

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 539

5 By: Senators B. Johnson, J. Hendren
6 By: Representative Bragg
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS TAX CREDIT SCHOLARSHIP
10 ACT; AND FOR OTHER PURPOSES.
11

Subtitle

14 TO CREATE THE ARKANSAS TAX CREDIT
15 SCHOLARSHIP ACT.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 6, Chapter 18, is amended to add an
21 additional subchapter to read as follows:

22 Subchapter 20 – Arkansas Tax Credit Scholarship Act
23

24 6-18-2001. Title.

25 This subchapter shall be known and may be cited as the "Arkansas Tax
26 Credit Scholarship Act".
27

28 6-18-2002. Findings and intent.

29 The General Assembly finds that:

30 (1) Each child in this state should have an opportunity to
31 receive an appropriate education that fits his or her needs regardless of
32 income or the neighborhood in which he or she lives;

33 (2) A parent or legal guardian should be able to make
34 educational decisions for his or her child;

35 (3) An appropriate educational setting that fits a child's
36 individual needs is important to the civic and economic condition of the



1 state;

2 (4) Providing an appropriate educational opportunity to each
3 child in this state is a paramount concern of the General Assembly; and

4 (5) It is the intent of the General Assembly to ensure that
5 resources are available to give families the means and the opportunity to
6 provide children with an appropriate education.

7

8 6-18-2003. Definitions.

9 As used in this subchapter:

10 (1) "Curriculum" means a complete course of study for a
11 particular content area or grade level;

12 (2) "Educational service provider" means a provider of eligible
13 educational services under § 6-18-2008;

14 (3) "Eligible contribution" means a monetary contribution from
15 an eligible taxpayer or corporation, subject to the restrictions under this
16 act, to an eligible student support organization;

17 (4) "Eligible student" means a resident of this state who:

18 (A) Is receiving an education scholarship for the first
19 time and is:

20 (i) Entering kindergarten through grade nine (K-9)
21 in an approved nonpublic school; or

22 (ii) Transferring from a public school at which the
23 student was enrolled for at least one (1) semester immediately preceding the
24 first semester for which the student receives a student scholarship under
25 this subchapter to an approved kindergarten through grade twelve (K-12)
26 nonpublic school;

27 (B) Has a family income that is no more than one and one-
28 half (1 1/2) the amount that qualifies a student for a free or reduced-price
29 meal under the National School Lunch Act, 42 U.S.C. § 1751 et seq., as in
30 effect on January 1, 2019, unless the student is eligible solely because the
31 public school district is participating in the special assistance
32 certification and reimbursement alternative implemented under 42 U.S.C. §
33 1759(a), as it existed on January 1, 2019;

34 (C) Has an individualized education program in accordance
35 with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et
36 seq., as it existed on January 1, 2019 or an individualized service plan in

1 accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §
 2 1412(a)(10), as it existed on January 1, 2019;

3 (D) Is eligible to participate in the Succeed Scholarship
 4 Program under § 6-41-901 et seq.;

5 (E) Has a parent who is a member of the United States
 6 National Guard or a parent who is a member of the Armed Forces and is on
 7 active duty or was killed in the line of duty; or

8 (F) Is in foster care or has been in the foster care
 9 system and achieved permanency through adoption, reunification, or permanent
 10 guardianship.

11 (5) "Eligible student support organization" means a charitable
 12 organization that:

13 (A) Is exempt from federal income tax under 26 U.S.C. §
 14 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2019;

15 (B) Is an Arkansas entity that is formed under the
 16 Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

17 (C) Is certified by the Office of the Treasurer under § 6-
 18 18-2004;

19 (D) Complies with the operational requirements under § 6-
 20 15-2005; and

21 (E) Receives eligible contributions to fund and administer
 22 student scholarships according to the rules prescribed by this act;

23 (6) "Institution of higher education" means a public or private
 24 institution that provides postsecondary education;

25 (7) "Operator" means:

26 (A) A president, officer, or board member of an eligible
 27 student support organization or a person with equivalent decision-making
 28 authority over an eligible student support organization; or

29 (B) An owner or other person with equivalent decision-
 30 making authority over an educational service provider that receives payment
 31 under § 6-18-2008 from student scholarships;

32 (8) "Parent" means an individual who is the parent or legal
 33 guardian of an eligible student; and

34 (9) "Student scholarship" means the sum of funds established for
 35 an eligible student under this act that a parent may use to pay for tuition
 36 and other approved educational services on behalf of the eligible student.

