

A Bill

5
6 By: Representatives *Collins, D. Altes*

7 Filed with: Interim House Committee on Revenue and Taxation
8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT TO PROVIDE KINDERGARTEN THROUGH TWELFTH GRADE
11 (K-12) SCHOLARSHIPS TO ECONOMICALLY DISADVANTAGED
12 CHILDREN BY PROVIDING A TAX CREDIT FOR CORPORATE OR
13 INDIVIDUAL DONORS FOR CONTRIBUTIONS TO NONPROFIT
14 SCHOLARSHIP-FUNDING ORGANIZATIONS; AND FOR OTHER
15 PURPOSES.

16 17 18 Subtitle

19 TO PROVIDE K-12 SCHOLARSHIPS FOR
20 ECONOMICALLY DISADVANTAGED CHILDREN
21 THROUGH A CORPORATE INCOME TAX CREDIT.

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

25
26 SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended
27 to add a new section to read as follows:

28 26-51-515. Credits for contributions to nonprofit scholarship-funding
29 organizations.

30 (a) The purpose of this section is to:

31 (1) Encourage private, voluntary contributions to eligible
32 nonprofit scholarship-funding organizations;

33 (2) Expand educational opportunities for children of families
34 that have limited financial resources; and

35 (3) Enable children in this state to achieve a greater level of
36 excellence in their education.

1 (b) As used in this section:

2 (1)(A) "Eligible contribution" means a monetary contribution
3 from an eligible taxpayer or corporation, subject to the restrictions
4 provided in this section, to an eligible nonprofit scholarship-funding
5 organization.

6 (B) The eligible taxpayer making the eligible contribution
7 may not designate a specific child as the beneficiary of the contribution;

8 (2) "Eligible nonprofit scholarship-funding organization" means
9 a charitable organization that:

10 (A) Is exempt from federal income tax under 26 U.S.C. §
11 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2011;

12 (B) Is an Arkansas entity formed under § 4-28-101 et seq.
13 and whose principal office is located in the state; and

14 (C) Complies with subsection (f) of this section;

15 (3) "Eligible private school" means a nonpublic school that:

16 (A) Provides education to elementary or secondary students
17 and has notified the department of its intention to participate and comply
18 with the program's requirements;

19 (B) Is located in Arkansas; and

20 (C) Is not a home school;

21 (4) "Eligible taxpayer" means a business or individual,
22 including without limitation a corporation, partnership, limited liability
23 company, sole proprietorship; and

24 (5) "Owner" or "operator" means:

25 (A) An owner, president, officer, or director of an
26 eligible nonprofit scholarship-funding organization or a person with
27 equivalent decision making authority over an eligible nonprofit scholarship-
28 funding organization; or

29 (B) An owner, operator, superintendent, or principal of an
30 eligible private school or a person with equivalent decision making authority
31 over an eligible private school.

32 (c)(1) Except as limited in subsection (e) of this section, there is
33 allowed an income tax credit against the income tax imposed by the Income Tax
34 Act of 1929, § 26-51-101 et seq., the premium tax imposed by § 23-75-119, or
35 the premium tax imposed by § 23-63-1614 for one hundred percent (100%) of an
36 eligible contribution made by the eligible taxpayer for a tax year.

1 (2) An eligible student is a student who:

2 (A) Is a member of a household whose total annual income
3 the year before he or she receives an educational scholarship under this
4 program does not exceed an amount equal to two hundred percent (200%) of the
5 federal poverty level income standard;

6 (B) Meets requirements to enroll in public school in
7 Arkansas;

8 (C) Received a scholarship from an eligible nonprofit
9 scholarship-funding organization or from the state during the previous school
10 year;

11 (D) Is eligible to enter kindergarten; or

12 (E) Is starting school in Arkansas for the first time.

13 (3) Once a student receives a scholarship under this program,
14 the student will remain eligible regardless of household income until the
15 student graduates from high school or reaches twenty-one (21) years of age.

