

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/18/11

# A Bill

HOUSE BILL 1771

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

## For An Act To Be Entitled

8 AN ACT TO PROVIDE AN INCOME TAX CREDIT TO BUSINESSES  
9 FOR CONTRIBUTIONS TO NONPROFIT SCHOLARSHIP-FUNDING  
10 ORGANIZATIONS; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13 TO PROVIDE AN INCOME TAX CREDIT TO  
14 BUSINESSES FOR CONTRIBUTIONS TO NONPROFIT  
15 SCHOLARSHIP-FUNDING ORGANIZATIONS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended  
22 to add a new section to read as follows:

23 26-51-515. Credits for contributions to nonprofit scholarship-funding  
24 organizations.

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

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

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

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

32 (b) As used in this section:

33 (1)(A) "Eligible contribution" means a monetary contribution  
34 from an eligible taxpayer, subject to the restrictions provided in this  
35 section, to an eligible nonprofit scholarship-funding organization.

36 (B) The eligible taxpayer making the eligible contribution



1 may not designate a specific child as the beneficiary of the contribution;

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

4 (A) Is exempt from federal income tax under 26 U.S.C. §  
5 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2011;

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

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

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

10 (i) Does not receive a distribution from the Public  
11 School Fund;

12 (ii) Is located in Arkansas;

13 (iii) Offers an education to students in any grades  
14 from kindergarten through grade twelve (K-12) and that meets the requirements  
15 in subsection (h) of this section; and

16 (iv) Is not a home school;

17 (4) "Eligible taxpayer" means a business including without  
18 limitation a corporation, partnership, limited liability company, sole  
19 proprietorship;

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

21 (A) An owner, president, officer, or director of an  
22 eligible nonprofit scholarship-funding organization or a person with  
23 equivalent decision making authority over an eligible nonprofit scholarship-  
24 funding organization; or

25 (B) An owner, operator, superintendent, or principal of an  
26 eligible private school or a person with equivalent decision making authority  
27 over an eligible private school; and

28 (6)(A) "Small business" means an independently owned and  
29 operated business concern that employs two hundred (200) or fewer permanent  
30 full-time employees and that, together with its affiliates, has a net worth  
31 of not more than five million dollars (\$5,000,000).

32 (B) As applicable to a sole proprietorship, the five  
33 million dollar-net worth limit in subdivision (a)(5)(A) of this section  
34 includes both personal and business investments of the sole proprietor.

35 (c)(1) Except as limited in subdivisions (c)(2) and (3) of this  
36 section, there is allowed an income tax credit against the income tax imposed

1 by the Income Tax Act of 1929, § 26-51-101 et seq., the premium tax imposed  
2 by § 23-75-119, or the premium tax imposed by § 23-63-1614 for one hundred  
3 percent (100%) of an eligible contribution made by the eligible taxpayer for  
4 a tax year.

5 (2) A student is eligible for an income tax credit scholarship  
6 if the student qualifies for free or reduced-price school lunches under the  
7 National School Lunch Act, as in effect on January 1, 2011, and the student:

8 (A) Was counted as a full-time equivalent student during  
9 the previous state fiscal year for purposes of state foundation funding;

10 (B) Received a scholarship from an eligible nonprofit  
11 scholarship-funding organization or from the State of Arkansas during the  
12 previous school year; or

13 (C) Is eligible to enter kindergarten.

14 (3) Contingent upon available funds, a student may continue in  
15 the scholarship program as long as the student's family income level does not  
16 exceed two hundred percent (200%) of the federal poverty level.

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

18 (1) Enrolled in a school operating for the purpose of providing  
19 educational services to youth committed to the Division of Youth Services;

20 (2) Receiving a scholarship from another eligible nonprofit  
21 scholarship-funding organization under this section;

22 (3) Participating in a home education program as defined in § 6-  
23 15-501 et. seq.;

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

28 (5) Enrolled in the Arkansas School for the Deaf or the Arkansas  
29 School for the Blind.

30 (e)(1) An income tax credit under this section may not exceed seventy-  
31 five percent (75%) of the tax due under this chapter for the taxable year,  
32 after the application of any other allowable income tax credits by the  
33 eligible taxpayer.

34 (2) An income tax credit under this section shall be reduced by  
35 the difference between the amount of federal corporate income tax taking into  
36 account the income tax credit under this section and the amount of federal

1 corporate income tax without application of the income tax credit under this  
2 section.

3 (3) The total amount of income tax credits and carryforward of  
4 income tax credits under this section for each fiscal year under this section  
5 is limited to eighty-eight million dollars (\$88,000,000). At least one  
6 percent (1%) of the total statewide amount authorized for the income tax  
7 credit under this section shall be reserved for eligible taxpayers that are a  
8 small business at the time of application for the income tax credit under  
9 this section.