1
2 6-18-2004. Application to become an eligible student support
3 organization.

4 (a)(1) An organization that seeks to become an eligible student
5 support organization under this act shall apply to the Office of the
6 Treasurer for initial certification or renewal of certification as an
7 eligible student support organization by May 1 of the year before the school
8 year for which the organization intends to fund student scholarships.

9 (2) However, for the 2020-2021 school year, an organization that
10 seeks to become an eligible student support organization under this act shall
11 apply to the office for initial certification or renewal of certification as
12 an eligible student support organization by January 1, 2020.

13 (b)(1) An application for initial certification under subsection (a)
14 of this section shall include:

15 (A) A copy of the organization’s incorporation documents
16 under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

17 (B) A copy of the organization’s Internal Revenue Service
18 determination letter as a nonprofit organization under 26 U.S.C. § 501(c)(3);

19 (C) A description of the organization’s:

20 (i) Financial plan that demonstrates sufficient
21 funds to operate throughout the academic year; and

22 (ii) Organizational chart; and

23 (D) A description of the:

24 (i) Methodology the organization will use to verify
25 whether a student is eligible to receive a student scholarship;

26 (ii) Application process the organization will use;

27 (iii) Methodology the organization will use to
28 establish and fund student scholarships; and

29 (iv) Plans to comply with the operational
30 requirements under § 6-18-2005.

31 (2) In addition to the information required under subdivision
32 (b)(1) of this section, an application for renewal of certification shall
33 include:

34 (A) The eligible student support organization’s completed
35 Internal Revenue Service Form 990 that is submitted to the office no later
36 than November 30 of the year before the academic year in which the eligible

1 student support organization intends to fund student scholarships;

2 (B) A copy of the audit required under § 6-18-2010; and

3 (C) An annual report that includes the number of:

4 (i) Applications the eligible student support
5 organization received, by county and by grade;

6 (ii) Applications the eligible student support
7 organization received and approved from students who met income requirements
8 under § 6-18-2003(4)(A); and

9 (iii) Student scholarships the eligible student
10 support organization established on behalf of eligible students;

11 (D) The amount of funds that the eligible student support
12 organization:

13 (i) Received for the purposes of this subchapter;
14 and

15 (ii) Distributed as student scholarships under this
16 act;

17 (E) An accounting of any remaining funds after the
18 distribution of student scholarships and administrative expenses; and

19 (F) A description of how the eligible student support
20 organization has complied with the operational requirements under § 6-18-
21 2005.

22 (c) Within sixty (60) days after receipt of an application under this
23 section, the office shall certify an organization as an eligible student
24 support organization if the organization meets the requirements under
25 subsection (b) of this section.

26 (d) The office shall maintain a public registry of currently certified
27 eligible student support organizations on the office’s website.

28
29 6-18-2005. Operation of an eligible student support organization.

30 (a) An eligible student support organization:

31 (1)(A) May expend up to ten percent (10%) of eligible
32 contributions under § 26-51-515 for administrative expenses.

33 (B) An eligible student support organization shall expend
34 or reserve for student scholarships under this subchapter an amount equal to
35 or greater than seventy-five percent (75%) of eligible contributions under §
36 26-51-515 during the fiscal year or school year in which the eligible

1 contributions are collected.

2 (C) No more than twenty-five percent (25%) of eligible
3 contributions under § 26-51-515 shall be carried forward to the following
4 fiscal year.

5 (3) Shall not:

6 (A) Discriminate among applications for a student
7 scholarship on the basis of gender, national origin, race, ethnicity,
8 religion, or disability;

9 (B) Have an operator or employee who owns, operates, or is
10 employed by an educational service provider that receives a payment for
11 services from student scholarships under § 6-18-2008;

12 (C) Provide a student scholarship under this act for the
13 child of an operator or employee of the eligible student support
14 organization;

15 (D) Allow a donor to designate an eligible contribution
16 for a specific student beneficiary, school, or expense under § 6-18-2008(a)
17 as a condition of an eligible contribution to the eligible student support
18 organization;

19 (E) Restrict the parent of an eligible student from
20 selecting any approved nonpublic school; or

21 (F) Charge an application fee;

22 (4)(A) May transfer funds to another eligible student support
23 organization if the:

24 (i) Office of the Treasurer approves the transfer;
25 and

26 (ii) Receiving eligible student support organization
27 requires additional funds to meet its student scholarship demands.

