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A Bill

SENATE BILL 680

4
5 By: Senators J. Dismang, B. Ballinger, Beckham, A. Clark, T. Garner, Hester, Gilmore, Hill, Irvin, B.
6 Johnson, M. Johnson, Rapert, J. English, Flippo, D. Wallace, B. Sample
7 By: Representative Bragg

For An Act To Be Entitled

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9
10 AN ACT TO CREATE A TAX CREDIT FOR ELIGIBLE
11 CONTRIBUTIONS MADE TO A SPONSOR-GRANTING ORGANIZATION
12 UNDER THE PHILANTHROPIC INVESTMENT IN ARKANSAS KIDS
13 PROGRAM; AND FOR OTHER PURPOSES.
14

Subtitle

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16
17 TO CREATE A TAX CREDIT FOR ELIGIBLE
18 CONTRIBUTIONS MADE TO A SPONSOR-GRANTING
19 ORGANIZATION UNDER THE PHILANTHROPIC
20 INVESTMENT IN ARKANSAS KIDS PROGRAM.
21

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24
25 SECTION 1. Arkansas Code Title 6, Chapter 18, is amended to add an
26 additional subchapter to read as follows:

27 Subchapter 22 – Philanthropic Investment in Arkansas Kids Program Act

28
29 6-18-2201. Title.

30 This subchapter shall be known and may be cited as the "Philanthropic
31 Investment in Arkansas Kids Program Act".

32
33 6-18-2202. Definitions.

34 As used in this subchapter:

35 (1) "Educational scholarship" means a grant to a qualified
36 student that covers all or part of the tuition and fees at a private school;



1 (2) "Eligible contribution" means a monetary contribution from a
2 taxpayer to a scholarship-granting organization or an amount prorated to be
3 contributed to the scholarship-granting organization under § 6-18-2208;

4 (3) "Qualified student" means a student who:

5 (A) Is eligible to attend a public school in this state;

6 (B) Has an annual family income that is less than or equal
7 to two hundred percent (200%) of the federal poverty guidelines as determined
8 annually in the Federal Register by the United States Department of Health
9 and Human Services under 42 U.S.C. § 9902(2); and

10 (C) Either:

11 (i) Was enrolled on a full-time basis in a public
12 school in this state in the previous school year;

13 (ii) Is enrolling in kindergarten through grade
14 twelve (K-12) in the state for the first time;

15 (iii) Was enrolled in a private school in the state
16 and received an educational scholarship from a scholarship-granting
17 organization under this subchapter in the previous school year; or

18 (iv) Was:

19 (a) Residing in another state during the
20 previous school year before enrollment in a private school in this state;

21 (b) Not the recipient of an educational
22 scholarship from a scholarship-granting organization under this subchapter;
23 and

24 (c) Not attending a private school in the
25 state for more than one-half (1/2) of the school year before the year in
26 which the qualified student is applying for an educational scholarship from a
27 scholarship-granting organization under this subchapter;

28 (4) "Scholarship-granting organization" means an organization
29 that:

30 (A) Complies with the requirements of this subchapter;

31 (B) Receives eligible contributions that qualify eligible
32 taxpayers for tax credits under this subchapter; and

33 (C) Provides educational scholarships under this
34 subchapter to qualified students attending private schools without limiting
35 the availability of educational scholarships to qualified students of only
36 one (1) school; and

1 (5) "Taxpayer" means a resident individual or business,
2 including without limitation:

3 (A) Two (2) taxpayers who are eligible to file a joint
4 federal income tax return;

5 (B) A domestic or foreign corporation;

6 (C) A partnership;

7 (D) A Subchapter S corporation;

8 (E) Another similar pass-through entity, estate, or trust;

9 and

10 (F) A partner, member, or Subchapter S corporation
11 shareholder of a pass-through entity, estate, or trust.

12
13 6-18-2203. Creation.

14 There is created the Philanthropic Investment in Arkansas Kids Program.

15
16 6-18-2204. Eligible taxpayer contributions.

17 (a)(1) For tax years beginning on and after January 1, 2022, a
18 taxpayer may claim a state income tax credit against the taxes imposed by the
19 Income Tax Act of 1929, § 26-51-101 et seq., for one hundred percent (100%)
20 of eligible contributions made to a scholarship-granting organization under
21 this subchapter.

