

State of Arkansas
86th General Assembly
Regular Session, 2007

A Bill

HOUSE BILL 2608

By: Representative Harris

For An Act To Be Entitled

AN ACT TO CREATE A FAMILY EDUCATION TAX CREDIT FOR PAYMENT OF TUITION, FEES, AND CERTAIN OTHER EDUCATIONAL EXPENSES; TO CREATE A TAX CREDIT FOR INDIVIDUAL AND CORPORATE CONTRIBUTIONS TO ORGANIZATIONS THAT PROVIDE EDUCATIONAL SCHOLARSHIPS TO ELIGIBLE STUDENTS SO THEY CAN ATTEND PUBLIC AND NONPUBLIC SCHOOLS; AND FOR OTHER PURPOSES.

Subtitle

THE FAMILY EDUCATION TAX CREDIT ACT.

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

SECTION 1. Arkansas Code Title 26, Chapter 51 is amended to add an additional subchapter to read as follows:

26-51-2201. Title.

This subchapter shall be known and may be cited as "The Family Education Tax Credit Program Act".

26-51-2202. Definitions.

As used in this subchapter:

(1) "Educational scholarship" means a grant of money to an eligible student to pay for all or part of the tuition and fees at either a qualifying nonpublic school or a qualifying public school, including transportation to a public school outside of the eligible student's resident school district;



1 (2) "Eligible student" means a student who was eligible to
2 attend a public school in the state in a preceding semester or is starting
3 school in this state for the first time and whose parent has a taxable income
4 that meets the requirements of this subchapter;

5 (3) "Parent" means a legal guardian, a legal custodian, or other
6 person with legal authority to act on behalf of a student;

7 (4) "Qualifying school" means

8 (A) A public elementary or secondary school in the state
9 that is outside of the school district in which a student resides; or

10 (B) A nonpublic elementary or secondary school in the
11 state that complies with the requirements of this subchapter; and

12 (5) "Scholarship-granting organization" means an organization
13 that gives educational scholarships to eligible students attending a
14 qualifying school and complies with the requirements of this subchapter.

15
16 26-51-2203. The Family Education Tax Credit.

17 (a) A person may claim a Family Education Tax Credit against the state
18 income tax imposed by the Income Tax Act of 1929, 26-51-101 et seq., by
19 paying all or part of the tuition, fees, or other educational expenses of an
20 eligible student.

21 (b) A parent may claim a Family Education Tax Credit for the tuition,
22 fees, or other educational expense for each child that is an eligible
23 student.

24 (c) A parent may claim a Family Education Tax Credit for certain home-
25 schooling expenses.

26 (d) The Family Education Tax Credit is refundable to the parent of an
27 eligible student under this subchapter when the parents' income does not
28 exceed an amount equal to the income standard used to qualify for a reduced-
29 price lunch under the National School Lunch Act, 42 U.S.C., § 1751 et seq.,
30 as it exists on January 1, 2007.

31 (e) A parent of an eligible student under this subchapter may assign
32 their Family Education Tax Credit to their student's qualifying school.

33 (f) Individuals and corporations may claim a Family Education Tax
34 Credit against state income taxes by making contributions to scholarship-
35 granting organizations.

36 (g) Scholarship-granting organizations may solicit contributions from

individuals and corporations and provide educational scholarships to eligible students who attend qualifying schools.

(h) A taxpayer may carry forward a Family Education Tax Credit for three (3) years.

(i) For a corporate taxpayer, the amount of the Family Education Tax Credit shall equal any contributions to a scholarship-granting organization during the taxable year for which the credit is claimed up to fifty percent (50%) of the taxpayer's tax liability.

(j) For an individual taxpayer or a married couple filing jointly, the amount of the Family Education Tax Credit is equal to the total direct payments for tuition, fees and other educational expenses of an eligible student plus any contributions to scholarship granting organizations during the taxable year for which the credit is claimed not to exceed fifty percent (50%) of the taxpayer's tax liability.

