011 alone, nearly 75,000 taxpayers
18 awarded more than \$47 million for 25,000 scholar-
19 ships to Arizona children.

20 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO EDUCATION**
21 **INVESTMENT ORGANIZATIONS.**

22 (a) IN GENERAL.—Subpart B of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986 (relating to other credits) is amended by inserting
25 after section 30D the following new section:

1 **“SEC. 30E. CONTRIBUTIONS TO EDUCATION INVESTMENT**
 2 **ORGANIZATIONS.**

3 “(a) IN GENERAL.—There shall be allowed as a cred-
 4 it against the tax imposed by this chapter for the taxable
 5 year the aggregate amount of qualified contributions for
 6 the taxable year.

7 “(b) LIMITATION.—The amount allowed as a credit
 8 under subsection (a) for a taxable year shall not exceed
 9 \$100 (\$200 in the case of a joint return).

10 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of
 11 this section—

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

16 “(2) EDUCATION INVESTMENT ORGANIZA-
 17 TION.—The term ‘education investment organiza-
 18 tion’ means any organization described in section
 19 170(c)(2) if—

20 “(A) normally not less than 90 percent of
 21 the annual cash contributions to such organiza-
 22 tion are disbursed in the form of grants to stu-
 23 dents for qualified elementary and secondary
 24 education expenses, and

25 “(B) not less than 1/2 of such disburse-
 26 ments are to students who are eligible for free

1 or reduced-cost lunches under the school lunch
2 program established under the Richard B. Rus-
3 sell National School Lunch Act.

4 “(3) QUALIFIED ELEMENTARY AND SECONDARY
5 EDUCATION EXPENSES.—The term ‘qualified ele-
6 mentary and secondary education expenses’ has the
7 meaning given such term by section 530(b)(3), ex-
8 cept that ‘child’ shall be substituted for ‘beneficiary’
9 and ‘a child’ shall be substituted for ‘the designated
10 beneficiary of the trust’ in clauses (i) and (iii) of
11 subparagraph (A).

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

13 “(A) No credit shall be allowed to a tax-
14 payer under this section for a taxable year un-
15 less, for the taxable year, the taxpayer is al-
16 lowed on the taxpayer’s State tax return the
17 minimum State qualified scholarship tax credit
18 (as defined in section 3 of the Children’s Hope
19 Act of 2013).

20 “(B) No credit shall be allowed to a tax-
21 payer under this section for such taxable year
22 for any contributions that were taken into ac-
23 count for purposes of such State qualified
24 scholarship tax credit.

25 “(d) SPECIAL RULES.—

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

5 “(2) TIME WHEN CONTRIBUTIONS DEEMED
6 MADE.—For purposes of this section, a taxpayer
7 shall be deemed to have made a contribution to an
8 education investment organization on the last day of
9 the preceding taxable year if the contribution is
10 made on account of such taxable year and is made
11 not later than the time prescribed by law for filing
12 the return for such taxable year (not including ex-
13 tensions thereof).”.

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

18 “(d) SCHOLARSHIPS FROM EDUCATION INVESTMENT
19 ORGANIZATIONS.—Gross income does not include
20 amounts received as a scholarship from an education in-
21 vestment organization (as defined in section 30E(c)(2))
22 for qualified elementary and secondary education expenses
23 (as defined in section 30E(c)(3)). Such scholarship shall
24 not be taken into account for purposes of determining eli-
25 gibility for any Federal program.”.

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

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

4 (d) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 2012.

7 **SEC. 3. FEDERAL SCHOLARSHIP TAX CREDIT CONDITIONED**
 8 **ON STATE QUALIFIED SCHOLARSHIP TAX**
 9 **CREDIT.**

10 (a) IN GENERAL.—For purposes of section 30E(c)(4)
 11 of the Internal Revenue Code of 1986 (as added by section
 12 2 of this Act), a scholarship tax credit shall not be treated
 13 as a State qualified scholarship tax credit unless the re-
 14 quirements of subsection (b) are met.

15 (b) REQUIREMENTS RELATING TO STATE QUALIFIED
 16 SCHOLARSHIP TAX CREDIT.—

17 (1) IN GENERAL.—For purposes of subsection

18 (a), the requirements of this subsection are met only
 19 if—

20 (A) the tax credit is for an amount of not
 21 less than \$250 per taxpayer and is allowed
 22 against the State income tax (property tax for
 23 those States that don't have income tax) for the
 24 amount of voluntary cash contributions made
 25 by the taxpayer during the taxable year to a

1 school tuition organization described in para-
2 graph (2),

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

6 (C) the taxpayer does not require, as a
7 condition of the contribution, that the contribu-
8 tion must benefit a specific child, and

9 (D) such credit is not allowable for direct
10 donations to private schools.

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

14 (A) is an organization operating in the
15 State and is described in section 501(c)(3), and
16 is exempt from tax under section 501(a), of the
17 Internal Revenue Code of 1986,

18 (B) expends at least 90 percent of its an-
19 nual cash contributions for educational scholar-
20 ships or tuition grants to children to allow them
21 to attend any qualified school chosen at the sole
22 discretion of their parents, and

23 (C) disburses at least 90 percent of its an-
24 nual cash contributions within one year of their
25 receipt.

1 (3) QUALIFIED SCHOOL.—For purposes of
2 paragraph (2), the term “qualified school” means
3 any elementary school or secondary school that is lo-
4 cated in the State in which the taxpayer resides and
5 does not discriminate on the basis of race, color,
6 handicap, familial status, or national origin and that
7 satisfies the requirements prescribed by State law
8 for such schools as of December 31, 2010.

9 (4) EDUCATIONAL SCHOLARSHIPS OR TUITION
10 GRANTS.—The term “educational scholarship or a
11 tuition grant” means any scholarship or grant
12 awarded for qualified elementary and secondary edu-
13 cation expenses (as defined in section 30E(c)(3) of
14 the Internal Revenue Code of 1986).

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

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