22 (2) An eligible contribution to a scholarship-granting
23 organization in exchange for a tax credit under subdivision (a)(1) of this
24 section shall not be claimed as a charitable deduction to income under § 26-
25 51-419.

26 (3) An eligible contribution to a scholarship-granting
27 organization where no tax credit is awarded under subdivision (a)(1) of this
28 section may be claimed as a charitable deduction to income under § 26-51-419.

29 (b) A tax credit claimed under subsection (a) of this section:

30 (1) Shall be in an amount equal to the total eligible
31 contribution made by the eligible taxpayer to the scholarship-granting
32 organization during the calendar year in which the receipt under § 6-18-
33 2206(3) is issued, but not in excess of the Arkansas state income tax
34 liability of the taxpayer; and

35 (2) May be carried forward in any amount to the next-succeeding
36 taxable year and annually thereafter for a total period of three (3) years;

1 and

2 (c)(1) The total amount of state income tax credits awarded under this
3 section shall not exceed two million dollars (\$2,000,000) per calendar year.

4 (2) The Tax Credits and Special Refunds Section of the
5 Department of Finance and Administration, or its successor, shall:

6 (A) Award the tax credits on a first-come, first-served
7 basis from the receipts provided to the section under § 6-18-2206(3); and

8 (B) Notify the Division of Elementary and Secondary
9 Education when the annual cap under subdivision (c)(1) of this section is
10 met.

11

12 6-18-2205. Educational scholarships – Disbursement.

13 The average amount of all educational scholarships awarded by a
14 scholarship-granting organization to qualified students under this subchapter
15 shall not exceed:

16 (1) Eighty percent (80%) of the previous school year’s
17 foundation funding amount under § 6-20-2305(a)(2) for qualified students who
18 are in kindergarten through grade eight (K-8); and

19 (2) Ninety percent (90%) of the previous school year’s
20 foundation funding amount under § 6-20-2305(a)(2) for qualified students who
21 are in grades nine through twelve (9-12).

22

23 6-18-2206. Scholarship-granting organizations – Duties.

24 Each scholarship-granting organization shall:

25 (1) Notify the Division of Elementary and Secondary Education of
26 its intent to provide educational scholarships to qualified students
27 attending private schools;

28 (2) Demonstrate proof of exemption from federal income tax under
29 26 U.S.C. § 501(c)(3) of the Internal Revenue Code, as in effect on January
30 1, 2021;

31 (3)(A) Provide a receipt, approved by the division, to a
32 taxpayer for eligible contributions made to the scholarship-granting
33 organization.

34 (B) A scholarship-granting organization shall provide a
35 copy of a receipt issued under subdivision (3)(A) of this section to the Tax
36 Credits and Special Refunds Section of the Department of Finance and

1 Administration or its successor.

2 (C) A receipt issued by a scholarship-granting
3 organization under subdivision (3)(A) of this section shall be issued only
4 for the amount of eligible contributions actually received;

5 (4) Ensure that first-time recipients of educational
6 scholarships were not continuously enrolled in a private school within the
7 state during the previous school year;

8 (5) Establish a system for parents or guardians of qualified
9 students who receive educational scholarships under this subchapter to direct
10 educational scholarship funds to nonpublic schools by use of:

11 (A) Checks;

12 (B) Electronic funds transfer, including an automated
13 clearinghouse transfer; or

14 (C) Another system that the scholarship-granting
15 organization finds to be commercially viable, cost-effective, and accessible
16 to parents or guardians of qualified students;

17 (6)(A) Conduct and maintain for audit purposes a background
18 check of all employees of the scholarship-granting organization.

19 (B) A scholarship-granting organization shall exclude any
20 individual from employment who may reasonably pose a risk to the appropriate
21 use of eligible contributions under this subchapter;

22 (7) Distribute eligible contributions within three (3) tax years
23 of receipt by the scholarship-granting organization;

24 (8) Demonstrate financial viability if it expects to receive
25 eligible contributions equal to or greater than fifty thousand dollars
26 (\$50,000) during the academic school year by filing with the division before
27 the start of the academic school year either:

28 (A) A surety bond payable to the State of Arkansas in an
29 amount equal to the aggregate amount of eligible contributions the
30 scholarship-granting organization expects to receive during the academic
31 school year; or

32 (B) Financial information that demonstrates the financial
33 viability of the scholarship-granting organization;

34 (9) Ensure that participating private schools:

35 (A) Comply with all health and safety laws and rules;

36 (B) Hold valid occupancy of buildings as required by the

1 relevant municipality in which the private school is located;

2 (C)(i) Are held academically accountable by annually
3 administering or making provision for the administration of a nationally
4 recognized norm-referenced test to qualified students in grades three through
5 ten (3-10) who have received educational scholarships under this subchapter.