28 (B) A transfer under subdivision (a)(4)(A) of this section
29 is limited to the greater of five-hundred thousand dollars (\$500,000) or
30 twenty percent (20%) of the total eligible contributions received by the
31 eligible student support organization that is making the transfer.

32 (C) All transferred funds received by an eligible student
33 support organization under subdivision (a)(4)(A) of this section shall be:

34 (i) Deposited by the receiving eligible student
35 support organization into the receiving eligible student support
36 organization's account for student scholarships; and

1 (ii) Separately disclosed in the receiving eligible
2 student support organization's annual financial audit under § 6-18-2010;

3 (5) Shall:

4 (A) Maintain separate accounts for student scholarship
5 funds and operating funds;

6 (B) Prepare quarterly reports to submit to the office and
7 to post on the receiving eligible student support organization's website;

8 (C) Submit in a timely manner any information requested by
9 the office that relates to a student scholarship that is established by the
10 eligible student support organization under this subchapter, including
11 without limitation information that is requested in support of any evaluation
12 of the student scholarship program established by this act that is authorized
13 by the state;

14 (D)(i) Establish a process by which an individual may
15 notify the eligible student support organization and file a written complaint
16 of any violation of this act by a parent, educational service provider, or
17 public school district.

18 (ii) The eligible student support organization
19 shall:

20 (a) Conduct an inquiry of any written
21 complaint under subdivision (a)(5)(D)(i) of this section; or

22 (b) Make a referral to the appropriate agency
23 for an investigation into any complaint under subdivision (a)(5)(D)(i) of
24 this section; and

25 (E) Allocate all interest accrued from eligible
26 contributions to the funding of student scholarships.

27 (b)(1) The office shall send written notice to an eligible student
28 support organization if the office determines that the eligible student
29 support organization has violated this act.

30 (2)(A) An eligible student support organization that receives a
31 notice under subdivision (b)(1) of this section has sixty (60) days to
32 correct a violation identified in the notice by the office.

33 (B)(i) If an eligible student support organization fails
34 or refuses to correct a violation identified under subdivision (b)(1) of this
35 section, then the office may revoke the certification of the eligible student
36 support organization.

1 (ii)(a) An eligible student support organization may
 2 request an administrative hearing under the Arkansas Tax Procedure Act, § 26-
 3 18-101 et seq., upon the revocation of the eligible student support
 4 organization's certification.

5 (b) A final decision issued by the office
 6 under this subdivision (b)(2)(B) of this section is subject to judicial
 7 review.

8 (3)(A) An eligible student support organization whose
 9 certification has been revoked under subdivision (b)(2)(B)(i) of this section
 10 shall not accept any further eligible contributions made to the eligible
 11 student support organization for the purpose of funding student scholarships
 12 under this act.

13 (B) If an eligible student support organization receives
 14 any eligible contributions made for the purpose of funding student
 15 scholarships under this act after the date of the notice of the revocation of
 16 its certification under subdivision (b)(2)(B)(i) of this section, then the
 17 eligible student support organization shall refund the eligible
 18 contributions.

19 (c)(1) If an eligible student support organization determines that it
 20 cannot continue to operate, then it shall transfer its funds to another
 21 eligible student support organization upon approval by the office.

22 (2) If funds are available, an eligible student support
 23 organization that receives a transfer of funds under subdivision (c)(1) of
 24 this section shall oversee the student scholarships established by the
 25 eligible student support organization that transferred the funds.

26
 27 6-18-2006. Establishment of student scholarships – Payments.

28 (a) An eligible student support organization may contract with
 29 institutions that are qualified to manage student scholarships.

30 (b) An eligible student support organization shall:

31 (1) Establish student scholarships under this act for eligible
 32 students in an amount not to exceed the foundation funding amount under § 6-
 33 20-2305(a)(2) for each academic year in which the eligible students
 34 participate in the program;

35 (2) Disburse student scholarships established under subdivision
 36 (b)(1) of this section in quarterly installments throughout the academic year

1 to parents of eligible students; and

2 (3) Establish a system for parents to direct student scholarship
3 funds received under subdivision (b)(2) of this section to nonpublic schools
4 and educational service providers by:

5 (A) Electronic funds transfer;

6 (B) Automated clearing house transfer; or

7 (C) Another system that the eligible student support
8 organization determines is commercially viable, cost-effective, and efficient
9 for parents to use.

