

## 1 HOUSE BILL NO. 433

2 INTRODUCED BY S. BERGLEE, G. BENNETT, C. FISCUS, S. HESS, F. MANDEVILLE, W. MCKAMEY,  
3 D. MORTENSEN, K. REGIER, C. SMITH

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INDIVIDUAL INCOME TAX CREDIT FOR TUITION  
6 PAID FOR ELEMENTARY OR SECONDARY SCHOOL EDUCATION; LIMITING ELIGIBILITY FOR AND THE  
7 AMOUNT OF THE TAX CREDIT; REQUIRING AN INFORMATION RETURN FROM A QUALIFIED EDUCATION  
8 PROVIDER; EXTENDING RULEMAKING AUTHORITY; AND PROVIDING AN APPLICABILITY DATE."

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10 WHEREAS, Article X, section 1(1), of the Montana Constitution guarantees equality of educational  
11 opportunity to each person of the state; and

12 WHEREAS, the Legislature finds that allowing lower-income parents the same ability that wealthy parents  
13 now have in selecting the school of their choice enhances equality of educational opportunity; and

14 WHEREAS, the Legislature strongly supports the rights of parents to choose the way in which their  
15 children are educated, consistent with their academic expectations and personal values; and

16 WHEREAS, the Legislature believes that competition in the educational marketplace has a strengthening  
17 effect on both public and private education and serves the long-term best interests of all students; and

18 WHEREAS, the Legislature supports an education policy that fosters the free movement of educational  
19 consumers to the schools of their choice; and

20 WHEREAS, the Legislature finds that parental choice in education can reduce the Montana property and  
21 income tax burdens and increase the amount of money available to educate each child in the public schools; and

22 WHEREAS, the Legislature intends, with passage of this act, to grant all parents more educational  
23 choice.

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25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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27 **NEW SECTION. Section 1. Elementary and secondary education tax credit -- definitions.** (1) There  
28 is a credit against the taxes otherwise due under this chapter for a payment of tuition and fees by a taxpayer to  
29 a qualified education provider for an eligible student to attend an elementary or secondary education program  
30 offered by a qualified education provider.

- 1           (2) The amount of the credit for payment of tuition and fees is up to \$1,000, as applied against the first  
2 \$1,000 of qualifying education expenses, for the tax year beginning:
- 3           (a) January 1, 2016, but only for the amount by which those expenses have increased for the taxpayer  
4 from the previous tax year;
- 5           (b) January 1, 2017, through the tax year ending December 31, 2018, but only for the amount by which  
6 those expenses have increased for the taxpayer from the ~~2016~~ 2015 tax year; and
- 7           (c) on or after January 1, 2019.
- 8           (3) A credit is not allowed under any other provision of this chapter with respect to any amount for which  
9 a credit is claimed under this section.
- 10          (4) The credit may not be refunded if a taxpayer has tax liability that is less than the amount of the credit.
- 11          (5) The credit may be used as a carryforward against taxes due under this chapter for the 5 succeeding  
12 tax years. The entire amount of the credit not used in the year earned must be carried first to the earliest tax year  
13 in which the credit may be applied and then to each succeeding tax year.
- 14          (6) In the case of a married individual filing a separate return, the amount of the credit under subsection  
15 (2) may be split in proportion to each taxpayer's share of the contribution, subject to the maximum credit limitation  
16 in subsection (2).
- 17          (7) As used in [section 2] and this section, the following definitions apply:
- 18          (a) "Eligible student" means a student who is:
- 19           (i) a Montana resident and who is 5 years of age or older on or before September 10 of the year of  
20 attendance and has not yet reached 19 years of age; and
- 21           (ii) connected by consanguinity within the second degree to the taxpayer.
- 22          (b) "Qualified education provider" means an education provider that:
- 23           (i) is a private school or a public school that is out-of-district for the eligible student;
- 24           (ii) (A) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or  
25 national accreditation organization; or
- 26           (B) is a nonaccredited provider or tutor and has informed the eligible student's parents or legal guardian  
27 in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;
- 28           (iii) is not a home school as described in 20-5-102;
- 29           (iv) administers a nationally recognized normative assessment test or criterion reference test and makes  
30 the results available to the eligible student's parents or legal guardian; and

- 1 (v) if not a public school:
- 2 (A) satisfies the health and safety requirements prescribed by law for private schools in this state; and
- 3 (B) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.

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5 **NEW SECTION. Section 2. Education tax credit -- information return.** (1) Each qualified education  
 6 provider, with the exception of a public school that is out-of-district for the eligible student, shall make an  
 7 information return to the department concerning the credit allowed under [section 1]. The return must show the  
 8 amount of the qualifying tuition payment made by an individual for each eligible student and must include the  
 9 individual's name, address, and social security number or taxpayer identification number. The qualified education  
 10 provider shall provide a copy of the return to the individual making the qualifying tuition payment.

11 (2) The return must be made under rules adopted by the department and in the form and manner  
 12 prescribed by the department.

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14 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified  
 15 as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to  
 16 [sections 1 and 2].

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18 **NEW SECTION. Section 4. Applicability.** [This act] applies to tax years beginning after December 31,  
 19 2015.

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