16 (d) A student is not eligible for a scholarship while he or she is:

17 (1) Receiving a scholarship from another eligible nonprofit
18 scholarship-funding organization under this section;

19 (2) Participating in a home education program as defined in § 6-
20 15-501 et. seq.;

21 (3) Participating in a virtual school, correspondence school, or
22 distance learning program that receives state funding pursuant to the
23 student's participation unless the participation is limited to no more than
24 two courses per school year; or

25 (4) Enrolled in the Arkansas School for the Deaf or the Arkansas
26 School for the Blind.

27 (e)(1) An income tax credit under this section may not exceed fifty
28 percent (50%) of the tax due under this chapter for the taxable year, after
29 the application of any other allowable income tax credits by the eligible
30 taxpayer.

31 (2) An income tax credit under this section shall be reduced by
32 the difference between the amount of federal corporate income tax taking into
33 account the income tax credit under this section and the amount of federal
34 corporate income tax without application of the income tax credit under this
35 section.

1 (3) The total amount of income tax credits and carryforward of
2 income tax credits under this section for each fiscal year under this section
3 is limited to thirty million dollars (\$30,000,000) in tax year 2011 and may
4 expand by no more than ten million dollars (\$10,000,000) each year until it
5 reaches a cap of ninety million dollars (\$90,000,000). Expansion of credit
6 is limited to the amount of revenue necessary to fulfill projected
7 scholarship applications as determined by the eligible nonprofit scholarship-
8 funding organization each year.

9 (4) An eligible taxpayer who files an Arkansas consolidated
10 return as a member of an affiliated group under § 26-51-805 may be allowed
11 the income tax credit under this section on a consolidated return basis
12 subject to the limitation established under subdivisions (e)(1), (2), and (3)
13 of this section.

14 (5)(A) An eligible taxpayer may rescind all or part of the
15 eligible taxpayer's allocated income tax credit under this section.

16 (B) The amount rescinded shall become available for
17 purposes of the cap for the state fiscal year under this section to an
18 eligible taxpayer as approved by the Department of Finance and Administration
19 if the eligible taxpayer receives notice from the Department of Finance and
20 Administration that the rescission has been accepted by the Department of
21 Finance and Administration and the eligible taxpayer has not previously
22 rescinded any or all of the eligible taxpayer's allocated income tax credit
23 under this section more than one (1) time in the previous three (3) tax
24 years.

25 (C) Any amount rescinded under this subdivision (e)(3)
26 shall become available to an eligible taxpayer on a first-come, first-served
27 basis based on income tax credit applications received after the date the
28 rescission is accepted by the Department of Finance and Administration.

29 (f) An eligible nonprofit scholarship-funding organization:

30 (1) Shall comply with the antidiscrimination provisions of 42
31 U.S.C. § 2000d, as in effect on January 1, 2011;

32 (2) Shall comply with the following background check
33 requirements:

34 (A)(i) All owners and operators are, upon employment or
35 engagement to provide services, subject to fingerprinting and a background

1 check successfully completed through the Department of Arkansas State Police
2 and the Federal Bureau of Investigation.

3 (ii) The results of the state and national criminal
4 history check shall be provided to the Department of Education for screening.

5 (iii) The cost of the background check may be paid
6 by the eligible nonprofit scholarship-funding organization or the owner or
7 operator;

8 (B) Every five (5) years following employment or
9 engagement to provide services or association with an eligible nonprofit
10 scholarship-funding organization, each owner or operator must comply with
11 another background check through the Department of Arkansas State Police and
12 the Federal Bureau of Investigation;

13 (C)(i) All fingerprints submitted to the Department of
14 Arkansas State Police as required by this subsection must be retained by the
15 Department of Arkansas State Police in a manner approved by rule and entered
16 in the statewide automated fingerprint identification system.

