

Act 771 of the 1989 Regular Session.

Act 771

HB1815

By: Representatives Keet, Hutchinson and Mahony

"ACT TO ESTABLISH THE ARKANSAS EDUCATIONAL EXCELLENCE PROGRAM TO BE FUNDED BY A VOLUNTARY PAYMENT ON INDIVIDUAL AND CORPORATE INCOME TAX RETURNS; TO PROVIDE FOR THE COLLECTION OF THE VOLUNTARY PAYMENTS; TO ESTABLISH THE VARIOUS EDUCATIONAL EXCELLENCE PROGRAM FUNDS AND THE EDUCATIONAL EXCELLENCE ENDOWMENT TRUST; TO PRESCRIBE THE ALLOCATION OF THE PROGRAM FUNDS; AND FOR OTHER PURPOSES."

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

SECTION 1. The Arkansas General Assembly hereby declares that it is the public policy of the State of Arkansas to promote the educational excellence of it's citizens by providing for a mechanism whereby funds may be set aside by the individual citizen and taxpayer for those programs which they feel will specifically benefit the state as a whole. It is the purpose of this act to provide for a voluntary check-off program, on state income tax return forms, whereby the citizens and taxpayers of Arkansas may voluntarily aid educational programs which they believe should be specifically funded. This program shall be supplemental to any funding now provided to educational programs and in no way is intended to take the place of funding for other educational programs of the State.

SECTION 2. (a) The Revenue Division of the Department of Finance and Administration shall include on the Arkansas individual income tax forms, including those forms on which a husband and wife file separately on the same form and on all corporate income tax forms, a designation as follows:

EDUCATIONAL EXCELLENCE PROGRAM.

(a) If you are entitled to a refund, check here and enter the amount and fund to which you wish to contribute. Your refund will be reduced by this amount. The names of the funds are: Literary Program Fund, Vocational Education Program Fund, Higher Education Program Fund, and the Elementary and Secondary Educational Program Fund.

(b) If you owe an additional amount, check here if you wish to contribute to the program. Enter the amount you wish to contribute and enclose a separate check for that amount, payable to one or more of the funds listed above.

The contribution payments shall be calculated on a separate schedule which shall provide:

(1) for four (4) educational excellence program options from which the taxpayer may select one or more to fund with his Voluntary Payment or for another option in which the taxpayer may choose to give a total dollar amount for the educational excellence programs in general which shall be allocated in accordance with the provisions of subsection (c) of Section 4 of this act;

(2) for an explanation of the four (4) educational excellence program options that the taxpayer may select for the use of the voluntary payment;

(3) for a space for designating a specific dollar amount to be

contributed to each of the educational excellence program areas; and

(4) for a total dollar amount for educational excellence programs to be contributed by the individual or corporate taxpayer on the taxpayer's income tax return.

(b) The Director of the Department of Finance and Administration shall have the authority to promulgate all the rules and regulations and all income tax forms, returns, and schedules necessary to carry out this program.

SECTION 3. The Director of the Department of Finance and Administration is authorized to accept any gifts, grants, bequests, devises, and donations made to the State of Arkansas for the purposes of funding the Educational Excellence program. He shall deposit any of these gifts, grants, bequests, devises, and donations so received into the specific fund to which it was contributed or, if a specific fund was not designated, the funds shall be allocated among the funds in accordance with the provisions of subsection (c) of Section 4. of this act. These gifts, grants, bequests, devises, and donations shall be used together with the funds from the voluntary payment program or any other funds appropriated to fund the programs provided for in this act. All gifts, grants, bequests, devises, and donations shall be deposited, disbursed, budgeted, and regulated under the procedures prescribed by the Chief Fiscal Officer of the State under Arkansas Code 19-4-1806.

SECTION 4 . (a) There is hereby created on the books of the State Treasurer, the Auditor of State, and the Chief Fiscal Officer of the State four (4) educational excellence program funds and an educational excellence trust fund to be known as follows:

- (1) the Educational Excellence Literacy Program Fund;
- (2) the Educational Excellence Vocational Education Program Fund;
- (3) the Educational Excellence Higher Education Program Fund;
- (4) the Educational Excellence Elementary and Secondary Education Program Fund; and
- (5) The Educational Excellence Endowment Trust Fund.