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

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

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

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

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

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

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

35 (A)(i) All owners and operators are, upon employment or  
36 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's National Instant Check System.

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's National Instant Check System;

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 Education shall participate  
28 in this search process by paying an annual fee to the Department of Arkansas  
29 State Police and by informing the Department of Arkansas State Police of any  
30 change in the employment, engagement, or association status of the owners or  
31 operators whose fingerprints are retained under subdivision (f)(2)(C) of this  
32 section.

33 (iv) The Department of Arkansas State Police shall  
34 adopt a rule setting the amount of the annual fee to be imposed upon the  
35 Department of Education for performing the services under this subdivision  
36 (f)(2) and establishing the procedures for the retention of owner and

1 operator fingerprints and the dissemination of search results.

2 (v) The fee may be paid by the owner or operator of  
3 the eligible nonprofit scholarship-funding organization;

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

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

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

15 (4)(A) Shall provide scholarships from eligible contributions to  
16 eligible students for tuition, textbook expenses, or transportation to an  
17 eligible private school.

18 (B) At least seventy-five percent (75%) of the scholarship  
19 funding must be used to pay tuition expenses;

20 (5) Shall give priority to eligible students who received a  
21 scholarship from an eligible nonprofit scholarship-funding organization;

22 (6) Shall provide a scholarship to an eligible student on a  
23 first-come, first-served basis unless the eligible student qualifies for  
24 priority under subdivision (f)(5) of this section;

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

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

33 (9)(A) Except as provided in subdivision (f)(9)(B) of this  
34 section, shall obligate, in the same fiscal year in which the eligible  
35 contribution was received, one hundred percent (100%) of the eligible  
36 contribution to provide annual or partial-year scholarships to eligible

1 private schools.

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

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

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

11 (E) Eligible contributions may not be used for  
12 administrative expenses.

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

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

17 (11)(A) With the prior approval of the Department of Education,  
18 may transfer funds to another eligible nonprofit scholarship-funding  
19 organization if additional funds are required to meet scholarship demand at  
20 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 (12)(A) Shall provide to the Department of Education an annual  
32 financial and compliance audit of its accounts and records conducted by an  
33 independent certified public accountant and in accordance with rules adopted  
34 by the Department of Education.

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

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

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

9 (13)(A) Shall prepare and submit quarterly reports to the  
10 Department of Education and shall submit in a timely manner any information  
11 requested by the Department of Education relating to the scholarship program.

12 (B) Information and documentation provided to the  
13 Department of Education relating to the identity of a taxpayer that provides  
14 an eligible contribution shall remain confidential at all times and is exempt  
15 from the Arkansas Freedom of Information Act.

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

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

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

24 (4) Each parent and each eligible student has an obligation to  
25 the eligible private school to comply with the eligible private school's  
26 published policies.

27 (5)(A) The parent shall ensure that the student participating in  
28 the scholarship program takes the norm-referenced assessment offered by the  
29 eligible private school.

30 (B) The parent may also choose to have the student  
31 participate in the statewide assessments under the Arkansas Comprehensive  
32 Testing, Assessment, and Accountability Act, § 6-15-401 et seq.

33 (C) If the parent requests that the student participating  
34 in the scholarship program take statewide assessments under Arkansas  
35 Comprehensive Testing, Assessment, and Accountability Act, § 6-15-401 et  
36 seq., the parent is responsible for transporting the student to the



1 assessment site designated by the school district.

2 (6)(A) Upon receipt of a scholarship warrant from the eligible  
3 nonprofit scholarship-funding organization, the parent to whom the  
4 scholarship warrant is made must restrictively endorse the scholarship  
5 warrant to the eligible private school for deposit into the account of the  
6 eligible private school.

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

10 (C) A participant who fails to comply with this  
11 subdivision (g)(6) forfeits the scholarship.

12 (h) An eligible private school may be sectarian or nonsectarian and  
13 shall:

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

16 (2) Provide to the eligible nonprofit scholarship-funding  
17 organization, upon request, all documentation required for the student's  
18 participation, including the eligible private school's and student's fee  
19 schedules;

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

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

24 (B)(i) Annually administering or making provision for  
25 students participating in the scholarship program to take one of the  
26 nationally norm-referenced tests identified by the Department of Education.

27 (ii) Students with disabilities for whom  
28 standardized testing is not appropriate as stated in the students  
29 individualized education plan are exempt from this requirement.