17 (ii) The fingerprints must be available for all
18 purposes and uses authorized for arrest fingerprint cards entered in the
19 statewide automated fingerprint identification system;

20 (D)(i) Beginning July 1, 2011, the Department of Arkansas
21 State Police shall search all arrest fingerprint cards against the
22 fingerprints retained in the statewide automated fingerprint identification
23 system.

24 (ii) Any arrest record that is identified with an
25 owner's or operator's fingerprints must be reported to the Department of
26 Education.

27 (iii) The Department of Arkansas State Police may
28 adopt a rule setting the amount of the annual fee to be imposed upon the
29 Department of Education for performing the services under this subdivision
30 (f)(2) and establishing the procedures for the retention of owner and
31 operator fingerprints and the dissemination of search results.

32 (iv) The fee may be paid by the owner or operator of
33 the eligible nonprofit scholarship-funding organization;

34 (E) An eligible nonprofit scholarship-funding organization
35 whose owner or operator fails the background check shall not be eligible to
36 provide scholarships under this section; and

1 (F) An eligible nonprofit scholarship-funding organization
2 whose owner or operator in the last seven (7) years has filed for personal
3 bankruptcy or corporate bankruptcy in a corporation of which he or she owned
4 more than twenty percent (20%) shall not be eligible to provide scholarships
5 under this section;

6 (3) Shall not have an owner or operator who owns or operates an
7 eligible private school that is participating in a scholarship program
8 operated by an eligible nonprofit scholarship-funding organization;

9 (4)(A) Shall provide scholarships from eligible contributions to
10 eligible students for tuition, textbook expenses, or transportation to an
11 eligible private school.

12 (B) At least *ninety percent (90%)* of the scholarship
13 funding must be used to pay tuition expenses;

14 (5) Shall give priority to eligible students *who previously*
15 *received* a scholarship from an eligible nonprofit scholarship-funding
16 organization;

17 (6) Shall give priority to the sibling or siblings of a student
18 who has received a scholarship under the tax credit program and is currently
19 enrolled in a private school through the tax credit program;

20 (7) Shall provide a scholarship to an eligible student through a
21 random, anonymous student selection method unless the eligible student
22 qualifies for priority under subdivision (f)(5) or subdivision (f)(6) of this
23 section;

24 (8) May not restrict or reserve scholarships for use at a
25 particular private school or provide scholarships to a child of an owner or
26 operator;

27 (9) Shall allow an eligible student to attend any eligible
28 private school and shall allow a parent of an eligible student to transfer a
29 scholarship during a school year to any other eligible private school of the
30 parent's choice provided that the eligible student was excused by the current
31 private school for illness or other good cause;

32 (10)(A) Except as provided in subdivision (f)(10)(B) of this
33 section, shall obligate, in the same fiscal year in which the eligible
34 contribution was received, one hundred percent (100%) of the eligible
35 contribution to provide annual or partial-year scholarships to eligible
36 private schools.

1 (B) Up to twenty-five percent (25%) of the total eligible
2 contribution may be carried forward for expenditure in the following state
3 fiscal year.

4 (C) An eligible nonprofit scholarship-funding
5 organization, before granting a scholarship for an academic year, shall
6 document each eligible student's scholarship eligibility for that academic
7 year.

8 (D) An eligible nonprofit scholarship-funding organization
9 may not grant multiyear scholarships in one (1) approval process.

10 (E) No more than nine and one-half percent (9 1/2%) of
11 eligible contributions may be used for administrative expenses of the
12 eligible nonprofit scholarship-funding organization.

13 (F) All interest accrued from eligible contributions shall
14 be used for scholarships;

15 (11) Shall maintain separate accounts for scholarship funds and
16 operating funds;

17 (12)(A) With the prior approval of the Department of Finance and
18 Administration, may transfer funds to another eligible nonprofit scholarship-
19 funding organization if additional funds are required to meet scholarship
20 demand at the receiving eligible nonprofit scholarship-funding organization.

