

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: H2/23/21 H3/10/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1371

4

5 By: Representatives Bragg, Evans, Vaught, Barker, Beaty Jr., Bentley, Breaux, Brooks, Brown, C.
6 Cooper, C. Fite, Haak, Lowery, Lundstrum, J. Mayberry, McCollum, S. Meeks, Miller, Penzo, Pilkington,
7 Ray, Richmond, Rye, B. Smith, Underwood, Wing, Womack, *Dotson, Furman*
8 By: Senators J. Dismang, B. Ballinger, Bledsoe, A. Clark, T. Garner, Hester, Hill, Irvin, B. Johnson,
9 Rapert, D. Sullivan, *Beckham, Gilmore, M. Johnson*

10

11

For An Act To Be Entitled

12

AN ACT TO CREATE THE ARKANSAS CHILD ACADEMIC

13

OPPORTUNITY SCHOLARSHIP AND GRANT ACT; AND FOR OTHER

14

PURPOSES.

15

16

17

Subtitle

18

TO CREATE THE ARKANSAS CHILD ACADEMIC

19

OPPORTUNITY SCHOLARSHIP AND GRANT ACT.

20

21

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

23

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

26 Subchapter 22 – Arkansas Child Academic Opportunity Scholarship and Grant Act

27

28 6-18-2201. Title.

29 This subchapter shall be known and may be cited as the "Arkansas Child
30 Academic Opportunity Scholarship and Grant Act".

31

32 6-18-2202. Legislative findings and intent.

33 (a) The General Assembly finds that:

34 (1) Each child in this state should have an opportunity to
35 receive an appropriate education that fits his or her needs regardless of his
36 or her family income or the area in which he or she lives;



1 (2) A parent, legal guardian, or person standing in loco
2 parentis should be able to make educational decisions for his or her child;

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

6 (4) Providing each child in this state with the opportunity to
7 receive an appropriate education is one of the greatest concerns of the
8 General Assembly.

9 (b) It is the intent of the General Assembly to ensure that resources
10 are available to give families the means and opportunity to provide each
11 child with an appropriate education.

12
13 6-18-2203. Definitions.

14 As used in this subchapter:

15 (1) "Educational services provider" means a provider of eligible
16 educational services under § 6-18-2204;

17 (2) "Eligible contribution" means a monetary contribution from
18 an eligible taxpayer, as defined in § 26-51-515, to an eligible student
19 support organization subject to the restrictions under this subchapter;

20 (3)(A) "Eligible private school payment" means a payment that
21 is:

22 (i) Funded by eligible contributions under this
23 subchapter; and

24 (ii) Made to a public school, open-enrollment public
25 charter school, or nonpublic school for an eligible student who is enrolled
26 in a private school and intends to attend a class or participate in a program
27 offered by the public school, open-enrollment public charter school, or
28 nonpublic school.

29 (B) "Eligible private school payment" does not include an
30 eligible public school payment;

31 (4)(A) "Eligible public school payment" means a grant that is:

32 (i) Funded by eligible contributions under this
33 subchapter; and

34 (ii) Paid to an eligible public school or an open-
35 enrollment public charter school for eligible educational services.

36 (B) "Eligible public school payment" does not include an

1 eligible private school payment;

2 (5)(A) "Eligible public school" means a public school in which
3 at least fifty-five percent (55%) of the previous school year's enrolled
4 students are eligible to receive a free or reduced-price meal under the
5 National School Lunch Act, 42 U.S.C. § 1751 et seq.

6 (B) "Eligible public school" includes an open-enrollment
7 public charter school;

8 (6)(A) "Eligible student" means a resident of this state who:

9 (i) Is receiving a scholarship under this subchapter
10 for the first time;

11 (ii) Is transferring from a public school in this
12 state at which the student has been enrolled for at least one (1) semester
13 immediately preceding the first semester for which the student receives a
14 student scholarship under this subchapter to attend a nonpublic school that
15 is eligible to participate in the Arkansas Child Academic Opportunity
16 Scholarship and Grant Act program under § 6-18-2211;

17 (iii) Was not continuously enrolled in a nonpublic
18 school in this state during the school year immediately preceding the first
19 semester for which the student receives a student scholarship under this
20 subchapter to attend a nonpublic school that is eligible to participate in
21 the Arkansas Child Academic Opportunity Scholarship and Grant Act program
22 under § 6-18-2211; and

23 (iv) Has a household or family income that is less
24 than or equal to two hundred percent (200%) of the federal poverty
25 guidelines.

26 (B) "Eligible student" may include a student who:

27 (i) Has an individualized education program or an
28 individualized service plan in accordance with the Individuals with
29 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on
30 January 1, 2021;

31 (ii) Is eligible to participate in the Succeed
32 Scholarship Program under § 6-41-901 et seq.;

33 (iii) Has a parent who is a member of the National
34 Guard or a parent who is a member of the United States Armed Forces and is on
35 active duty or was killed in the line of duty; or

36 (iv) Is in foster care or has been in the foster

1 care system and achieved permanency through adoption, reunification, or
2 permanent guardianship;

3 (C) "Eligible student" does not include a student who
4 attends a home school;

5 (7) "Eligible student support organization" means a charitable
6 organization that:

7 (A) Is exempt from federal income tax under 26 U.S.C. §
8 501(c)(3) of the Internal Revenue Code, as it existed on January 1, 2021;

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

11 (C) Is certified by the Division of Elementary and
12 Secondary Education under § 6-18-2205;

13 (D) Complies with the operational requirements under § 6-
14 18-2206; and

15 (E) Receives eligible contributions to fund and administer
16 student scholarships and grants to eligible public schools according to the
17 rules prescribed by this subchapter;

18 (8) "Institution of higher education" means a public or private
19 institution that provides postsecondary education;

20 (9) "Operator" means:

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

24 (B) An owner or other person with equivalent decision-
25 making authority over an educational services provider that receives payment
26 from a student scholarship under § 6-18-2204;

27 (10) "Parent" means an individual who is a parent, a legal
28 guardian, or standing in loco parentis of an eligible student;

29 (11) "Private school student support organization" means an
30 eligible student support organization that makes payments to a public school,
31 open-enrollment charter school, or nonpublic school for an eligible student
32 who is enrolled in a private school and intends to attend a class or
33 participate in a program offered by the public school, open-enrollment
34 charter school, or nonpublic school;

35 (12) "Public school student support organization" means an
36 eligible student support organization that makes payments to an eligible

1 public school; and

2 (13) "Student scholarship" means a scholarship established for
3 an eligible student under this subchapter that provides funds that are
4 disbursed by an eligible student support organization and that a parent may
5 use to pay for tuition and other approved educational services on behalf of
6 the eligible student.