10 (c) Funds received under this act are not taxable income of a parent
11 or an eligible student.

12
13 6-18-2007. Application for student scholarship.

14 (a) A parent may apply to an eligible student support organization to
15 establish a student scholarship for his or her eligible student.

16 (b) An eligible student support organization shall approve an
17 application for a student scholarship upon:

18 (1) Verifying that the student on whose behalf the parent is
19 applying is eligible; and

20 (2) Entering into an agreement with a parent under subdivision
21 (d)(1) of this section.

22 (c) The eligible student support organization:

23 (1) Shall approve applications by order of receipt;

24 (2) Shall approve an application only if funds are available;

25 and

26 (3) May approve applications throughout the calendar year.

27 (d) As part of the application process under this section, a parent
28 shall:

29 (1) Enter into an agreement with an eligible student support
30 organization:

31 (A) To use student scholarship funds for only the allowed
32 expenses under § 6-18-2008;

33 (B)(i) Not to enroll the eligible student full-time in a
34 public school.

35 (ii) A parent who uses student scholarship funds for
36 contracted services from a public school district under § 6-18-2008(a)(7) is

1 not in violation of the agreement under subdivision (d)(1)(B)(i) of this
2 section;

3 (C) Not to accept a Succeed Scholarship under § 6-41-901
4 et seq.; and

5 (D) To provide to the eligible student an organized and
6 appropriate educational program with measurable annual goals; and

7 (2) Sign a form verifying that he or she has reviewed
8 information developed by the Office of the Treasurer that explains without
9 limitation:

10 (A) The allowable uses of student scholarship funds;

11 (B) The responsibilities of:

12 (i) Parents;

13 (ii) Eligible student support organizations; and

14 (iii) The office;

15 (C) That a parent may choose to enroll his or her child in
16 a public school at any time; and

17 (D) Parental placement under the Individuals with
18 Disabilities Education Act, 20 U.S.C. § 1412(a)(10)(A), as it existed on
19 January 1, 2019, for students with disabilities as described in § 6-18-
20 2003(4)(B).

21 (e)(1) An eligible student support organization shall annually renew
22 an eligible student’s student scholarship if funds are available and if the
23 parent of the eligible student applies for re-enrollment.

24 (2) As part of the re-enrollment process under subdivision
25 (e)(1) of this section, the eligible student support organization or an
26 organization chosen by the eligible student support organization shall
27 conduct a parental survey that asks parents of participating eligible
28 students to detail:

29 (A) Satisfaction with the student scholarship program
30 administered by the eligible student support organization;

31 (B) Opinions regarding other topics and issues that
32 concern the effectiveness of the student scholarship program administered by
33 the eligible student support organization; and

34 (C) The number of years his or her eligible student has
35 participated in the student scholarship program administered by the eligible
36 student support organization.

1
2 6-18-2008. Student scholarships.

3 (a)(1) The Arkansas Tax Credit Scholarship is established under this
4 subchapter.

5 (2) An eligible student support organization may finance student
6 scholarships for students who meet the eligibility requirements under this
7 subchapter.

8 (b) A parent shall use student scholarship funds received from an
9 eligible student support organization on behalf of an eligible student to
10 remit payments to a nonpublic school or an educational service provider for
11 only the following expenses of the eligible student:

12 (1) Tuition, fees, or required uniforms for a nonpublic:

13 (A) School in this state that meets the eligibility
14 requirements under § 6-18-2011; or

15 (B) Online learning program or course;

16 (2) Textbooks required by a nonpublic school;

17 (3) Tutoring services provided by a:

18 (A) Teacher who is licensed by the State Board of
19 Education;

20 (B) Person qualified under § 6-15-1004 and state board
21 rules as a substitute teacher;

22 (C) Person who has experience teaching at an institution
23 of higher education; or

24 (D) Tutoring facility with a business license to operate
25 in this state;

26 (4) Curriculum, including without limitation any required
27 supplemental materials;

28 (5) Fees for:

29 (A) Nationally standardized assessments, including without
30 limitation assessments required by the state board of all public students and
31 national norm-referenced exams;

32 (B) Advanced Placement exams;

33 (C) College placement examinations, including without
34 limitation the ACT and the SAT;

35 (D) Industry certification examinations; and

36 (E) Other assessments necessary to complete an eligible

1 student's course of study;

2 (6) Fees for specialized after-school or summer education
3 programs whose primary purpose is to provide academic instruction;

4 (7)(A) Contracted services that are provided by a public school
5 district, including without limitation academic courses and extracurricular
6 programs.