21 (B) A transfer shall be limited to the greater of five
22 hundred thousand dollars (\$500,000) or twenty percent (20%) of the total
23 eligible contributions received by the nonprofit scholarship-funding
24 organization making the transfer.

25 (C) All transferred funds must be deposited by the
26 receiving eligible nonprofit scholarship-funding organization into its
27 scholarship accounts.

28 (D) All transferred amounts received by any eligible
29 nonprofit scholarship-funding organization must be separately disclosed in
30 the annual financial and compliance audit required in this section;

31 (13)(A) Shall provide to the Department of Finance and
32 Administration an annual financial and compliance audit of its accounts and
33 records conducted by an independent certified public accountant.

34 (B) The audit shall be conducted in compliance with
35 generally accepted auditing standards and shall include a report on financial
36 statements presented in accordance with generally accepted accounting

1 principles set forth by the American Institute of Certified Public
2 Accountants for not-for-profit organizations and a determination of
3 compliance with the statutory eligibility and expenditure requirements set
4 forth in this section.

5 (C) Audits shall be provided to the Department of Finance
6 and Administration within one hundred eighty (180) days after completion of
7 the eligible nonprofit scholarship-funding organization's fiscal year; and

8 (14) Shall prepare and submit quarterly reports to the
9 Department of Finance and Administration and shall submit in a timely manner
10 any information requested by the Department of Education relating to the
11 scholarship program. This information shall also be made available on the
12 website prepared by the eligible nonprofit scholarship-funding organization.

13 (15) Require an annual notarized, sworn compliance statement by
14 participating eligible private schools certifying compliance with state laws
15 and shall retain such records;

16 (16) Cooperate with the Department of Education to cross-check
17 the list of participating scholarship students with the public school
18 enrollment lists to avoid duplication;

19 (17) Annually verify the eligibility of nonprofit scholarship-
20 funding organizations;

21 (18) Annually verify the eligibility of private schools that
22 meet the requirements of subsection (h) of this section;

23 (19) Establish a website that provides parents and private
24 schools with information on participation in the scholarship program;

25 (20)(A) Establish a process by which individuals may notify the
26 eligible nonprofit scholarship-funding organization of any violation by a
27 parent, eligible private school, or school district of state laws relating to
28 program participation.

29 (B)(i) The eligible nonprofit scholarship-funding
30 organization shall conduct an inquiry of any written complaint of a violation
31 of this section or make a referral to the appropriate agency for an
32 investigation, if the complaint is signed by the complainant and is legally
33 sufficient.

34 (ii) A complaint is legally sufficient if it
35 contains ultimate facts that show a violation of this section.

1 (iii) In order to determine legal sufficiency, the
2 eligible nonprofit scholarship-funding organization may require supporting
3 information or documentation from the complainant;

4 (21)(A)(i) Conduct random site visits to eligible private
5 schools participating in the corporate tax credit scholarship program.

6 (ii) The purpose of the site visits is solely to
7 verify the information reported by the eligible private schools concerning
8 the enrollment and attendance of students, background screening of teachers,
9 and teachers' fingerprinting results.

10 (iii) The eligible nonprofit scholarship-funding
11 organization may not make more than seven (7) random site visits each year
12 and may not make more than one (1) random site visit each year to the same
13 eligible private school.

14 (B) Annually by December 15, report to the Governor, the
15 President Pro Tempore of the Senate, and the Speaker of the House of
16 Representatives the eligible nonprofit scholarship-funding organization's
17 actions with respect to implementing accountability in the scholarship
18 program under this section any substantiated allegations or violations of law
19 or rule by an eligible private school under this program concerning the
20 enrollment and attendance of students, background screening of teachers, and
21 teachers' fingerprinting results, and the corrective action taken by the
22 eligible nonprofit scholarship-funding organization;

23 (22)(A)(i) The owner or operator shall deny, suspend, or revoke
24 an eligible private school's participation in the scholarship program if it
25 is determined that the eligible private school has failed to comply with this
26 section.