7
8 6-18-2204. Arkansas Child Academic Opportunity Scholarship and Grant
9 Act – Creation – Eligible contributions.

10 (a) The Arkansas Child Academic Opportunity Scholarship and Grant Act
11 is established under this subchapter.

12 (b) An eligible student support organization may:

13 (1)(A) Finance an:

14 (i) Eligible private school payment for an eligible
15 student if the eligible student support organization is a private school
16 student support organization; or

17 (ii) Eligible public school payment for an eligible
18 public school if the eligible student support organization is a public school
19 student support organization.

20 (B) An eligible student support organization shall not be
21 required to finance both eligible private school payments and eligible public
22 school payments; and

23 (2)(A) Receive eligible contributions under this subchapter.

24 (B) Eligible contributions received by a private school
25 student support organization shall be used to fund student scholarships
26 awarded to eligible students under this subchapter.

27 (C) Eligible contributions received by a public school
28 student support organization shall be used to fund grants awarded to eligible
29 public schools under this subchapter.

30 (c) Funds received by a nonpublic school or an educational services
31 provider from a private school student support organization on behalf of an
32 eligible student shall be used for only the following expenses of the
33 eligible student:

34 (1) Tuition, fees, and the cost of required uniforms for a
35 nonpublic:

36 (A) School in this state that meets the eligibility

1 requirements under § 6-18-2211; or

2 (B) Online learning program or course;

3 (2) Textbooks required by a nonpublic school or online learning
4 program or course;

5 (3) Tutoring services provided by a:

6 (A) Teacher who is licensed by the State Board of
7 Education;

8 (B) Person qualified to be a substitute teacher under § 6-
9 15-1004 and the rules of the state board;

10 (C) Person who has at least one (1) semester of teaching
11 experience at an institution of higher education; or

12 (D) Tutoring facility with a license to operate in this
13 state;

14 (4) Specific course materials, including without limitation any
15 required supplemental materials;

16 (5) Fees for:

17 (A) Nationally standardized assessments, including without
18 limitation assessments required by the state board of all public students and
19 nationally recognized norm-referenced examinations;

20 (B) Advanced Placement exams;

21 (C) College placement examinations, including without
22 limitation the ACT and the SAT;

23 (D) Industry certification examinations; or

24 (E) Other assessments necessary to complete an eligible
25 student's course of study;

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

28 (7)(A) Services that are provided by a public school district or
29 an open-enrollment public charter school, including without limitation
30 academic courses, nonacademic programs, and extracurricular programs.

31 (B) A public school district or an open-enrollment public
32 charter school that provides services to a student who is the recipient of a
33 student scholarship under this subchapter is entitled to receive, from the
34 student's private school student support organization, an amount that is not
35 more than one-sixth (1/6) of the state foundation funding amount that would
36 be received by the public school district or open-enrollment public charter

1 school under § 6-20-2305(a)(2) for each academic course in which the student
2 is enrolled as described in § 6-18-232;

3 (8) Tuition and fees at an in-state or out-of-state institution
4 of higher education if the eligible student is enrolled both in high school
5 and an academic course at an in-state or out-of-state institution of higher
6 education;

7 (9) Textbooks and materials related to coursework at an
8 institution of higher education if an eligible student is enrolled in an
9 academic course at an in-state or out-of-state institution of higher
10 education;

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

13 (A) Applied behavior analysis as defined in § 23-99-418;

14 (B) Audiology as defined in § 17-100-103;

15 (C) Dyslexia support;

16 (D) Occupational therapy as defined in § 17-88-102;

17 (E) Physical therapy as defined in § 17-93-102;

18 (F) Speech-language pathology as defined in § 17-100-103;

19 and

20 (G) Other services approved by the Division of Elementary
21 and Secondary Education;

22 (11)(A) Transportation required for travel to and from an
23 educational services provider.

24 (B) Student scholarship funds used for expenses related to
25 transportation under subdivision (c)(11)(A) of this section shall not exceed
26 ten percent (10%) of the student scholarship funds provided under § 6-18-2207
27 for that academic year; and

28 (12) Any other legitimate educational expense approved by the
29 private school student support organization.

30 (d) A nonpublic school or educational services provider that receives
31 payments under this section shall not share the payments with, refund the
32 payments to, or rebate the payments under this section to a parent or
33 eligible student other than to credit a refund directly to the account that
34 contains the eligible student's student scholarship funds.