30 (iii) A participating eligible private school shall  
31 report a student's scores to the parent and to the independent research  
32 organization selected by the Department of Education as described in  
33 subdivision (i)(10) of this section in accordance with the requirements of  
34 the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and

35 (C) Cooperating with the scholarship student whose parent  
36 chooses to participate in the statewide assessments under Arkansas

1 Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401  
2 et. seq.;

3 (4) Employ or contract with teachers who have regular and direct  
4 contact with each student receiving a scholarship under this section at the  
5 eligible private school's physical location; and

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

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

11 (i) The Department of Education shall:

12 (1) Annually by March 15 list the eligible nonprofit  
13 scholarship-funding organizations;

14 (2) Annually verify the eligibility of nonprofit scholarship-  
15 funding organizations;

16 (3) Annually verify the eligibility of private schools that meet  
17 the requirements of subsection (h);

18 (4) Annually verify the eligibility of expenditures as provided  
19 in subdivision (f)(4) of this section using the audit required by subdivision  
20 (f)(12) of this section;

21 (5) Establish a toll-free hotline that provides parents and  
22 private schools with information on participation in the scholarship program;

23 (6)(A) Establish a process by which individuals may notify the  
24 Department of Education of any violation by a parent, eligible private  
25 school, or school district of state laws relating to program participation.

26 (B)(i) The Department of Education shall conduct an  
27 inquiry of any written complaint of a violation of this section or make a  
28 referral to the appropriate agency for an investigation, if the complaint is  
29 signed by the complainant and is legally sufficient.

30 (ii) A complaint is legally sufficient if it  
31 contains ultimate facts that show that a violation of this section or any  
32 rule adopted by the State Board of Education has occurred.

33 (iii) In order to determine legal sufficiency, the  
34 Department of Education may require supporting information or documentation  
35 from the complainant;

36 (7) Require an annual, notarized, sworn compliance statement by

1 participating eligible private schools certifying compliance with state laws  
2 and shall retain such records;

3 (8) Cross-check the list of participating scholarship students  
4 with the public school enrollment lists to avoid duplication;

5 (9)(A) In accordance with State Board of Education rule,  
6 identify and select the nationally norm-referenced tests that are comparable  
7 to the norm-referenced provisions of the Arkansas Comprehensive Testing,  
8 Assessment, and Accountability Program provided that the Arkansas  
9 Comprehensive Testing, Assessment, and Accountability Program assessments may  
10 be one (1) of the tests selected.

11 (B) The Department of Education may approve the use of an  
12 additional assessment by the eligible private school if the assessment meets  
13 industry standards of quality and comparability;

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

18 (B) The independent research organization shall report  
19 annually to the Department of Education on the year-to-year improvements of  
20 participating students.

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

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

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

36 (F) The sharing of student data shall be in accordance

1 with requirements of the Family Educational Rights and Privacy Act, 20 U.S.C.  
2 § 1232g, as in effect on January 1, 2011, and shall be for the sole purpose  
3 of conducting the evaluation.

4 (G) All parties shall preserve the confidentiality of such  
5 information as required by law;

6 (11) Notify an eligible nonprofit scholarship-funding  
7 organization of any of the eligible nonprofit scholarship-funding  
8 organization's identified students who are receiving educational  
9 scholarships;

10 (12) Notify an eligible nonprofit scholarship-funding  
11 organization of any of the eligible nonprofit scholarship-funding  
12 organization's identified students who are receiving corporate income tax  
13 credit scholarships from other eligible nonprofit scholarship-funding  
14 organizations;

15 (13) Require quarterly reports by an eligible nonprofit  
16 scholarship-funding organization regarding the number of students  
17 participating in the scholarship program, the eligible private schools at  
18 which the students are enrolled, and other information deemed necessary by  
19 the Department of Education; and

20 (14)(A)(i) Conduct random site visits to eligible private  
21 schools participating in the Corporate Tax Credit Scholarship Program.

22 (ii) The purpose of the site visits is solely to  
23 verify the information reported by the eligible private schools concerning  
24 the enrollment and attendance of students, the credentials of teachers,  
25 background screening of teachers, and teachers' fingerprinting results.

26 (iii) The Department of Education may not make more  
27 than seven (7) random site visits each year and may not make more than one  
28 (1) random site visit each year to the same eligible private school.

29 (B) Annually by December 15 report to the Governor, the  
30 President Pro Tempore of the Senate, and the Speaker of the House of  
31 Representatives the Department of Education's actions with respect to  
32 implementing accountability in the scholarship program under this section any  
33 substantiated allegations or violations of law or rule by an eligible private  
34 school under this program concerning the enrollment and attendance of  
35 students, the credentials of teachers, background screening of teachers, and  
36 teachers' fingerprinting results and the corrective action taken by the

1 Department of Education.

2 (j)(1)(A) The Commissioner of Education shall deny, suspend, or revoke  
3 an eligible private school's participation in the scholarship program if it  
4 is determined that the eligible private school has failed to comply with this  
5 section.