6 (ii) However, a qualified student in grades three
7 through ten (3-10) who has received an educational scholarship under this
8 subchapter, has an individualized service plan in accordance with the
9 Individuals with Disabilities Education Act, 20 U.S.C. 31 1412(a)(10), as it
10 existed on January 1, 2021, and is determined by the private school to need
11 an exemption from standardized testing due to the existence of a significant
12 cognitive disability is not required to take the test required under
13 subdivision (9)(C)(i) of this section.

14 (iii) If a student is not required to take the test
15 required under subdivision (9)(C)(i) of this section, a participating private
16 school shall annually make provision for the student to take an alternate
17 assessment approved by the State Board of Education or prepare a portfolio
18 that provides information on a student's progress to the student's parent or
19 guardian; and

20 (D)(i) Annually report the scores and other academic
21 progress to:

22 (a) The parent or guardian of each qualified
23 student who has received an educational scholarship under this subchapter;
24 and

25 (b)(1) An independent research organization
26 selected by the division in accordance with § 6-18-2207(b)(1).

27 (2) Data reported to an independent
28 research organization shall be reported in a manner that ensures
29 disaggregation by grade level, gender, family income level, and race.

30 (ii) The annual report required under this
31 subdivision (9)(D) shall be published by the division on the division's
32 website each year;

33 (10)(A) Report to the division by June 1 of each year the
34 following information based on the previous academic school year:

35 (i) The name and address of the scholarship-granting
36 organization;

1 (ii) The total number and total dollar amount of
2 eligible contributions the scholarship-granting organization received during
3 the previous calendar year;

4 (iii) The total number and total dollar amount of
5 educational scholarships awarded to qualified students under this subchapter
6 during the previous calendar year; and

7 (iv) The total number of qualified students,
8 according to the qualified students' respective resident public school
9 districts, who received an educational scholarship from the scholarship-
10 granting organization under this subchapter during the previous budget year.

11 (B) The report required under subdivision (10)(A) of this
12 section shall be prepared by a certified public accountant; and

13 (11) Ensure that at least ninety percent (90%) of revenue from
14 eligible contributions and one hundred percent (100%) of revenue from
15 interest or investments is spent within three (3) years of receipt on:

16 (A) Educational scholarships; and

17 (B) Activities pertaining to the oversight of
18 participating private schools.

19
20 6-18-2207. Department of Finance and Administration and Division of
21 Elementary and Secondary Education – Duties.

22 (a)(1) The Department of Finance and Administration, in consultation
23 with the Division of Elementary and Secondary Education, shall create and
24 provide a standardized form of receipt to be issued by a scholarship-granting
25 organization to a taxpayer who makes an eligible contribution to the
26 scholarship-granting organization that indicates the value of each eligible
27 contribution made by the eligible taxpayer.

28 (2) The receipt issued to a taxpayer under subdivision (a)(1) of
29 this section shall be filed with the taxpayer's tax return for any year in
30 which the taxpayer claims an eligible contribution under this subchapter.

31 (b)(1) The Division of Elementary and Secondary Education shall select
32 an independent research organization, which may be a public or private entity
33 or institution of higher education, to which participating nonpublic schools
34 shall annually report information as required under § 6-18-2206(9)(D)(i)(b).

35 (2)(A) An independent research organization selected under
36 subdivision (b)(1) of this section shall annually report to the Division of

1 Elementary and Secondary Education on a statewide basis year-to-year learning
2 gains of qualified students who have received an educational scholarship
3 under this subchapter and who have scores for a nationally recognized norm-
4 referenced test administered during the school year following the effective
5 date of this act for two (2) consecutive years at the same participating
6 private school.