35 (e) Funds received by an eligible public school from an eligible
36 student support organization shall be used only for the following expenses:

- 1 (1) Public school technology enhancements, including without
2 limitation:
- 3 (A) Wireless access points;
4 (B) Installation of cabling;
5 (C) Wireless internet hot spots that are available for
6 check out;
- 7 (D) Laptop computers; and
8 (E) Tablet computers;
- 9 (2) Building upgrades for:
- 10 (A) Heating, ventilation, and air conditioning repairs;
11 and
- 12 (B) Roof repairs;
- 13 (3) Resources for Response to Intervention;
14 (4) Remote learning intervention platform technology;
15 (5) Social and emotional well-being programming for public
16 school students and parents of public school students;
- 17 (6) Parent support centers for parents of public school students
18 who are economically disadvantaged;
- 19 (7) Parent support centers for parents of public school students
20 with intellectual or developmental disabilities;
- 21 (8) Professional development training for public school staff
22 specific to diverse public school student populations;
- 23 (9) Professional development training for public school staff
24 specific to economically disadvantaged public school student populations;
- 25 (10) Sensory rooms and equipment for indoor and outdoor special
26 education services manipulatives that public school students use for hands-on
27 problem-solving;
- 28 (11) Funding for economically disadvantaged public school
29 student populations, including without limitation funding for:
- 30 (A) Personal care items;
31 (B) Clothing; and
32 (C) Food;
- 33 (12) After-hours training resources for parents of public school
34 students, including without limitation resources for training in:
- 35 (A) Basic technology and computer literacy; and
36 (B) Math and reading literacy; and

1 (13) Resources, materials, and equipment for workforce and
2 skills training courses.

3 6-18-2205. Application to become eligible student support
4 organization.

5 (a)(1) An organization that seeks to become or continue to be an
6 eligible student support organization under this subchapter shall apply to
7 the Division of Elementary and Secondary Education for initial certification
8 or renewal of certification as an eligible student support organization by
9 May 1 immediately preceding the school year for which the organization
10 intends to fund student scholarships or grants to eligible public schools.

11 (2)(A) An organization shall specify in an application it
12 submits under this section whether the organization intends to:

13 (i) Operate as a private school student support
14 organization;

15 (ii) Operate as a public school student support
16 organization; or

17 (iii) Operate both as a private school student
18 support organization and a public school student support organization.

19 (B) An organization shall not be required to operate as
20 both a private school student support organization and a public school
21 student support organization.

22 (b)(1) An application for initial certification as an eligible student
23 support organization under subsection (a) of this section shall include:

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

26 (B) A copy of the organization's Internal Revenue Service
27 determination letter certifying the organization is a nonprofit organization
28 under 26 U.S.C. § 501(c)(3);

29 (C) A description of the organization's financial plan
30 that demonstrates the organization has sufficient funds to operate throughout
31 the upcoming academic year;

32 (D) A copy of the organizational chart of the
33 organization; and

34 (E) If the organization applies to operate as a private
35 school student support organization, a description of the:

36 (i) Methodology the organization will use to verify

1 whether a student is eligible to receive a student scholarship;

2 (ii) Application process for student scholarships
3 the organization will use;

4 (iii) Methodology the organization will use to
5 establish and fund student scholarships; and

6 (iv) Plans for compliance with the requirements of §
7 6-18-2206.

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

11 (A) The eligible student support organization's completed
12 Internal Revenue Service Form 990, which shall be submitted to the division
13 no later than December 31 of the year before the academic year in which the
14 eligible student support organization intends to operate;

15 (B) A copy of the audit required under § 6-18-2210;

16 (C) If the eligible student support organization has
17 operated as a private school student support organization, an annual report
18 that includes the total number of:

19 (i) Applications received from students in the
20 preceding academic year, sorted by county, school district, and grade;

21 (ii) Applications received from eligible students
22 that were received and approved;

23 (iii) Approved applications received from students
24 who met the income requirements under § 6-18-2203(6); and

25 (iv) Student scholarships established on behalf of
26 eligible students;

27 (D) The amount of funds:

28 (i) Received as eligible contributions for the
29 purposes of this subchapter;

30 (ii) Distributed as eligible private school payments
31 under this subchapter if the eligible student support organization has
32 operated as a private school student support organization; and

33 (iii) Distributed as eligible public school payments
34 under this subchapter if the eligible student support organization has
35 operated as a public school student support organization;

36 (E) An accounting of any remaining funds after the payment

1 of administrative expenses and the distribution of:

2 (i) Eligible private school payments if the eligible
3 student support organization has operated as a private school student support
4 organization; or

5 (ii) Eligible public school payments if the eligible
6 student support organization has operated as a public school student support
7 organization; and

8 (F) A description of how the eligible student support
9 organization complied with the operational requirements under § 6-18-2206.

10 (c) Within sixty (60) days after receipt of an application under this
11 section, the division shall certify or recertify an organization as an
12 eligible student support organization if the organization meets the
13 applicable application requirements under subsection (b) of this section.

14 (d) The division shall maintain a public registry of currently
15 certified eligible student support organizations on the website of the
16 division.

17
18 6-18-2206. Operation of eligible student support organization.

19 (a) An eligible student support organization:

20 (1) Shall:

21 (A)(i) Expend no more than ten percent (10%) of eligible
22 contributions received for administrative expenses.

23 (ii) An eligible student support organization shall
24 expend or reserve for eligible private school payments and eligible public
25 school payments at least seventy-five percent (75%) of eligible contributions
26 received during the fiscal year or school year in which the eligible
27 contributions are collected.

28 (iii) No more than twenty-five percent (25%) of
29 eligible contributions received shall be carried forward to the following
30 fiscal year; and

31 (B) Comply with the antidiscrimination provisions of the
32 Civil Rights Act of 1964, 42 U.S.C. § 1981 et seq., as it existed on January
33 1, 2021;

34 (2) Shall not:

35 (A) Have an operator or employee who owns, operates, or is
36 employed by an educational services provider that receives a payment for

1 providing eligible educational services from student scholarships under § 6-
2 18-2204;

3 (B) Provide a student scholarship under this subchapter
4 for the child of an operator, owner, or full-time employee of an eligible
5 student support organization;

6 (C) Allow an eligible taxpayer, as defined in § 26-51-515,
7 to designate an eligible contribution to a specific eligible student or
8 school or for a specific expense under § 6-18-2204(c) as a condition of
9 making an eligible contribution to the eligible student support organization;

10 (D) Restrict the parent of an eligible student from
11 selecting any nonpublic school that is eligible to participate in the
12 Arkansas Child Academic Opportunity Scholarship and Grant Act under § 6-18-
13 2211; or

14 (E) Charge an application fee in excess of the actual cost
15 of processing an application;

16 (3)(A) May transfer eligible contributions to another eligible
17 student support organization if the Division of Elementary and Secondary
18 Education approves the transfer.