(b) The monies credited to these funds shall be held as trust funds in interest-bearing accounts only. All interest earned shall be credited to the four (4) program funds and the endowment fund created and shall be used only for the purposes of that fund. All balances in the five (5) funds created here shall be carried forward each year so that no part thereof shall revert to the General Fund of the State, except upon on the expiration of this act.

(c) If the taxpayer chooses not to designate on his income tax return the programs for which he is making the voluntary payment or if a gift, grant, bequest, devise, or donation does not designate a specific fund or program to which it was intended to be allocated, the monies so received shall be allocated among the four (4) program funds in accordance with the following formula:

- (1) Fifty-five percent (55%) to the Educational Excellence Elementary and Secondary Program Fund;
- (2) Twenty-five percent (25%) to the Educational Excellence Higher Education Program Fund;
- (3) Ten percent (10%) to the Educational Excellence Vocational Education Program Fund; and
- (4) Ten percent (10%) to the Educational Excellence Literacy Program Fund.

(d) All funds deposited into the four (4) educational excellence program funds and all interest earned on deposits and fund balances in those funds may be disbursed as appropriated in each fiscal year of the biennium for the various programs created by this act.

(e) All interest earned each fiscal year and up to a maximum twenty-five

percent (25%) of any accumulated principle balances in the Educational Excellence Endowment Trust Fund may be disbursed as appropriated in each fiscal year of the biennium for the various programs created by this act. Disbursements of endowment fund monies under this subsection shall be kept at a minimum in furtherance of the primary purpose of the endowment fund to accumulate principle balances and maximize interest income to help offset any extreme variations in the revenues raised under the voluntary payment program.

SECTION 5. All revenues derived from the voluntary payments made under this act or from any gifts, grants, bequests, devises, or donations received by the State of Arkansas for the Educational Excellence programs under this act shall be divided and deposited by the Commissioner of Revenues in the State Treasury as follows:

(1) Twenty percent (20%) shall be deposited as "trust fund receipts" to the credit of the Educational Excellence Endowment Trust Fund; and

(2) Eighty percent (80%) shall be deposited as "trust fund receipts" to the credit of one or more of the four (4) educational excellence program funds created by this act and designated by the taxpayer on his income tax return or as allocated to the four (4) educational excellence program funds by the formula in subsection (c) of Section 4. of this act.

SECTION 6. (a) The Educational Excellence program shall consist of four (4) program areas which shall have several project areas within each program area. The monies in each program fund shall be allocated to each of the specific project areas as provided hereafter. The Educational Excellence program shall consist of the Literacy program, the Vocational Education program, the Higher Education program, and the Elementary and Secondary Education program.

(b) (1) The Literacy program shall consist of projects aimed at increasing the educational levels of Arkansans who are beyond the traditional school-age years and who need further educational efforts to achieve functional literacy. The funds deposited into the Educational Excellence Literacy Program Fund shall be allocated for projects as follows:

(A) Fifty percent (50%) for community-based literacy councils and each community-based literacy council shall be eligible for funding based on the percentage of people they serve as a percentage of the total number of people being served by these community-based literacy councils;

(B) Twenty-five percent (25%) for the Literacy Corps project; and

(C) Twenty-five percent (25%) for other literacy and adult education programs administered by the Arkansas Department of Education.

(2) In order to qualify for the monies allocated to community-based literacy councils in subdivision (b) (1) (A) of this section, each community-based literacy council shall be a qualified nonprofit organization exempt from taxation under Section 501(c) (3) of the federal Internal Revenue Code.

(c) (1) The Vocational Education program shall consist of specific projects aimed at increasing the numbers of vocationally-oriented students and the level of educational performance of vocational technical schools of Arkansas. The funds deposited into the Educational Excellence Vocational Education Program Fund shall be allocated as follows:

(A) Twenty percent (20%) for state student assistance grants under Subchapter 2 of Chapter 82 of Title 6 of the Arkansas Code of 1987 Annotated;

(B) Sixty percent (60%) to establish other merit pay programs for instructors; and

(C) Twenty percent (20%) for capital improvements, research

and laboratory equipment, and other capital equipment purchases.