27 (ii) In instances in which the noncompliance is
28 correctable within a reasonable amount of time and in which the health,
29 safety, or welfare of the students is not threatened, the owner or operator
30 may issue a notice of noncompliance that shall provide the eligible private
31 school with a timeframe within which to provide evidence of compliance before
32 taking action to suspend or revoke the eligible private school's
33 participation in the scholarship program.

34 (B) The owner's or operator's determination is subject to
35 the following:

1 (i) If the owner or operator intends to deny,
2 suspend, or revoke an eligible private school's participation in the
3 scholarship program, the eligible nonprofit scholarship-funding organization
4 shall notify the eligible private school of such proposed action in writing
5 by certified mail and regular mail to the eligible private school's address
6 of record with the eligible nonprofit scholarship-funding organization. The
7 notification shall include the reasons for the proposed action and notice of
8 the timelines and procedures set forth in this subdivision (i)(2); and

9 (ii) The eligible private school that is adversely
10 affected by the proposed action shall have the right to appeal the decision
11 to the Department of Finance and Administration.

12 (C) The eligible nonprofit scholarship-funding
13 organization may immediately suspend payment of scholarship funds if it is
14 determined that there is probable cause to believe that there is:

15 (i) An imminent threat to the health, safety, and
16 welfare of the students; or

17 (ii) Fraudulent activity on the part of the eligible
18 private school.

19 (D) In incidents of alleged fraudulent activity, the
20 eligible nonprofit scholarship-funding organization may release personally
21 identifiable records or reports of students to the following persons or
22 organizations:

23 (i) A court of competent jurisdiction in compliance
24 with an order of that court or the attorney of record in accordance with a
25 lawfully issued subpoena, consistent with the Family Educational Rights and
26 Privacy Act, 20 U.S.C. § 1232(g), as in effect on January 1, 2011;

27 (ii) A person or entity authorized by a court of
28 competent jurisdiction in compliance with an order of that court or the
29 attorney of record under a lawfully issued subpoena, consistent with the
30 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g), as in effect
31 on January 1, 2011; and

32 (iii) Any person, entity, or authority issuing a
33 subpoena for law enforcement purposes when the court or other issuing agency
34 has ordered that the existence or the contents of the subpoena or the
35 information furnished in response to the subpoena not be disclosed,
36 consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. §

1 1232(g), as in effect of January 1, 2011, and 34 C.F.R. § 99.31, as in effect
2 January 1, 2011.

3 (E) The eligible nonprofit scholarship-funding
4 organization order suspending payment under this subsection may be appealed
5 to the Department of Finance and Administration;

6 (23) Identify and select the nationally norm-referenced tests
7 that are comparable to the norm-referenced provisions of the Arkansas
8 Comprehensive Testing, Assessment, and Accountability Program provided that
9 the Arkansas Comprehensive Testing, Assessment, and Accountability Program
10 assessments may be one (1) of the tests selected; and

11 (24)(A) Select an independent research organization, which may
12 be a public or private entity or university, to which participating eligible
13 private schools shall report the scores of participating students on the
14 nationally norm-referenced tests administered by the eligible private school.

15 (B) The independent research organization shall report
16 annually to the Department of Education on the year-to-year improvements of
17 participating students.

18 (C) The independent research organization shall analyze
19 and report student performance data in a manner that protects the rights of
20 students and parents as mandated in the Family Educational Rights and Privacy
21 Act, 20 U.S.C. § 1232(g), as in effect on January 1, 2011, and shall not
22 disaggregate data to a level that will disclose the academic level of
23 individual students or of individual schools.

24 (D) To the extent possible, the independent research
25 organization shall accumulate historical performance data on students from
26 the Department of Education and private schools to describe baseline
27 performance and to conduct longitudinal studies.

28 (E) To minimize costs and reduce time required for third-
29 party analysis and evaluation, the Department of Education shall conduct
30 analyses of matched students from public school assessment data and calculate
31 control group learning gains using an agreed-upon methodology outlined in the
32 contract with the third-party evaluator.