7 (B) A public school district that contracts with an
8 eligible student support organization under subdivision (a)(7)(A) of this
9 section and under § 6-18-232 shall charge an amount that is not more than
10 one-sixth (1/6) of the state foundation funding amount under § 6-20-
11 2305(a)(2) for each academic course in which the student is enrolled, as
12 described under § 6-18-232;

13 (8) Tuition and fees at an institution of higher education if
14 the eligible student is enrolled in high school and an academic course at an
15 institution of higher education;

16 (9) Textbooks and materials related to coursework at an
17 institution of higher education;

18 (10) Specialized services that are necessary to facilitate an
19 eligible student's education, including without limitation:

20 (A) Applied behavior analysis services as defined in § 23-
21 99-418;

22 (B) Speech-language pathology services as defined in § 17-
23 100-103;

24 (C) Occupational therapy services as defined in § 17-88-
25 102;

26 (D) Physical therapy services as defined in § 17-93-102;

27 (E) Audiology services as defined in § 17-100-103;

28 (F) Dyslexia support; and

29 (G) Other services approved by the Office of the
30 Treasurer;

31 (11)(A) Transportation required for travel to and from an
32 educational service provider.

33 (B) Student scholarship funds used for expenses related to
34 transportation under subdivision (a)(11)(A) of this section shall not exceed
35 ten percent (10%) of the student scholarship funds provided under § 6-18-2006
36 for that academic year; and

1 (12) Any other educational expense approved by an eligible
2 student support organization.

3 (c) A nonpublic school or educational service provider that receives
4 payments under this section shall not share with, refund to, or rebate
5 payments under this section to a parent or eligible student other than to
6 credit a refund directly to the account that contains the eligible student's
7 student scholarship funds.

8
9 6-18-2009. Duration of the program – Return of funds.

10 (a) If funds are available, an eligible student support organization
11 shall continue to provide student scholarship funds to an eligible student
12 under § 6-18-2006 until:

13 (1) The parent does not apply under § 6-18-2007 to renew the
14 student scholarship;

15 (2) The eligible student support organization determines that
16 the student no longer qualifies as an eligible student;

17 (3) The parent fails to comply with the agreement made under §
18 6-18-2007(d)(1);

19 (4)(A) The eligible student enrolls in a public school.

20 (B)(i) A parent shall immediately notify the eligible
21 student support organization if his or her eligible student enrolls full-time
22 in a course of study at a public school.

23 (ii) If an eligible student enrolls in a public
24 school, the eligible student support organization shall place the student
25 scholarship in an inactive status for a maximum period of one (1) academic
26 year, during which time the student scholarship funds shall be frozen.

27 (iii) After one (1) academic year of inactive status
28 under subdivision (a)(4)(B)(ii) of this section, an eligible student support
29 organization shall:

30 (a) Return the student scholarship funds to
31 active status if the:

32 (1) Parent notifies the eligible student
33 support organization that the student is no longer enrolled in a public
34 school; and

35 (2) Student continues to meet the
36 eligibility requirements under this act; or

(b) Close the student scholarship if the:

(1) Parent does not notify the eligible student support organization that the student is no longer enrolled in a public school; or

(2) Student ceases to meet the eligibility requirements under this act;

(5) The participating eligible student graduates from high school; or

(6) The Office of the Treasurer:

(A) Suspends or revokes the student scholarship; or

(B)(i) Deems a parent of a participating eligible student ineligible for the student scholarship program under this act upon a finding of fraud or abuse of student scholarship funds, including without limitation accepting a refund or rebate in violation of § 6-15-2008(b).

(ii) The Treasurer shall establish procedures to ensure a fair process to determine whether intentional or substantial misuse of funds has occurred under this act.