19 (B) All transferred funds received by an eligible student
20 support organization under subdivision (a)(3)(A) of this section shall be:

21 (i) Deposited by the receiving eligible student
22 support organization into the receiving eligible student support
23 organization's accounts as funds for eligible private school payments or
24 eligible public school payments of expenses permitted under § 6-18-2204; and

25 (ii) Separately disclosed in the receiving eligible
26 student support organization's annual financial audit under § 6-18-2210;

27 (4) Shall:

28 (A) Maintain separate accounts for:

29 (i) Eligible private school payment funds;

30 (ii) Administrative and operating funds;

31 (iii) Eligible public school payment funds; and

32 (iv) Each eligible student who receives funds for
33 the payment of expenses permitted under § 6-18-2204;

34 (B)(i) Prepare quarterly reports to submit to the division
35 and to post on the website of the eligible student support organization.

36 (ii) The quarterly report shall include without

1 limitation the following information:

2 (a) How funds received under this subchapter
3 were distributed; and

4 (b)(1) Which nonpublic schools and eligible
5 public schools received eligible private school payments or eligible public
6 school payments under this subchapter.

7 (2) The division shall maintain a list
8 of eligible public schools that may receive eligible public school payments
9 and make the list available on the division's website;

10 (C) Submit in a timely manner any information requested by
11 the division pertaining to a student scholarship that is awarded by the
12 eligible student support organization under this subchapter, including
13 without limitation information that is requested in support of any evaluation
14 of the program;

15 (D) Report to the division all educational expenses
16 approved and paid by the eligible student support organization under § 6-18-
17 2204 in the manner prescribed by the division;

18 (E)(i) Establish a process by which an individual may
19 notify the eligible student support organization and file a written complaint
20 concerning a violation of this subchapter by a parent, educational services
21 provider, or public school district.

22 (ii) The eligible student support organization
23 shall:

24 (a) Conduct an inquiry of a written complaint
25 under subdivision (a)(4)(E)(i) of this section; or

26 (b) Make a referral to the appropriate agency,
27 as determined by the division, for an investigation into a complaint under
28 subdivision (a)(4)(E)(i) of this section; and

29 (F) Allocate all interest accrued from eligible
30 contributions to the funding of eligible private school payments and eligible
31 public school payments.

32 (b)(1) The division shall send written notice to an eligible student
33 support organization if the division determines that the eligible student
34 support organization has violated this subchapter.

35 (2)(A) An eligible student support organization that receives a
36 notice under subdivision (b)(1) of this section has sixty (60) days to

1 correct a violation identified in the notice by the division.

2 (B)(i) If an eligible student support organization fails
3 or refuses to correct a violation identified under subdivision (b)(1) of this
4 section, then the division may revoke the certification of the eligible
5 student support organization.

6 (ii)(a) An eligible student support organization may
7 request an administrative hearing under the Arkansas Administrative Procedure
8 Act, § 25-15-201 et seq., upon the revocation of the certification.

9 (b) A final decision issued following a
10 hearing under subdivision (b)(2)(B)(ii)(a) is subject to judicial review.

11 (3)(A) An eligible student support organization whose
12 certification has been revoked under subdivision (b)(2)(B)(i) of this section
13 shall not accept any further eligible contributions made to the eligible
14 student support organization for the purpose of funding eligible private
15 school payments or eligible public school payments under this subchapter.

16 (B) If an eligible student support organization receives
17 any eligible contributions made for the purpose of funding eligible private
18 school payments or eligible public school payments under this subchapter
19 after the date of the notice of the revocation of the eligible student
20 support organization's certification under subdivision (b)(2)(B)(i) of this
21 section, then the eligible student support organization shall refund the
22 eligible contributions.

23 (c)(1) If an eligible student support organization determines that it
24 cannot continue to operate, then the eligible student support organization
25 shall transfer its eligible private school payment or eligible public school
26 payment funds to another eligible student support organization upon approval
27 by the division.

28 (2) If funds are available, an eligible student support
29 organization that receives a transfer of funds for eligible private school
30 payments or eligible public school payments under subdivision (c)(1) of this
31 section shall oversee the eligible private school payments and eligible
32 public school payments established by the eligible student support
33 organization that transferred the funds for the eligible private school
34 payments or eligible public school payments.

35
36 6-18-2207. Establishment of student scholarships – Payments.

1 (a) An eligible student support organization may contract with an
2 entity that is qualified to manage student scholarships.

3 (b) An eligible student support organization shall:

4 (1) Not be required to disburse both eligible public school
5 payments and eligible private school payments;

6 (2) Establish student scholarships under this subchapter for
7 eligible students in an amount not to exceed the foundation funding amount
8 under § 6-20-2305(a)(2) for each academic year in which the eligible student
9 participates in the Arkansas Child Academic Opportunity Scholarship and Grant
10 Act;

11 (3) Disburse student scholarships established under subdivision
12 (b)(2) of this section in quarterly installments throughout the school year
13 to the nonpublic schools attended by eligible students under this subchapter;

14 (4) Disburse eligible public school payments allocated for
15 eligible public schools under this subchapter to eligible public schools; and

16 (5) Establish a system for a parent to direct student
17 scholarship funds to nonpublic schools and educational services providers by:

18 (A) Electronic funds transfer, including an automated
19 clearinghouse transfer; or

20 (B) Another system that the eligible student support
21 organization determines is commercially viable, cost-effective, and
22 convenient for parents to use.