(k) The amount of credit shall not exceed a taxpayer's total tax liability for the taxable year.

26-51-2204. Student eligibility.

To become an eligible student under the Family Education Tax Credit Program:

(1) The combined taxable income of the parents of a student for the preceding tax year shall not exceed an amount equal to two and one-half (2 1/2) times the income standard used to qualify for a reduced price lunch under the National School Lunch Act, 42 U.S.C. § 1751 et seq., as it existed on January 1, 2007;

(2) The student is enrolled full time in a qualifying school or in a home-schooling program that complies with state law; and

(3) The student is a resident of this state who has not graduated from high school or has not reached twenty- one (21) years of age.

26-51-2205. Eligible expenses.

(a)(1) A parent of an eligible student attending a qualifying school may claim a Family Education Tax Credit for tuition and any fees necessary to attend the qualifying school, including fees for administrative expenses, transportation costs, and academic programs.

(2) A parent of an eligible student may not claim a Family

1 Education Tax Credit for athletic fees or expenses.

2 (b)(1) A parent of an eligible student taught in a nonpublic home-
3 school program may claim a Family Education Tax Credit for educational
4 expenses including tutoring, textbooks, school supplies academic lessons, and
5 membership fees in an association that sets academic standards or provides
6 educational curricula for home-schooled students.

7 (2) A parent of an eligible student may not claim expenses for
8 tutoring or academic lessons if the parent conducts the tutoring or academic
9 lesson.

10 (c) A parent shall provide the department with a detailed listing of
11 the educational expenses for each eligible student for which they seek a
12 Family Education Tax Credit on a form prescribed by the department and attach
13 all paid receipts necessary to document educational expenses.

14
15 26-51-2206. Scholarship-granting organizations.

16 (a) A scholarship-granting organization shall:

17 (1) Notify the department of its intent to provide an
18 educational scholarship to an eligible student attending a qualifying school;

19 (2) Demonstrate to the department that it has been granted
20 exemption from the federal income tax as an organization described in Section
21 501(c)(3) of the Internal Revenue Code;

22 (3) Distribute periodic scholarship payments in the form of a
23 check written to an eligible student's parent and mailed to the qualifying
24 school where the eligible student is enrolled;

25 (4) Provide a department-approved receipt to a taxpayer that
26 submits a contribution to the scholarship-granting organization;

27 (5) Ensure that at least ninety percent (90%) of its revenue
28 from donations is spent on educational scholarships, and that all revenue
29 from interest or investments is spent on educational scholarships;

30 (6) Spend a portion of its expenditures per year on grants for
31 low-income eligible students equal to the percentage of low-income eligible
32 students in the county where the scholarship-granting organization expends
33 the majority of its grants;

34 (7) Verify annually that no student receiving a scholarship
35 resides in a household whose parent's income in the preceding tax year
36 exceeds an amount equal to two and one-half (2 1/2) times the income standard

1 used to qualify for a reduced price lunch National School Lunch Act, 42
2 U.S.C. § 1751 et seq., as it existed on January 1, 2007;

3 (8) Ensure that at least fifty-percent (50%) of first time
4 recipients of educational scholarships were not continuously enrolled in a
5 non-public school during the previous year;

6 (9) Cooperate with the department to conduct criminal background
7 checks on all of its employees and board members and exclude from employment
8 or governance any person that might reasonably pose a risk to the appropriate
9 use of contributed funds;

10 (10)(A) Ensure that educational scholarships are portable during
11 the school year and can be used at any qualifying school that accepts the
12 eligible student according to a parent's wishes.