(iii) The Treasurer may refer cases of intentional or substantial misuse of funds to law enforcement agencies for investigation if evidence of the misuse is obtained.

(iv) A parent may appeal to the the Treasurer's decision to suspend or revoke a student scholarship or deem a parent ineligible for the student scholarship program under subdivisions (a)(6)(A) and (a)(6)(B)(i) of this section.

(b) If a student's remaining student scholarship funds are no longer eligible for expenditure under this act, any remaining student scholarship funds shall be returned to the eligible student support organization that contributed the funds to the eligible student's account.

6-18-2010. Audit.

(a) By October 1 of each year, an eligible student support organization shall have an annual financial audit of its accounts and records of the previous fiscal year conducted in accordance with generally accepted auditing standards by an independent certified public accountant who is licensed in this state.

(b) An eligible student support organization shall provide to the

1 Office of the Treasurer a copy of the audit required under subsection (a) of
 2 this section within thirty (30) days of receiving the audit.

3
 4 6-18-2011. Nonpublic school eligibility.

5 (a) A nonpublic school shall notify the Department of Education of its
 6 intent to participate in the student scholarship program under this act.

7 (b) The department shall approve a nonpublic school as eligible to
 8 participate in the student scholarship program under this act if the
 9 nonpublic school:

10 (1) Either:

11 (A) Meets the accreditation requirements established by
 12 the State Board of Education, the Arkansas Nonpublic School Accrediting
 13 Association, Inc. or its successor, or another accrediting association that
 14 is recognized by the state board; or

15 (B)(i) Is an associate member of or has applied for
 16 accreditation by the Arkansas Nonpublic School Accrediting Association, Inc.
 17 or its successor or another accrediting association that is recognized by the
 18 state board.

19 (ii) A nonpublic school shall not be eligible if:

20 (a) The nonpublic school has not received
 21 accreditation within four (4) years of becoming eligible under subdivision
 22 (b)(1)(B)(i) of this section;

23 (b) The accrediting association determines
 24 that the nonpublic school is ineligible or unable to continue the
 25 accreditation process; or

26 (c) It becomes impossible for the nonpublic
 27 school to obtain accreditation within four (4) years.

28 (iii) A nonpublic school that becomes ineligible
 29 under subdivision (b)(1)(B)(ii) of this section shall regain eligibility if
 30 the nonpublic school receives accreditation under subdivision (b)(1)(A) of
 31 this section;

32 (2)(A) Demonstrates fiscal soundness by:

33 (i) Having been in operation for one (1) school
 34 year; or

35 (ii) Providing the department with a statement by an
 36 independent certified public accountant confirming that the nonpublic school

1 is insured and has sufficient capital or credit to operate in the upcoming
 2 school year.

3 (B) In lieu of a statement under subdivision (b)(2)(A)(ii)
 4 of this section, a surety bond or letter of credit for the amount equal to
 5 the aggregate amount of contributions expected to be received during the
 6 school year may be filed with the department;

7 (3) Complies with the antidiscrimination provisions of 42 U.S.C.
 8 § 1981;

9 (4) Meets state and local health and safety requirements;

10 (5) Employs or contracts with teachers who hold baccalaureate or
 11 higher degrees; and

12 (6) Complies with all state laws and rules that govern nonpublic
 13 schools.

14 (c) The department shall maintain a list of nonpublic schools that are
 15 eligible to participate in the student scholarship program under this act and
 16 make the list available on the department's website.

17 (d)(1) An eligible nonpublic school under this section shall
 18 administer annually or make provisions for a participating eligible student
 19 to take a nationally recognized norm-referenced test as established by the
 20 state board.

21 (2) A student with an individualized service program that
 22 provides for an exemption to standardized testing is not required to take a
 23 test administered under subdivision (d)(1) of this section.

24
 25 6-18-2012. Annual report.

26 (a)(1) In compliance with student privacy laws, the Office of the
 27 Treasurer or an organization appointed by the office shall produce an annual
 28 report that is accessible on the office's website.

29 (2) Annual report findings shall be aggregated according to a
 30 student's grade level, gender, family income level, race, and number of years
 31 of participation in the student scholarship program under this act.