23 (c) Funds received under this subchapter are not taxable income of a
24 parent or an eligible student.

25
26 6-18-2208. Application for student scholarship.

27 (a) A parent may apply to a private school student support
28 organization to establish a student scholarship for an eligible student.

29 (b) A private school student support organization shall approve an
30 application for a student scholarship upon:

31 (1) Verifying the eligibility of the student; and

32 (2) Entering into an agreement with the parent under subdivision
33 (d)(1) of this section.

34 (c) The private school student support organization:

35 (1) Shall approve applications in order of receipt;

36 (2) Shall approve an application only if student scholarship

1 funds are available; and

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

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

5 (1) Enter into an agreement with a private school student
6 support organization to:

7 (A) Use student scholarship funds only for the expenses
8 permitted under § 6-18-2204;

9 (B)(i) Not enroll the eligible student as a full-time
10 student in a public school.

11 (ii) A parent who uses student scholarship funds to
12 pay for services provided by a public school district or an open-enrollment
13 public charter school under § 6-18-2204(c)(7) is not in violation of the
14 agreement under this subdivision (d)(1);

15 (C) Not accept a Succeed Scholarship under § 6-41-901 et
16 seq. in addition to a student scholarship provided under this subchapter; and

17 (D) Provide to the eligible student an organized and
18 appropriate educational program with measurable annual goals; and

19 (2) Sign a form verifying that the parent has reviewed
20 information developed by the Division of Elementary and Secondary Education
21 that explains without limitation:

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

23 (B) The responsibilities of:

24 (i) Parents;

25 (ii) Private school student support organizations;

26 and

27 (iii) The division;

28 (C) That a parent may choose to enroll his or her child in
29 a public school at any time subject to the provisions of § 6-18-2209(a)(4);

30 and

31 (D) The student's waiver of his or her entitlement to an
32 appropriate education environment under the Individuals with Disabilities
33 Education Act, 20 U.S.C. § 1412(a)(10)(A), as it existed on January 1, 2021,
34 for students with disabilities as described in § 6-18-2203(6)(B)(i).

35 (e)(1) A private school student support organization shall annually
36 renew an eligible student's student scholarship if:

1 (A) Student scholarship funds are available; and

2 (B) The parent of the eligible student applies for re-
3 enrollment in the Arkansas Child Academic Opportunity Scholarship and Grant
4 Act for the academic year in which the eligible student expects to receive a
5 student scholarship under this subchapter.

6 (2) As part of the re-enrollment process under subdivision
7 (e)(1)(B) of this section, the private school student support organization or
8 an organization chosen by the private school student support organization
9 shall conduct a parental survey that asks the parent of the eligible student
10 to detail the:

11 (A) Satisfaction of the parent with the program;

12 (B) Opinion of the parent regarding other topics and
13 issues that concern the effectiveness of the program; and

14 (C) Number of years his or her child has participated in
15 the program.

16
17 6-18-2209. Duration of participation in the Arkansas Child Academic
18 Opportunity Scholarship and Grant Act program – Return of student scholarship
19 funds.

20 (a) If funds are available, a private school student support
21 organization shall continue to provide student scholarship funds to an
22 eligible student under § 6-18-2207 until:

23 (1) The parent does not apply to re-enroll in the Arkansas Child
24 Academic Opportunity Scholarship and Grant Act program under § 6-18-2208;

25 (2) The private school student support organization determines
26 that the student no longer qualifies as an eligible student;

27 (3) The parent fails to comply with the agreement made under §
28 6-18-2208(d)(1);

29 (4)(A) The eligible student enrolls full-time in a public
30 school.

31 (B)(i) A parent shall immediately notify the private
32 school student support organization if the eligible student enrolls full-time
33 in a course of study at a public school.

34 (ii) If an eligible student enrolls full-time in a
35 public school, the private school student support organization shall place
36 the student scholarship on inactive status for a maximum period of one (1)

1 academic year, during which time the student scholarship funds shall be
2 frozen.

3 (iii) After one (1) academic year of inactive status
4 under subdivision (a)(4)(B)(ii) of this section, the private school student
5 support organization shall:

6 (a) Return the student scholarship funds to
7 active status if the:

8 (1) Parent notifies the private school
9 student support organization that the student is no longer enrolled full-time
10 in a public school; and

11 (2) Student continues to meet the
12 eligibility requirements under this subchapter; or

13 (b) Close the student scholarship account and
14 utilize any remaining funds from the closed student scholarship account for
15 other student scholarships if the:

16 (1) Parent does not notify the private
17 school student support organization that the student is no longer enrolled
18 full-time in a public school; or

19 (2) Student ceases to meet the
20 eligibility requirements under this subchapter;

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

22 (6)(A) The Division of Elementary and Secondary Education:

23 (i) Suspends or revokes the student scholarship; or

24 (ii) Deems the eligible student to be no longer
25 eligible upon a finding of fraud or intentional or substantial misuse of
26 student scholarships funds by the eligible student's parent, including
27 without limitation the accepting of a refund or rebate in violation of § 6-
28 18-2204(d).

29 (B) The division may refer suspected cases of fraud or
30 intentional or substantial misuse of student scholarship funds to the
31 Attorney General for investigation if evidence of the fraud or intentional or
32 substantial misuse is obtained.

33 (C)(i) A parent may appeal the decision of the division to
34 suspend or revoke a student scholarship or deem an eligible student no longer
35 eligible under subdivision (a)(6)(A)(i) or subdivision (a)(6)(A)(ii) of this
36 section for the program.

1 (ii) An appeal under subdivision (a)(6)(C)(i) of
2 this section shall be conducted through internal procedures established by
3 the division.

4 (b) Following a determination that a student is no longer eligible
5 under subdivision (a)(4)(B)(iii)(b)(2) or subdivision (a)(6)(A)(ii) of this
6 section, any remaining student scholarship funds shall be returned to the
7 private school student support organization that contributed the student
8 scholarship funds to the eligible student's account.

