

112TH CONGRESS  
1ST SESSION

# H. R. 485

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 26, 2011

Mr. FRANKS of Arizona 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.**

4 This Act may be cited as the “Children’s Hope Act  
5 of 2011”.

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

3 (a) IN GENERAL.—Subpart B of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 (relating to other credits) is amended by inserting  
 6 after section 30D the following new section:

7 **“SEC. 30E. CONTRIBUTIONS TO EDUCATION INVESTMENT**  
 8 **ORGANIZATIONS.**

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

13 “(b) LIMITATION.—The amount allowed as a credit  
 14 under subsection (a) for a taxable year shall not exceed  
 15 \$100 (\$200 in the case of a joint return).

16 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of  
 17 this section—

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

22 “(2) EDUCATION INVESTMENT ORGANIZA-  
 23 TION.—The term ‘education investment organiza-  
 24 tion’ means any organization described in section  
 25 170(c)(2) if—

1           “(A) normally not less than 90 percent of  
2           the annual cash contributions to such organiza-  
3           tion are disbursed in the form of grants to stu-  
4           dents for qualified elementary and secondary  
5           education expenses, and

6           “(B) not less than  $\frac{1}{2}$  of such disburse-  
7           ments are to students who are eligible for free  
8           or reduced-cost lunches under the school lunch  
9           program established under the Richard B. Rus-  
10          sell National School Lunch Act.

11          “(3) QUALIFIED ELEMENTARY AND SECONDARY  
12          EDUCATION EXPENSES.—The term ‘qualified ele-  
13          mentary and secondary education expenses’ has the  
14          meaning given such term by section 530(b)(3), ex-  
15          cept that ‘child’ shall be substituted for ‘beneficiary’  
16          and ‘a child’ shall be substituted for ‘the designated  
17          beneficiary of the trust’ in clauses (i) and (iii) of  
18          subparagraph (A).

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

20                 “(A) No credit shall be allowed to a tax-  
21                 payer under this section for a taxable year un-  
22                 less, for the taxable year, the taxpayer is al-  
23                 lowed on the taxpayer’s State tax return the  
24                 minimum State qualified scholarship tax credit

1 (as defined in section 3 of the Children’s Hope  
2 Act of 2011).

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

8 “(d) SPECIAL RULES.—

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

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

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

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

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

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

12       (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxable years beginning after  
14 December 31, 2010.

15 **SEC. 3. FEDERAL SCHOLARSHIP TAX CREDIT CONDITIONED**  
16 **ON STATE QUALIFIED SCHOLARSHIP TAX**  
17 **CREDIT.**

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

23       (b) REQUIREMENTS RELATING TO STATE QUALIFIED  
24 SCHOLARSHIP TAX CREDIT.—

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

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

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

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

18                  (D) such credit is not allowable for direct  
19                  donations to private schools.

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

23                   (A) is an organization operating in the  
24                   State and is described in section 501(c)(3), and

1 is exempt from tax under section 501(a), of the  
2 Internal Revenue Code of 1986,

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

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

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

19 (4) EDUCATIONAL SCHOLARSHIPS OR TUITION  
20 GRANTS.—The term “educational scholarship or a  
21 tuition grant” means any scholarship or grant  
22 awarded for qualified elementary and secondary edu-  
23 cation expenses (as defined in section 30E(c)(3) of  
24 the Internal Revenue Code of 1986).

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

○