32 (b) The annual report required under subdivision (a)(1) of this
 33 section shall:

34 (1) Assess:

35 (A) Student performance on state achievement tests or
 36 nationally norm-referenced tests, including without limitation learning

1 gains;

2 (B) High school graduation rates;

3 (C) Parental satisfaction according to the survey
4 conducted under § 6-18-2007(e)(2); and

5 (D) The percentage of funds used for each expense type
6 identified in § 6-18-2008(a);

7 (2) Apply appropriate analytical behavioral science
8 methodologies to ensure public confidence in the report; and

9 (3) Protect the identity of participating eligible students and
10 schools using methods that include without limitation keeping anonymous all
11 disaggregated data.

12
13 § 6-18-2013. Autonomy of nonpublic schools and educational service
14 providers.

15 (a) A nonpublic school or educational service provider that receives
16 payment from student scholarships under this act is not an agent or an
17 instrumentality of the state or of a public school district.

18 (b) The curriculum and educational plan for an eligible student who
19 attends a nonpublic school or who receives educational services from an
20 educational service provider under this act are not subject to the regulatory
21 authority of the State Board of Education.

22 (c) As a condition of continued receipt of student scholarship funds,
23 the state board may require a nonpublic school or educational service
24 provider that receives payments from student scholarship funds to certify on
25 a semiannual basis under oath that a participating eligible student has been:

26 (1) Attending and is enrolled in the nonpublic school, except
27 for excused absences; or

28 (2) Receiving educational services from an educational service
29 provider.

30
31 § 6-18-2014. Rules.

32 The Office of the Treasurer shall promulgate rules to implement this
33 act.

34
35 SECTION 2. Arkansas Code § 6-18-232 is amended to read as follows:

36 6-18-232. Enrollment of private school or home school or Arkansas Tax

1 Credit Scholarship Act students.

2 (a) A public school district or an open-enrollment public charter
 3 school may adopt a policy to allow a student who attends a private school or
 4 a home school or is the recipient of a student scholarship under the Arkansas
 5 Tax Credit Scholarship Act, § 6-18-2001 et seq., to enroll in an academic
 6 course at a public school or an open-enrollment public charter school if the
 7 student who attends a private school or a home school or is the recipient of
 8 a student scholarship under the Arkansas Tax Credit Scholarship Act, § 6-18-
 9 2001 et seq., resides in the public school district where the public school
 10 or open-enrollment public charter school is located.

11 (b) A policy adopted by a public school district or open-enrollment
 12 public charter school under subsection (a) of this section may:

13 (1) Set admissions criteria determined by the public school
 14 district or open-enrollment public charter school;

15 (2) Allow a student who attends a private school or a home
 16 school or is the recipient of a student scholarship under the Arkansas Tax
 17 Credit Scholarship Act, § 6-18-2001 et seq., to enroll in one (1) or more
 18 academic courses in a semester; and

19 (3) Limit enrollment:

20 (A) To certain academic courses or grade levels; or

21 (B) Based on other criteria determined by the public
 22 school district or open-enrollment public charter school.

23 (c)(1) A public school district or an open-enrollment public charter
 24 school that enrolls a student who attends a private school or a home school
 25 or is the recipient of a student scholarship under the Arkansas Tax Credit
 26 Scholarship, § 6-15-3001 et seq., in an academic course is entitled to an
 27 amount equal to one-sixth (1/6) of the state foundation funding amount for
 28 each academic course in which a student who attends a private school or a
 29 home school or is the recipient of a student scholarship under the Arkansas
 30 Tax Credit Scholarship, § 6-15-3001 et seq., is enrolled.

31 (2) A public school district or an open-enrollment public
 32 charter school is not entitled to more than the equivalent of the state
 33 foundation funding amount for one (1) average daily membership per student
 34 regardless of the number of academic courses in which the student who attends
 35 a private school or a home school or is the recipient of a student
 36 scholarship under the Arkansas Tax Credit Scholarship Act, § 6-18-2001 et

1 seq., is enrolled.

2 (3) A student who is the recipient of a student scholarship
 3 under the Arkansas Tax Credit Scholarship Act, § 6-18-2001 et seq., shall pay
 4 for the academic course in which he or she is enrolled under this section
 5 using the student scholarship funds disbursed under the Arkansas Tax Credit
 6 Scholarship Act, § 6-18-2001 et seq.