9
10 6-18-2210. Audit.

11 (a) By October 1 of each year, each eligible student support
12 organization shall contract with an independent certified public accountant
13 licensed in this state to conduct an annual financial audit of accounts and
14 records from the previous fiscal year according to generally accepted
15 auditing standards.

16 (b) Each eligible student support organization shall provide to the
17 Division of Elementary and Secondary Education a copy of the report of the
18 audit required under subsection (a) of this section within thirty (30) days
19 of receiving the report of the audit.

20
21 6-18-2211. Nonpublic school eligibility.

22 (a) A nonpublic school shall notify the Division of Elementary and
23 Secondary Education of the intent of the nonpublic school to participate in
24 the Arkansas Child Academic Opportunity Scholarship and Grant Act program
25 using a process established by the division.

26 (b) The division shall approve a nonpublic school as eligible to
27 participate in the program if the nonpublic school:

28 (1) Either:

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

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

1 (ii) A nonpublic school is ineligible to participate
2 in the program if:

3 (a) The nonpublic school has applied for
4 accreditation as described in subdivision (b)(1)(B)(i) of this section and
5 has not received accreditation within two (2) years of becoming eligible to
6 participate in the program under this section;

7 (b) It becomes impossible for the nonpublic
8 school to obtain accreditation within four (4) years; or

9 (c) The accrediting association determines
10 that the nonpublic school is ineligible or unable to continue the
11 accreditation process.

12 (iii) A nonpublic school that becomes ineligible to
13 participate in the program under subdivision (b)(1)(B)(ii) of this section
14 shall regain eligibility if the nonpublic school receives accreditation under
15 subdivision (b)(1)(A) of this section;

16 (2) Demonstrates fiscal soundness by:

17 (A) Having been in operation for one (1) school year; or

18 (B)(i) Providing the division with a statement by an
19 independent certified public accountant confirming that the nonpublic school
20 is insured and has sufficient capital or credit to operate during the
21 upcoming school year.

22 (ii) In lieu of a statement under subdivision
23 (b)(2)(B)(i) of this section, a surety bond or letter of credit for the
24 amount equal to the aggregate amount of eligible contributions expected to be
25 received during the school year may be filed with the division;

26 (3) Complies with the antidiscrimination provisions of the Civil
27 Rights Act of 1964, 42 U.S.C. § 1981 et seq., as it existed on January 1,
28 2022;

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

30 (5) Employs or contracts with teachers who hold baccalaureate or
31 higher degrees; and

32 (6) Complies with all state laws and rules that govern nonpublic
33 schools.

34 (c) The division shall maintain a list of nonpublic schools that are
35 eligible to participate in the program and make the list available on the
36 division's website.

1 (d)(1) An eligible nonpublic school under this section shall
2 administer annually or make provision for a participating eligible student to
3 take a nationally recognized norm-referenced test as established by the state
4 board.

5 (2) An eligible student with a disability under the Individuals
6 with Disabilities Act, 20 U.S.C. § 1400 et seq., who is determined by a
7 private school to need an exemption to standardized testing due to the nature
8 of the eligible student's disability is not required to take a test
9 administered under subdivision (d)(1) of this section.

10 (3) An eligible private school shall annually:

11 (A) Make provision for an eligible student to take an
12 alternate assessment approved by the state board; or

13 (B) If an eligible student is exempt from standardized
14 testing as described under subdivision (d)(2) of this section, prepare a
15 portfolio that provides information regarding the eligible student's progress
16 and provide the portfolio to the eligible student's parent or legal guardian.

17
18 6-18-2212. Annual report.

19 (a)(1) The Division of Elementary and Secondary Education or an
20 organization selected by the division shall produce, in compliance with
21 student privacy laws, an annual report that is accessible on the website of
22 the division.

23 (2) Annual report findings shall be aggregated according to a
24 student's grade level, gender, family income level, race, and number of years
25 of participation in the Arkansas Child Academic Opportunity Scholarship and
26 Grant Act program.

27 (b) The annual report required under subsection (a) of this section
28 shall:

29 (1) Measure:

30 (A) Student performance on state achievement tests or
31 nationally recognized norm-referenced tests, including without limitation
32 learning gains;

33 (B) High school graduation rates;

34 (C) Parental satisfaction according to the survey
35 conducted under § 6-18-2208(e)(2); and

36 (D) The percentage of student scholarship funds used for

1 each expense type identified in § 6-18-2204(c);

2 (2) Include data and information on educational expenses
3 approved and paid by each eligible student support organization under § 6-18-
4 2204;

5 (3) Apply appropriate methodologies to ensure public confidence
6 in the annual report required under subsection (a) of this section; and

7 (4) Protect the identity of participating eligible students and
8 schools using methods that include without limitation the preservation of
9 student anonymity in disaggregated data.

10
11 6-18-2213. Autonomy of nonpublic schools and educational services
12 providers.

13 (a) A nonpublic school or educational services provider that receives
14 payment from student scholarship funds under this subchapter is not an agent
15 or an instrumentality of the state or of a public school district.

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

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

24 (1) Except for excused absences, enrolled in and attending the
25 nonpublic school; or

26 (2) Receiving educational services from the educational services
27 provider.

28
29 6-18-2214. Rules.

30 The Division of Elementary and Secondary Education shall promulgate
31 rules necessary to implement this subchapter.

32
33 SECTION 2. Arkansas Code § 6-13-1603, concerning administrative
34 reorganization under the Public Education Reorganization Act, is amended to
35 add an additional subsection to read as follows:

36 (1) A student who is a recipient of a student scholarship under the

1 Arkansas Child Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et
 2 seq.:

3 (1) May be counted for the purposes of a consolidation
 4 determination made under this subchapter; and

5 (2) Shall not be counted for the purposes of a funding
 6 determination made under this subchapter.

