

Senate File 2409 - Enrolled

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SENATE FILE 2409

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AN ACT  
ALLOWING INDIVIDUAL INCOME TAX CREDITS FOR CONTRIBUTIONS MADE  
TO CERTAIN SCHOOL TUITION ORGANIZATIONS AND INCLUDING  
EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.  
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
Section 1. NEW SECTION. 422.11M SCHOOL TUITION  
ORGANIZATION TAX CREDIT.  
1. The taxes imposed under this division less the credits  
allowed under sections 422.12 and 422.12B shall be reduced by  
a school tuition organization tax credit equal to sixty-five  
percent of the amount of the voluntary cash contributions made  
by the taxpayer during the tax year to a school tuition  
organization, subject to the total dollar value of the  
organization's tax credit certificates as computed in  
subsection 7. The tax credit shall be claimed by use of a tax  
credit certificate as provided in subsection 6.  
2. To be eligible for this credit, all of the following  
shall apply:  
a. A deduction pursuant to section 170 of the Internal  
Revenue Code for any amount of the contribution is not taken  
for state tax purposes.  
b. The contribution does not designate that any part of  
the contribution be used for the direct benefit of any  
dependent of the taxpayer or any other student designated by  
the taxpayer.  
3. Any credit in excess of the tax liability is not  
refundable but the excess for the tax year may be credited to  
the tax liability for the following five tax years or until  
depleted, whichever is the earlier.  
4. Married taxpayers who file separate returns or file  
separately on a combined return form must determine the tax  
credit under subsection 1, based upon their combined net  
income and allocate the total credit amount to each spouse in  
the proportion that each spouse's respective net income bears  
to the total combined net income. Nonresidents or part-year  
residents of Iowa must determine their tax credit in the ratio  
of their Iowa source net income to their all source net  
income. Nonresidents or part-year residents who are married  
and elect to file separate returns or to file separately on a  
combined return form must allocate the tax credit between the  
spouses in the ratio of each spouse's Iowa source net income  
to the combined Iowa source net income of the taxpayers.  
5. For purposes of this section:  
a. "Eligible student" means a student who is a member of a  
household whose total annual income during the calendar year  
before the student receives a tuition grant for purposes of  
this section does not exceed an amount equal to three times  
the most recently published federal poverty guidelines in the  
federal register by the United States department of health and  
human services.  
b. "Qualified school" means a nonpublic elementary or  
secondary school in this state which is accredited under  
section 256.11 and adheres to the provisions of the federal  
Civil Rights Act of 1964 and chapter 216.  
c. "School tuition organization" means a charitable  
organization in this state that is exempt from federal  
taxation under section 501(c)(3) of the Internal Revenue Code  
and that does all of the following:  
(1) Allocates at least ninety percent of its annual  
revenue in tuition grants for children to allow them to attend  
a qualified school of their parents' choice.  
(2) Only awards tuition grants to children who reside in  
Iowa.  
(3) Provides tuition grants to students without limiting  
availability to only students of one school.  
(4) Only provides tuition grants to eligible students.  
(5) Prepares an annual reviewed financial statement  
certified by a public accounting firm.  
6. a. In order for the taxpayer to claim the school

3 4 tuition organization tax credit under subsection 1, a tax  
3 5 credit certificate issued by the school tuition organization  
3 6 to which the contribution was made shall be attached to the  
3 7 person's tax return. The tax credit certificate shall contain  
3 8 the taxpayer's name, address, tax identification number, the  
3 9 amount of the contribution, the amount of the credit, and  
3 10 other information required by the department.

3 11 b. The department shall authorize a school tuition  
3 12 organization to issue tax credit certificates for  
3 13 contributions made to the school tuition organization. The  
3 14 aggregate amount of tax credit certificates that the  
3 15 department shall authorize for a school tuition organization  
3 16 for a tax year shall be determined for that organization  
3 17 pursuant to subsection 7. However, a school tuition  
3 18 organization shall not be authorized to issue tax credit  
3 19 certificates unless the organization is controlled by a board  
3 20 of directors consisting of seven members. The names and  
3 21 addresses of the members shall be provided to the department  
3 22 and shall be made available by the department to the public,  
3 23 notwithstanding any state confidentiality restrictions.

