

FORTY-EIGHTH LEGISLATURE
FIRST SESSION

March 15, 2007

SENATE FLOOR AMENDMENT number ___1___ to HOUSE BILL 1012, as amended
Amendment sponsored by Senator

1. Strike Senate Finance Committee Amendment 2.

2. On page 6, strike lines 8 and 9 in their entirety and
insert in lieu thereof:

"Section 4. A new section of the Income Tax Act is enacted to
read:

"[NEW MATERIAL] TUITION SCHOLARSHIP TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income
tax return and is not a dependent of another taxpayer may claim a
credit for a contribution made to a school tuition organization if a
receipt has been received from the organization certifying that the
contribution will be used for educational scholarships or tuition
grants for one or more children. The credit may be claimed in an
amount equal to the total contributions made during the taxable year
for which the credit is claimed but shall not exceed five hundred
dollars (\$500) in any taxable year. The credit provided in this
subsection shall be known as the "tuition scholarship tax credit".

B. The tuition scholarship tax credit shall not be allowed
for a contribution that is included in the taxpayer's itemized
deductions, as defined in Section 63 of the Internal Revenue Code,
for the taxable year.

C. A husband and wife who file separate returns for a
taxable year in which they could have filed a joint return may each
claim only one-half of the tuition scholarship tax credit that would
have been allowed on a joint return.

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D. The tuition scholarship tax credit provided in this section may only be deducted from the taxpayer's New Mexico income tax liability for the taxable year in which the contribution is made.

E. The department shall provide a format for a standardized receipt to be issued by a school tuition organization to indicate the tuition scholarship tax credit value of a contribution to the school tuition organization. The department may require a taxpayer claiming the tuition scholarship tax credit to submit a copy of the receipt with the taxpayer's claim for the credit.

F. As used in this section:

(1) "qualified school" means an accredited nongovernmental elementary or secondary school in New Mexico with academic content and performance standards at least equal to the standards adopted by the public education department and that is assessed annually by that department; provided that assessments for qualified schools shall not be more expensive than assessments in the public school system;

(2) "school tuition organization" means an organization that:

(a) demonstrates to the department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;

(b) provides financial assistance for the education of children in the form of educational scholarships or tuition grants to students allowing them to attend any qualified school of their parents' choice; and

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(c) expends at least ninety percent of its tax-credit-qualifying revenues for educational scholarships or tuition grants for children enrolled in a qualified school and provides seventy-five percent of its educational scholarships or tuition grants to children who qualify for the federal free or reduced-fee school meal program at the time of initial application for the scholarship or tuition grant; and

(3) "tax-credit-qualifying revenue" means a contribution to a school tuition organization for which a receipt pursuant to Subsection E of this section has been issued by the organization to the donor of the contribution."

Section 5. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] HOME SCHOOL TAX CREDIT.--

A. A resident who files an individual New Mexico income tax return and is not a dependent of another taxpayer may claim a credit in the amount of one hundred seventy-five dollars (\$175) for each dependent of the resident who:

(1) was home schooled, as that term is defined in the Public School Code, during the school year that ended during the taxable year; and

(2) was claimed as a dependent on the resident's federal income tax return or, if the resident did not file a federal return, would have been entitled to be claimed as a dependent on the resident's federal return.

B. The credit provided in this section may be deducted from the resident's income tax liability for the taxable year. If the credit exceeds the resident's income tax liability, the excess shall be refunded.

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C. A husband and wife who file separate returns for the taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on the joint return.

D. To claim the credit provided in this section, the resident shall attach to the resident's New Mexico income tax return a copy of the resident's notification submitted pursuant to Section 22-1-2.1 NMSA 1978.

E. As used in this section, "dependent" means "dependent" as defined in Section 152 of the Internal Revenue Code, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident."

Section 6. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] HIGH-NEEDS SCHOOLS TEACHER TAX CREDIT--
QUALIFYING--AMOUNT.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual, who is a qualifying level 2 or level 3-A licensed teacher and who teaches in a high-needs school identified annually by the public education department may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "high-needs schools teacher tax credit".

B. A taxpayer may claim and the department may allow a high-needs schools teacher tax credit in an amount that shall not exceed:

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(1) one thousand five hundred dollars (\$1,500) for a qualifying level 2 licensed teacher who has held a level 2 license for at least three years; or

(2) two thousand dollars (\$2,000) for a qualifying level 3-A licensed teacher.

C. A teacher who teaches in a high-needs school for less than one-half of the full school year shall not be allowed to claim a high-needs schools teacher tax credit. To qualify for:

(1) the maximum high-needs schools teacher tax credit, a qualifying teacher shall have taught in a high-needs school for the entire school year; or

(2) one-half of the high-needs schools teacher tax credit, a qualifying teacher shall have taught at a high-needs school for at least one-half of the full school year, but not the full school year as determined or approved by the public education department.

D. A teacher who qualifies for the high-needs schools teacher tax credit may apply all or a portion of the high-needs schools teacher tax credit against the teacher's personal income tax liability for the taxable year in which the credit is being claimed, and the excess may be carried forward for up to three consecutive tax years.

E. Each year, the public education department shall determine the criteria on which to base classification of a school as a high-needs school for that taxable year for purposes of this section. The criteria shall include consideration of academic proficiency, the percent of poverty in the school population and other factors to be identified by the public education department. For each taxable year, no more than a combined total of one thousand nine hundred level 2 or level 3-A licensed teachers shall be

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eligible for the high-needs schools teacher tax credit.

F. The public education department shall furnish annually to the taxation and revenue department a list of level 2 and level 3-A licensed teachers, by name and social security number, who qualify for the high-needs schools teacher tax credit.

G. As used in this section:

(1) "high-needs school" means a public primary or secondary school, including charter schools, or a tribal, bureau of Indian affairs or bureau of Indian affairs contract school, identified by the public education department pursuant to this section;

(2) "level 2 licensed teacher" means a teacher who has a valid level 2 teaching license issued by the public education department; and

(3) "level 3-A licensed teacher" means a teacher who has a valid level 3-A teaching license issued by the public education department."

Section 7. DELAYED REPEAL.--Section 4 of this act is repealed December 31, 2010.

Section 8. APPLICABILITY.--The provisions of Sections 4 through 6 of this act apply to taxable years beginning on or after January 1, 2007. The provisions of Section 4 of this act are applicable for the 2007 through 2010 taxable years.

Section 9. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 3 of this act is July 1, 2007."

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Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____