7
 8 SECTION 3. Arkansas Code § 6-18-232 is amended to read as follows:

9 6-18-232. Enrollment of private school, ~~or~~ home school, or Arkansas
 10 Child Academic Opportunity Scholarship and Grant Act students.

11 (a) As used in this section, "student" means a person who:

12 (1) Attends a private school;

13 (2) Attends a home school; or

14 (3) Is a recipient of a student scholarship under the Arkansas
 15 Child Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et seq.

16 ~~(a)(b)~~ Except as provided under ~~subsection (d)~~ subsection (e) of this
 17 section, a public school district or an open-enrollment public charter school
 18 shall adopt a policy that allows a student ~~who attends a private school or a~~
 19 ~~home school~~ to enroll in an academic course at a public school or an open-
 20 enrollment public charter school if the student resides in the public school
 21 district where the public school or open-enrollment public charter school is
 22 located.

23 ~~(b)(c)~~ A policy adopted by a public school district or open-enrollment
 24 public charter school under ~~subsection (a)~~ subsection (b) of this section
 25 may:

26 (1)(A) Include provisions that apply to a ~~private school or~~
 27 ~~home schooled~~ student who is enrolled in an academic course at a public
 28 school or open-enrollment public charter school, including without limitation
 29 provisions regarding:

30 (i) Academic or grade-level prerequisites;

31 (ii) Attendance;

32 (iii) Testing;

33 (iv) Coursework;

34 (v) Grades; and

35 (vi) Conduct.

36 (B) The provisions included under ~~subdivision (b)(1)(A)~~

1 subdivision (c)(1)(A) of this section shall be consistent with provisions
2 included in the public school district's or open-enrollment public charter
3 school's policies that apply to public school students;

4 (2) Allow a student ~~who attends a private school or a home~~
5 ~~school~~ to enroll in one (1) or more academic courses in a semester; and

6 (3) Limit enrollment if the enrollment of a ~~private school or~~
7 ~~home-schooled~~ student would:

8 (A) Create a financial loss for the public school district
9 or open-enrollment public charter school; or

10 (B) Violate any state or federal law or any rule
11 established by the Division of Elementary and Secondary Education.

12 ~~(e)(1)(d)(1)(A)~~ A public school district or an open-enrollment public
13 charter school that enrolls a student who attends a private school or a home
14 school in an academic course is entitled to an amount equal to one-sixth
15 (1/6) of the state foundation funding amount for each academic course in
16 which a student who attends a private school or a home school is enrolled.

17 (B) A public school district or an open-enrollment public
18 charter school that enrolls a student who is a recipient of a student
19 scholarship under the Arkansas Child Academic Opportunity Scholarship and
20 Grant Act, § 6-18-2201 et seq., in an academic course is entitled to receive
21 from the student's private school student support organization, for each
22 academic course in which the student is enrolled, an amount that is equal to
23 the state foundation funding amount that would be received by the public
24 school district or open-enrollment public charter school under subdivision
25 (d)(1)(A) of this section.

26 (2)(A) A public school district or an open-enrollment public
27 charter school is not entitled to more than the equivalent of the state
28 foundation funding amount for one (1) average daily membership per student
29 regardless of the number of academic courses in which the student who attends
30 a private school or a home school is enrolled.

31 (B) A public school district or an open-enrollment public
32 charter school is not entitled to receive from a private school student
33 support organization, for each student who is a recipient of a student
34 scholarship under the Arkansas Child Academic Opportunity Scholarship and
35 Grant Act, § 6-18-2201 et seq., more than the equivalent of the state
36 foundation funding amount that would be received by the public school

1 district or open-enrollment public charter school under subdivision (d)(2)(A)
2 of this section.

3 ~~(d)~~(e) A public school district or an open-enrollment public charter
4 school may seek a waiver from the division from the requirements under this
5 section.

6 ~~(e)~~(f) If a student ~~who attends a private school or a home school~~
7 enrolls in an endorsed concurrent enrollment course as defined by § 6-16-
8 1202(2), the student shall not be charged for the endorsed concurrent
9 enrollment course unless the public school district also charges public
10 school students or open-enrollment public charter school students for the
11 endorsed concurrent enrollment course.

12 ~~(f)~~(g) A public school district or open-enrollment public charter
13 school under this section:

14 (1) May provide transportation for a ~~private school or home-~~
15 ~~schooled~~ student to or from the location of the academic course; and

16 (2) Shall provide a final grade and transcript to each ~~private~~
17 ~~school or home-schooled~~ student who completes an academic course in which the
18 student is enrolled at a public school or open-enrollment public charter
19 school.

20 ~~(g)~~(1)(h)(1) A ~~private school or home-schooled~~ student is not
21 considered truant from a public school or open-enrollment public charter
22 school under this section due to unexcused absences from the academic course
23 in which the ~~private school or home-schooled~~ student is enrolled.

24 (2) However, a public school or open-enrollment public charter
25 school may drop a ~~private school or home-schooled~~ student from an academic
26 course in the event of excessive unexcused absences or any other violation of
27 policies regarding the academic course in which the ~~private school or home-~~
28 ~~schooled~~ student is enrolled.

29 ~~(h)~~(i) This section does not apply to a statewide open-enrollment
30 public charter school that operates primarily as a virtual school.

31 (j) A recipient of a student scholarship under the Arkansas Child
32 Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et seq., may pay
33 for an academic course in which he or she is enrolled under this section
34 using the student scholarship funds disbursed under the Arkansas Child
35 Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et seq.

36

1 SECTION 4. Arkansas Code Title 26, Chapter 51, Subchapter 5, is
2 amended to add an additional section to read as follows:

3 26-51-515. Tax credit for contribution to student scholarship funds
4 and eligible payments to eligible public schools.