7 (d) This section does not require a public school district or an open-
 8 enrollment public charter school to allow a student who attends a private
 9 school or a home school or is the recipient of a student scholarship under
 10 the Arkansas Tax Credit Scholarship Act, § 6-18-2001 et seq., to enroll in an
 11 academic course at a public school or an open-enrollment public charter
 12 school.

13
 14 SECTION 3. Arkansas Code Title 26, Chapter 51, Subchapter 5, is
 15 amended to add an additional section to read as follows:

16 26-51-515. Tax credits for a contribution to a student scholarship.

17 (a) As used in this section:

18 (1) "Eligible student support organization" means the same as
 19 defined in § 6-18-2003(5); and

20 (2) "Eligible taxpayer" means an individual or business,
 21 including without limitation a:

22 (A) Corporation;

23 (B) Partnership;

24 (C) Limited liability company; and

25 (D) Sole proprietorship.

26 (b) A state income tax credit is allowed against the taxes imposed by
 27 the Income Tax Act of 1929, § 26-51-101 et seq., for one hundred percent
 28 (100%) of an eligible contribution made by an eligible taxpayer in a tax year
 29 to an eligible student support organization at the time of the eligible
 30 contribution.

31 (c)(1) A state income tax credit under this section shall not exceed
 32 an eligible taxpayer tax due under this chapter for the taxable year after
 33 the application of any other allowable state income tax credits by the
 34 eligible taxpayer.

35 (2) Beginning with tax year 2019, the total amount of state
 36 income tax credits under this section and state income tax credits carried

1 forward under this section shall not exceed three million dollars
2 (\$3,000,000).

3 (d) An eligible taxpayer who files a consolidated corporate income tax
4 return as a member of an affiliated group under § 26-51-805 may be allowed
5 the state income tax credit under this section on a consolidated return basis
6 subject to the limitations established under subsection (c) of this section.

7 (e) Spouses who file separate returns for a tax year in which they
8 could have filed a joint return may each claim only one-half (1/2) of the
9 state income tax credit that would have been allowed for a joint return under
10 this section.

11 (f)(1) Any unused state income tax credit under this section may be
12 carried forward for five (5) consecutive years following the tax year in
13 which the state income tax was earned.

14 (2) An eligible taxpayer who seeks to carry forward an unused
15 amount of the state income tax credit under this section shall submit an
16 application for allocation of tax credits or carry forward credits in the
17 year that the eligible taxpayer intends to use the carry forward credits.

18 (3) An eligible taxpayer shall not convey, assign, or transfer
19 the state income tax credit under this section to another entity unless all
20 of the assets of the eligible taxpayer are conveyed, assigned, or transferred
21 in the same transaction.

22 (g) For purposes of this section, an eligible contribution for which a
23 state income tax credit is claimed that is made on or before the fifteenth
24 day of the fourth month following the close of the tax year applies to either
25 the current or preceding tax year and is considered to have been made on the
26 last day of the tax year.

27 (h)(1) An eligible taxpayer may rescind all or part of the eligible
28 taxpayer's allocated state income tax credit under this section.

29 (2) The amount rescinded under subdivision (h)(1) of this
30 section shall become available:

31 (A) For purposes of the cap for the state fiscal year
32 under this section, to an eligible taxpayer upon approval by the Department
33 of Finance and Administration that the rescission has been accepted by the
34 Department of Finance and Administration and the eligible taxpayer has not
35 previously rescinded any or all of the eligible taxpayer's allocated state
36 income tax credit under this section more than one (1) time in the previous

1 three (3) tax years; and

2 (B) To an eligible taxpayer on a priority basis based on
3 state income tax credit applications received after the date the rescission
4 is accepted by the Department of Finance and Administration.

5 (i) An application for a state income tax credit under this section
6 shall be submitted to the Department of Finance and Administration on forms
7 established by rule of the Office of the Treasurer.

8 (j) The Office of the Treasurer shall develop a cooperative agreement
9 to assist in the administration of this section.

10 (k) The Department of Finance and Administration shall adopt rules
11 necessary to administer this section, including without limitation rules
12 governing the allocation of state tax credits and carry forward credits under
13 this section on a first-come, first-served basis.

14
15 SECTION 4. EFFECTIVE DATE. This act is effective for tax years
16 beginning on or after January 1, 2019.

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