33 (F) The sharing of student data shall be in accordance
34 with requirements of the Family Educational Rights and Privacy Act, 20 U.S.C.
35 § 1232(g), as in effect on January 1, 2011, and shall be for the sole purpose
36 of conducting the evaluation.

1 (G) All parties shall preserve the confidentiality of such
2 information as required by law.

3 (H) May solicit grants or donations to provide for any
4 costs that may be associated for this evaluation.

5 (g)(1) To qualify his or her child for a scholarship from an eligible
6 nonprofit scholarship-funding organization, a parent shall select an eligible
7 private school and apply for the admission of his or her child.

8 (2) The parent shall inform the child's school district when the
9 parent withdraws his or her child to attend an eligible private school.

10 (3) Any student participating in the scholarship program shall
11 remain in attendance throughout the school year unless excused by the
12 eligible private school for illness or other good cause.

13 (4) Each parent and each eligible student has an obligation to
14 the eligible private school to comply with the eligible private school's
15 published policies.

16 (5)(A) Upon receipt of a scholarship warrant from the eligible
17 nonprofit scholarship-funding organization, the parent to whom the
18 scholarship warrant is made must restrictively endorse the scholarship
19 warrant to the eligible private school for deposit into the account of the
20 eligible private school.

21 (B) The parent may not designate any entity or individual
22 associated with the participating eligible private school as the parent's
23 attorney in fact to endorse a scholarship warrant.

24 (C) A participant who fails to comply with this
25 subdivision (g)(5) forfeits the scholarship.

26 (h) An eligible private school may be sectarian or nonsectarian and
27 shall:

28 (1) Comply with all requirements for private schools
29 participating in state school choice scholarship programs;

30 (2) Provide to the eligible nonprofit scholarship-funding
31 organization, upon request, all documentation required for the student's
32 participation, including the eligible private school's and student's fee
33 schedules;

34 (3) Be academically accountable to the parent for meeting the
35 educational needs of the student by:

1 (A) At a minimum, annually providing to the parent a
 2 written explanation of the student's progress; and

3 (B)(i) Annually administering or making provision for
 4 students participating in the scholarship program to either take a nationally
 5 norm-referenced test or take statewide assessments under Arkansas
 6 Comprehensive Testing, Assessment, and Accountability Act.

7 (ii) Students with disabilities for whom
 8 standardized testing is not appropriate as stated in the students
 9 individualized education plan are exempt from this requirement. However, the
 10 participating eligible private school must prepare a portfolio that provides
 11 information to the parent or parents of a student's progress each year.

12 (iii) A participating eligible private school shall
 13 report a student's scores to the parent and to the independent research
 14 organization selected by the Department of Education as described in
 15 subdivision (f)(21) of this section in accordance with the requirements of
 16 the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g;

17 (4) Comply with all requirements and laws for private schools in
 18 Arkansas; and

19 (5)(A) Meet the requirements of this subsection.

20 (B) The inability of an eligible private school to meet
 21 the requirements of this subsection shall constitute a basis for the
 22 ineligibility of the private school to participate in the scholarship program
 23 as determined by the Department of Education.

24 (i) The Department of Finance and Administration shall:

25 (1) By July 15, 2011, and by March 15 each year thereafter,
 26 list the eligible nonprofit scholarship-funding organizations;

27 (2) Annually verify the eligibility of nonprofit scholarship-
 28 funding organizations;

29 (3) Annually verify the eligibility of expenditures as provided
 30 in subdivision (f)(4) of this section using the audit required by subdivision
 31 (f)(13) of this section;

32 (4) Notify an eligible nonprofit scholarship-funding
 33 organization of any of the eligible nonprofit scholarship-funding
 34 organization's identified students who are receiving corporate income tax
 35 credit scholarships from other eligible nonprofit scholarship-funding
 36 organizations; and

1 (5) Require quarterly reports by an eligible nonprofit
2 scholarship-funding organization regarding the number of students
3 participating in the scholarship program, the eligible private schools at
4 which the students are enrolled, and other information deemed necessary by
5 the Department of Finance and Administration.