3 24 c. Pursuant to rules of the department, a school tuition  
3 25 organization shall initially register with the department.  
3 26 The organization's registration shall include proof of section  
3 27 501(c)(3) status and provide a list of the schools the school  
3 28 tuition organization serves. Once the school tuition  
3 29 organization has registered, it is not required to  
3 30 subsequently register unless the schools it serves changes.

3 31 d. Each school that is served by a school tuition  
3 32 organization shall submit a participation form annually to the  
3 33 department by October 15 providing the following information:

3 34 (1) Certified enrollment as of the third Friday of  
3 35 September.

4 1 (2) The school tuition organization that represents the  
4 2 school. A school shall only be represented by one school  
4 3 tuition organization.

4 4 7. a. For purposes of this subsection:

4 5 (1) "Certified enrollment" means the enrollment at schools  
4 6 served by school tuition organizations as indicated by  
4 7 participation forms provided to the department each October.

4 8 (2) "Total approved tax credits" means for the tax year  
4 9 beginning in the 2006 calendar year, two million five hundred  
4 10 thousand dollars and for tax years beginning on or after  
4 11 January 1, 2007, five million dollars.

4 12 (3) "Tuition grant" means grants to students to cover all  
4 13 or part of the tuition at a qualified school.

4 14 b. Each year by November 15, the department shall  
4 15 authorize school tuition organizations to issue tax credit  
4 16 certificates for the following tax year. However, for the tax  
4 17 year beginning in the 2006 calendar year only, the department,  
4 18 by September 1, 2006, shall authorize school tuition  
4 19 organizations to issue tax credit certificates for the 2006  
4 20 calendar tax year. For the tax year beginning in the 2006  
4 21 calendar year only, each school served by a school tuition  
4 22 organization shall submit a participation form to the  
4 23 department by August 1, 2006, providing the certified  
4 24 enrollment as of the third Friday of September 2005, along  
4 25 with the school tuition organization that represents the  
4 26 school. Tax credit certificates available for issue by each  
4 27 school tuition organization shall be determined in the  
4 28 following manner:

4 29 (1) Total the certified enrollment of each participating  
4 30 qualified school to arrive at the total participating  
4 31 certified enrollment.

4 32 (2) Determine the per student tax credit available by  
4 33 dividing the total approved tax credits by the total  
4 34 participating certified enrollment.

4 35 (3) Multiply the per student tax credit by the total  
5 1 participating certified enrollment of each school tuition  
5 2 organization.

5 3 8. A school tuition organization that receives a voluntary  
5 4 cash contribution pursuant to this section shall report to the  
5 5 department, on a form prescribed by the department, by January  
5 6 12 of each tax year all of the following information:

5 7 a. The name and address of the members and the chairperson  
5 8 of the governing board of the school tuition organization.

5 9 b. The total number and dollar value of contributions  
5 10 received and the total number and dollar value of the tax  
5 11 credits approved during the previous tax year.

5 12 c. A list of the individual donors for the previous tax  
5 13 year that includes the dollar value of each donation and the  
5 14 dollar value of each approved tax credit.

5 15 d. The total number of children utilizing tuition grants  
5 16 for the school year in progress and the total dollar value of  
5 17 the grants.

5 18 e. The name and address of each represented school at  
5 19 which tuition grants are currently being utilized, detailing  
5 20 the number of tuition grant students and the total dollar  
5 21 value of grants being utilized at each school served by the  
5 22 school tuition organization.

5 23 Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.  
5 24 This Act, being deemed of immediate importance, takes effect  
5 25 upon enactment and applies retroactively to January 1, 2006,  
5 26 for tax years beginning on or after that date.

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5 30 JEFFREY M. LAMBERTI  
5 31 President of the Senate  
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5 35 CHRISTOPHER C. RANTS  
6 1 Speaker of the House  
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6 3 I hereby certify that this bill originated in the Senate and  
6 4 is known as Senate File 2409, Eighty-first General Assembly.

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6 8 MICHAEL E. MARSHALL  
6 9 Secretary of the Senate

6 10 Approved \_\_\_\_\_, 2006

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6 14 THOMAS J. VILSACK  
6 15 Governor