5 (a) As used in this section:

6 (1) "Eligible student support organization" means the same as
7 defined in § 6-18-2203; and

8 (2)(A) "Eligible taxpayer" means an individual or business,
9 including without limitation a:

10 (i) Corporation;

11 (ii) Partnership;

12 (iii) Limited liability company; or

13 (iv) Sole proprietorship.

14 (B) "Eligible taxpayer" does not include an individual or
15 business that has a direct financial relationship with any of the following
16 that receive funds under the Arkansas Child Academic Opportunity Scholarship
17 and Grant Act, § 6-18-2201 et seq.:

18 (i) A public school;

19 (ii) A nonpublic school; or

20 (iii) An eligible student support organization.

21 (b) A state income tax credit is allowed against the taxes imposed by
22 the Income Tax Act of 1929, § 26-51-101 et seq., for one hundred percent
23 (100%) of an eligible contribution made by an eligible taxpayer in a tax year
24 to an eligible student support organization for student scholarships or
25 eligible payments to eligible public schools at the time of the eligible
26 contribution.

27 (c)(1)(A) The amount of the state income tax credit under this section
28 that may be claimed by an eligible taxpayer in a tax year shall not exceed
29 the amount of state income tax due by the eligible taxpayer.

30 (B) Unused income tax credit under this section may be
31 carried forward for a maximum of five (5) consecutive tax years for credit
32 against the state income tax.

33 (2)(A) Beginning with tax year 2022, the total amount of state
34 income tax credits under this section shall not exceed a tax credit cap of
35 ten million dollars (\$10,000,000).

36 (B) Of the ten million dollars (\$10,000,000) in state

1 income tax credits allowed under subdivision (c)(2)(A) of this section, six
2 million dollars (\$6,000,000) shall be allotted for eligible contributions
3 made for the purpose of funding eligible public school payments and four
4 million dollars (\$4,000,000) shall be allotted for eligible contributions
5 made for the purpose of funding eligible private school payments.

6 (C)(i) In any fiscal year in which the tax credit amount
7 claimed for eligible contributions made for the purpose of funding eligible
8 public school payments is equal to or greater than ninety percent (90%) of
9 the tax credit cap allotted for eligible contributions made for the purpose
10 of funding eligible public school payments, the tax credit cap allotted for
11 eligible contributions made for the purpose of funding eligible public school
12 payments shall be increased by twenty-five percent (25%) for the following
13 fiscal year.

14 (ii) The twenty-five-percent increase to the tax
15 credit cap under subdivision (c)(2)(C)(i) of this section shall be allotted
16 for eligible contributions made for the purpose of funding eligible public
17 school payments.

18 (D)(i) In any fiscal year in which the tax credit amount
19 claimed for eligible contributions made for the purpose of funding eligible
20 private school payments is equal to or greater than ninety percent (90%) of
21 the tax credit cap allotted for eligible contributions made for the purpose
22 of funding eligible private school payments, the tax credit allotted for
23 eligible contributions made for the purpose of funding eligible private
24 school payments shall be increased by twenty-five percent (25%) for the
25 following fiscal year.

26 (ii) The twenty-five-percent increase to the tax
27 credit cap under subdivision (c)(2)(D)(i) of this section shall be allotted
28 for eligible contributions made for the purpose of funding eligible private
29 school payments.

30 (E) The Division of Elementary and Secondary Education and
31 the Department of Finance and Administration shall publish on their
32 respective websites information identifying the amount of the tax credit cap
33 when it is increased under subdivision (c)(2)(C) or subdivision (c)(2)(D) of
34 this section.

35 (d) An eligible taxpayer who files a consolidated corporate income tax
36 return as a member of an affiliated group under § 26-51-805 may be allowed

1 the state income tax credit under this section on a consolidated return basis
2 subject to the limitations established under subsection (c) of this section.

3 (e) Spouses who file separately on the same income tax form for a tax
4 year in which they could have filed a joint return may each claim only one-
5 half (1/2) of the state income tax credit that would have been allowed for a
6 joint return under this section.

7 (f)(1) An eligible taxpayer who seeks to carry forward an unused
8 amount of the state income tax credit under this section shall:

9 (A) Submit an application for allocation of tax credits;
10 or

11 (B)(i) Carry forward credits in the year that the eligible
12 taxpayer intends to use the carry-forward credits.

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

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

20 (g) For purposes of this section, an eligible contribution for which a
21 state income tax credit is claimed that is made on or before the fifteenth
22 day of the fourth month following the close of the tax year:

23 (1) Applies to either the current or preceding tax year; and

24 (2) Is considered to have been made on the last day of the tax
25 year.

26 (h) An application for a state income tax credit under this section
27 shall be submitted to the department, in coordination with the division, if
28 necessary, on forms established by rule of the division.

29 (i) The division shall develop a cooperative agreement, in
30 coordination with the department, if necessary, to assist in the
31 administration of this section.

32 (j) The department shall, in coordination with the division, if
33 necessary, adopt rules necessary to administer this section, including
34 without limitation rules governing the allocation of state tax credits and
35 carry-forward credits under this section on a first-come, first-served basis.

36

SECTION 5. DO NOT CODIFY. TEMPORARY LANGUAGE.

For the 2022-2023 school year, an organization that seeks to become an eligible student support organization under the Arkansas Child Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et seq., shall, by December 31, 2021:

(1) Apply to the Division of Elementary and Secondary Education for initial certification as an eligible student support organization; and

(2) Submit to the division the organization's completed Internal Revenue Service Form 990 from the previous tax year.

SECTION 6. DO NOT CODIFY. TEMPORARY LANGUAGE.

(a) When the Division of Elementary and Secondary Education adopts initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2022; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2022, as soon as practicable after approval under § 10-3-309.

(b) The division shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so that the Legislative Council may consider the rule for approval before January 1, 2022.

SECTION 7. EFFECTIVE DATE.

This act is effective for tax years beginning on or after January 1, 2022.

/s/Bragg