(2) The eighty percent (80%) of the monies from the fund allocated in subdivisions (c) (1) (B) and (C) of this section shall be distributed to each institution based on the number of students enrolled at that institution as a percentage of total of all of the students enrolled at all the state vocational technical schools at the beginning of the previous school year.

(d) (1) The Higher Education program shall consist of specific projects aimed at increasing the numbers of college-bound students in Arkansas and increasing the educational performance of Arkansas' two-year and four-year institutions of higher education. The funds deposited into the Educational Excellence Higher Education Program Fund shall be allocated as follows:

(A) Thirty percent (30%) for state student assistance grants under Subchapter 2 of Chapter 82 of Title 6 of the Arkansas Code of 1987 Annotated;

(B) Fifty percent (50%) to establish endowed faculty chairs or other merit pay programs for professors; and

(C) Twenty percent (20%) for capital improvements, research and laboratory equipment, and other capital equipment purchases.

(2) The seventy percent (70%) of the monies from the fund allocated in subdivisions (d) (1) (B) and (C) of this section shall be distributed to each institution based on the number of students enrolled at that institution as a percentage of total of all of the students enrolled at all state two-year and four-year institutions of higher education at the beginning of the previous school year. In order to qualify for the monies allocated from the fund by subdivision (d) (1) (B) of this section, each state two-year and four-year institution of higher education shall be required to match the educational excellence program monies on a dollar-for-dollar basis from private sources.

(e) (1) The Elementary and Secondary Education program shall consist of specific projects at the elementary and secondary educational level to increase the academic quality of the schools in Arkansas. The funds deposited into the Educational Excellence Elementary and Secondary Education Program Fund shall be allocated as follows:

(A) Ten percent (10%) for distribution to all school districts to award scholarships to outstanding students for continuation of their education at any Arkansas institution of higher education;

(B) Ten percent (10%) for new equipment, research and laboratory equipment, capital improvements, and infrastructure;

(C) Thirty-five percent (35%) for the establishment of pilot projects for career path development programs or for school restructuring plans for those school districts who apply to the Arkansas Department of Education for such projects, with a maximum allocation of one hundred and fifty thousand dollars (150,000) per district;

(D) Thirty-five percent (35%) for raising the minimum salaries paid to teachers and to reward longevity; and

(E) Ten percent (10%) for research projects for educational programs sponsored by the Department of Education.

(2) The fifty-five percent (55%) of the monies from the fund allocated in subdivisions (e) (1) (A), (B), and (D) of this section shall be allocated to each school district based on the percentage of students they have enrolled in their district at the beginning of the school year as a percentage of the total number of students in elementary and secondary schools in Arkansas.

SECTION 7. (a) The Educational Excellence Voluntary Payment program on state income tax returns shall be effective beginning with the returns for the 1989 tax year and each tax year thereafter. The Revenue Division of the Department of Finance and Administration shall be authorized to establish any

regulation to effectively carry out the revenue producing provisions of this act.

(b) The provisions of this act allowing the Director of the Department of Finance and Administration to accept gifts, grants, bequests, devises, and donations shall be effective on the effective date of this act. The Director is authorized to promulgate rules and regulations to carry out those provisions of this act.

(c) The Educational Excellence Voluntary Payment program and the Educational Excellence program established in this act shall expire on July 1, 1993, unless continued by further act of the Arkansas General Assembly. All monies on deposit in the four (4) Educational Excellence funds, all unexpended appropriated fund balances, and any other funds created by this act which are remaining on hand on July 1, 1993 shall be deposited to the credit of the General Revenue Fund Account of the State Apportionment Fund.

SECTION 8. All provisions of this act of general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 10. EMERGENCY. It is hereby found and determined by the Seventy-Seventh General Assembly of the State of Arkansas that public funding for education excellence programs is difficult to achieve with all the demands on various revenue sources of state government; that the state should provide its citizens with a program whereby the citizenry can voluntarily allocate funds to promote educational excellence in our public schools; and therefore, the best mechanism for such a voluntary payment program is by use of the state system. Therefore, in order to implement a voluntary income tax payment program, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 21, 1989

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