6 (j)(1) The amount of a scholarship provided to any student for any
7 single school year by an eligible nonprofit scholarship-funding organization
8 from eligible contributions shall not exceed three thousand seven hundred
9 fifty dollars (\$3,750) for a scholarship awarded to a student enrolled in an
10 eligible private school.

11 (2)(A) Payment of the scholarship by the eligible nonprofit
12 scholarship-funding organization shall be by individual warrant made payable
13 to the student's parent.

14 (B) If the parent chooses that his or her child attend an
15 eligible private school, the warrant must be delivered by the eligible
16 nonprofit scholarship-funding organization to the eligible private school of
17 the parent's choice, and the parent shall restrictively endorse the warrant
18 to the eligible private school.

19 (C) An eligible nonprofit scholarship-funding organization
20 shall ensure that the parent to whom the warrant is made restrictively
21 endorsed the warrant to the eligible private school for deposit into the
22 account of the eligible private school.

23 (3) An eligible nonprofit scholarship-funding organization shall
24 obtain verification from the eligible private school of a student's continued
25 attendance at the eligible private school before each scholarship payment.

26 (4) Payment of the scholarship shall be made by the eligible
27 nonprofit scholarship-funding organization no less frequently than on a
28 quarterly basis.

29 (k)(1)(A) If the income tax credit under this section is not fully
30 used in any one (1) year because of insufficient tax liability on the part of
31 the eligible taxpayer, the unused amount may be carried forward for a period
32 not to exceed three (3) years.

33 (B) An eligible taxpayer that seeks to carry forward an
34 unused amount of the income tax credit under this section must submit an
35 application for allocation of tax credits or carryforward credits as required

1 in subsection (e) of this section in the year that the eligible taxpayer
2 intends to use the carryforward.

3 (C) This carryforward applies to all approved eligible
4 contributions made after January 1, 2011.

5 (D) An eligible taxpayer may not convey, assign, or
6 transfer the income tax credit under this section to another entity unless
7 all of the assets of the eligible taxpayer are conveyed, assigned, or
8 transferred in the same transaction.

9 (2) An application for an income tax credit under this section
10 shall be submitted to the Department of Finance and Administration on forms
11 established by rule of the department.

12 (3) The Department of Finance and Administration and the
13 Department of Education shall develop a cooperative agreement to assist in
14 the administration of this section.

15 (4) The Department of Finance and Administration shall adopt
16 rules necessary to administer this section, including rules establishing
17 application forms and procedures and governing the allocation of tax credits
18 and carryforward credits under this section on a first-come, first-served
19 basis.

20 (5) An eligible taxpayer claiming a credit granted by this
21 section shall not take a deduction under the Arkansas income tax law or the
22 premium tax law for the same contribution.

23
24 SECTION 2. Section 1 of this act is effective for tax years beginning
25 on or after January 1, 2011.

26
27 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
28 General Assembly of the State of Arkansas that attendance at a private school
29 is often cost prohibitive for many Arkansas children; that these children
30 should be allowed to attend a private school; that providing scholarships
31 would allow many to attend private schools who are not currently financially
32 able to do so; and that allowing an income tax credit would encourage
33 donations that could be used for scholarships for these children. Therefore,
34 an emergency is declared to exist and this act being immediately necessary
35 for the preservation of the public peace, health, and safety shall become
36 effective on:

1 (1) The date of its approval by the Governor;

2 (2) If the bill is neither approved nor vetoed by the Governor,
3 the expiration of the period of time during which the Governor may veto the
4 bill; or

5 (3) If the bill is vetoed by the Governor and the veto is
6 overridden, the date the last house overrides the veto.

7
8 /s/Collins

9 Referred by the Arkansas House of Representatives

10 Prepared by: MMC/VJF

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36