13 (B) If a student moves to another qualifying school during
14 a school year, the scholarship amount may be prorated;

15 (11) Demonstrate their financial accountability by:

16 (A) Submitting a financial information report for the
17 scholarship-granting organization that complies with uniform financial
18 accounting standards established by the department and conducted by a
19 certified public accountant; and

20 (B) Having the certified public accountant certify that
21 the financial information report is free of material misstatements; and

22 (12) Demonstrate their financial viability if they are to
23 receive contributions of fifty thousand dollars (\$50,000) or more during the
24 school year by:

25 (A) Filing with the department prior to the start of the
26 school year a surety bond payable to the state in an amount equal to the
27 aggregate amount of contributions expected to be received during the school
28 year; or

29 (B) Filing with the department prior to the start of the
30 school year financial information that demonstrates the financial viability
31 of the scholarship-granting organization.

32 (b) Each scholarship-granting organization shall ensure that a
33 qualifying school that accepts its educational scholarship for an eligible
34 student will:

35 (1) Comply with health and safety laws or codes that apply to
36 nonpublic schools;

1 (2) Hold a valid occupancy permit if required by its
2 municipality;

3 (3) Certify that it will not discriminate in admissions on the
4 basis of race, color, national origin, religion, or disability; and

5 (4) Provide academic accountability to parents of the eligible
6 student by regularly reporting to the parent on the eligible student's
7 progress.

8 (c) A scholarship-granting organization may grant an educational
9 scholarship to an eligible student to cover part or all of the costs
10 associated with attending a qualifying school or the allowable expenses
11 incurred by a student in a home school.

12 (d) A scholarship-granting organization may not award an educational
13 scholarship to a family member of the scholarship-granting organization's
14 board of directors or its paid staff.

15
16 26-51-2207. Enforcement.

17 (a) The Department of Finance and Administration shall develop a
18 standardized form for qualifying schools to document the amount of tuition
19 and fees paid by a parent of an eligible student.

20 (b) The department shall take reasonable measures to notify parents of
21 the Family Education Tax Credit and simplify the procedure for claiming the
22 Family Education Tax Credit to extent possible under this subchapter.

23 (c) The department shall establish guidelines for parents to easily
24 assign their Family Education Tax Credit to their student's qualifying
25 school.

26 (d) The department shall require a scholarship-granting organization
27 to register and make annual reports to the department.

28 (e) The department shall promulgate rules to implement this
29 subchapter.

30 (f) The department shall make an annual report to a subcommittee of
31 the General Assembly that includes:

32 (1) The number of parents claiming the Family Education Tax
33 Credit;

34 (2) The dollar amount of Family Education Tax Credit claimed by
35 parents;

36 (3) The number of qualifying schools accepting eligible students

1 who received a Family Education Tax Credit or educational scholarship;

2 (4) The number of scholarship-granting organizations;

3 (5) The number and dollar amount of contributions to a
4 scholarship-granting organization; and

5 (6) The number and dollar amount of educational scholarships
6 given to eligible students.

7 (g) The department may conduct either a financial review or audit of a
8 scholarship-granting organization if possessing evidence of fraud.

9 (h) The department may bar an organization from being eligible as a
10 scholarship-granting organization under this subchapter if the department
11 establishes that the organization has intentionally and substantially failed
12 to comply with the requirements of this subchapter.

13 (i) If the department decides to bar an organization from the Family
14 Education Tax Credit program, it shall promptly notify affected scholarship-
15 eligible students and their parents of this decision.

16 (j) The department shall allow a taxpayer to divert a prorated amount
17 of state income tax withholdings to a scholarship-granting organization of
18 the taxpayer's choice up to the maximum Family Education Tax Credit allowed
19 by law, including carry-over Family Education Tax Credit.

20 (k) A qualifying school is not a state agency or an agent of the
21 state.

22 (l) This subchapter does not expand the regulatory authority of the
23 state, its officers, or any local school district to impose any additional
24 regulation of nonpublic schools beyond those reasonably necessary to enforce
25 the requirements of this subchapter.

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27 SECTION 2. Section 1 of this act is effective for tax years beginning
28 on and after January 1, 2007.
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