7 (B) The information reported under subdivision (b)(2)(A)
8 of this section shall be:

9 (i) Disaggregated by the qualified students' grade
10 level, gender, family income level, and race;

11 (ii) In compliance with the requirements under the
12 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and

13 (iii) Used only for the purpose of creating the
14 annual report as required under § 6-18-2206(9)(D)(i)(b).

15 (C) The independent research organization shall not
16 disaggregate data to a level that would identify:

17 (i) Individual participating private schools; or

18 (ii) The academic level of individual qualified
19 students.

20 (c) The Division of Elementary and Secondary Education may:

21 (1) Conduct an audit or other appropriate financial review of a
22 scholarship-granting organization annually to ensure compliance with the
23 requirements of this subchapter or upon reasonable belief that a scholarship-
24 granting organization has violated requirements under this subchapter;

25 (2)(A) Seek and accept gifts, grants, or donations from private
26 or public sources for purposes of selecting an independent research
27 organization under subsection (b) of this section.

28 (B)(i) The Division of Elementary and Secondary Education
29 shall transmit all gifts, grants, or donations received under subdivision
30 (c)(2)(A) of this section to the Treasurer of State, who shall credit the
31 received gifts, grants, or donations received by the Division of Elementary
32 and Secondary Education to the Philanthropic Investment in Arkansas Kids
33 Academic Accountability Fund under § 19-5-1271.

34 (ii) The funds in the Philanthropic Investment in
35 Arkansas Kids Academic Accountability Fund are subject to annual
36 appropriation by the General Assembly to the Division of Elementary and

1 Secondary Education for the direct and indirect costs associated with
2 selecting an independent research organization as required under subsection
3 (b) of this section and reporting information as required under § 6-18-
4 2206(9)(D)(i)(b).

5 (iii) If the gifts, grants, donations accepted under
6 this subdivision (c)(2) are not sufficient for the purposes of selecting an
7 independent research organization under subsection (b) of this section and
8 reporting information as required under § 6-18-2206(9)(D)(i)(b), the Division
9 of Elementary and Secondary Education shall notify the scholarship-granting
10 organizations, which shall provide the necessary direct and indirect costs
11 associated with selecting an independent research organization and reporting
12 required information; and

13 (3)(A) Prohibit a scholarship-granting organization from
14 qualifying as a recipient of eligible contributions under this subchapter if
15 the Division of Elementary and Secondary Education establishes that the
16 scholarship-granting organization has intentionally and substantially failed
17 to comply with the requirements under § 6-18-2206.

18 (B) If the Division of Elementary and Secondary Education
19 bars a scholarship-granting organization from qualifying as a recipient of
20 eligible contributions under subdivision (c)(3)(A) of this section, the
21 scholarship-granting organization shall notify the affected qualified
22 students who have received educational scholarships and the qualified
23 students' parents or guardians as soon as reasonably practicable upon
24 notification by the Division of Elementary and Secondary Education of
25 disqualification.

26 (d)(1) The Revenue Division of the Department of Finance and
27 Administration shall promulgate rules that are necessary to carry out the
28 purposes of this section.

29 (2) The Revenue Division of the Department of Finance and
30 Administration shall consult with the Division of Elementary and Secondary
31 Education during the promulgation of the rules under subdivision (d)(1) of
32 this section.

33
34 6-18-2208. Prorated contribution amounts.

35 A taxpayer may instruct their employer to divert a prorated amount of
36 after-tax earnings to one (1) or more scholarship-granting organizations of

1 the taxpayer's choice.

2
3 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
4 amended to add an additional section to read as follows:

5 19-5-1271. Philanthropic Investment in Arkansas Kids Academic
6 Accountability Fund.

7 (a) There is created on the books of the Treasurer of State, the
8 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
9 fund to be known as the "Philanthropic Investment in Arkansas Kids Academic
10 Accountability Fund".

11 (b) The fund shall consist of:

12 (1) Moneys obtained from private or public grants, gifts, or
13 donations that are designated to be credited to the fund; and

14 (2) Any other funds authorized or provided by law.

15 (c) The fund shall be used by the Division of Elementary and Secondary
16 Education to create and maintain the Philanthropic Investment in Arkansas
17 Kids Program under the Philanthropic Investment in Arkansas Kids Program Act,
18 § 6-18-2201 et seq.

19 (d) Moneys remaining in the fund at the end of each fiscal year shall
20 carry forward and be made available for the purposes stated in this section
21 in the next fiscal year.