6 (B) In instances in which the noncompliance is correctable  
7 within a reasonable amount of time and in which the health, safety, or  
8 welfare of the students is not threatened, the commissioner may issue a  
9 notice of noncompliance that shall provide the eligible private school with a  
10 timeframe within which to provide evidence of compliance prior to taking  
11 action to suspend or revoke the eligible private school's participation in  
12 the scholarship program.

13 (2) The commissioner's determination is subject to the  
14 following:

15 (A) If the commissioner intends to deny, suspend, or  
16 revoke an eligible private school's participation in the scholarship program,  
17 the Department of Education shall notify the eligible private school of such  
18 proposed action in writing by certified mail and regular mail to the eligible  
19 private school's address of record with the Department of Education. The  
20 notification shall include the reasons for the proposed action and notice of  
21 the timelines and procedures set forth in this subdivision (i)(2); and

22 (B) The eligible private school that is adversely affected  
23 by the proposed action shall have the right to appeal the decision as  
24 outlined in department rule;

25 (3) The commissioner may suspend immediately payment of  
26 scholarship funds if it is determined that there is probable cause to believe  
27 that there is:

28 (A) An imminent threat to the health, safety, and welfare  
29 of the students; or

30 (B) Fraudulent activity on the part of the eligible  
31 private school; and

32 (4) In incidents of alleged fraudulent activity under this  
33 section, the Department of Education may release personally identifiable  
34 records or reports of students to the following persons or organizations:

35 (A) A court of competent jurisdiction in compliance with  
36 an order of that court or the attorney of record in accordance with a

1 lawfully issued subpoena, consistent with the Family Educational Rights and  
2 Privacy Act, 20 U.S.C. § 1232g, as in effect on January 1, 2011; and

3 (B) A person or entity authorized by a court of competent  
4 jurisdiction in compliance with an order of that court or the attorney of  
5 record pursuant to a lawfully issued subpoena, consistent with the Family  
6 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as in effect on  
7 January 1, 2011; or

8 (C) Any person, entity, or authority issuing a subpoena  
9 for law enforcement purposes when the court or other issuing agency has  
10 ordered that the existence or the contents of the subpoena or the information  
11 furnished in response to the subpoena not be disclosed, consistent with the  
12 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as in effect on  
13 January 1, 2011, and 34 C.F.R. § 99.31, as in effect January 1, 2011; and

14 (5) The commissioner's order suspending payment under this  
15 subsection may be appealed under department rule.

16 (k)(1) The amount of a scholarship provided to any student for any  
17 single school year by an eligible nonprofit scholarship-funding organization  
18 from eligible contributions shall not exceed three thousand seven hundred  
19 fifty dollars (\$3,750) for a scholarship awarded to a student enrolled in an  
20 eligible private school.

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

24 (B) If the parent chooses that his or her child attend an  
25 eligible private school, the warrant must be delivered by the eligible  
26 nonprofit scholarship-funding organization to the eligible private school of  
27 the parent's choice, and the parent shall restrictively endorse the warrant  
28 to the eligible private school.

29 (C) An eligible nonprofit scholarship-funding organization  
30 shall ensure that the parent to whom the warrant is made restrictively  
31 endorsed the warrant to the eligible private school for deposit into the  
32 account of the eligible private school.

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

36 (4) Payment of the scholarship shall be made by the eligible

1 nonprofit scholarship-funding organization no less frequently than on a  
2 quarterly basis.

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

7 (B) An eligible taxpayer that seeks to carry forward an  
8 unused amount of the income tax credit under this section must submit an  
9 application for allocation of tax credits or carryforward credits as required  
10 in subsection (e) of this section in the year that the eligible taxpayer  
11 intends to use the carryforward.

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

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

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

21 (3) The Department of Finance and Administration and the  
22 Department of Education shall develop a cooperative agreement to assist in  
23 the administration of this section.

24 (4) The Department of Finance and Administration shall adopt  
25 rules necessary to administer this section, including rules establishing  
26 application forms and procedures and governing the allocation of tax credits  
27 and carryforward credits under this section on a first-come, first-served  
28 basis.

29 (5) The State Board of Education shall adopt rules to administer  
30 this section as it relates to the roles of the Department of Education and  
31 the Commissioner of Education.

32  
33 /s/Collins  
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