

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

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

As Engrossed: H3/18/11 H3/29/11

A Bill

HOUSE BILL 1771

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

For An Act To Be Entitled

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

Subtitle

15
16 *TO PROVIDE K-12 SCHOLARSHIPS FOR*
17 *ECONOMICALLY DISADVANTAGED CHILDREN*
18 *THROUGH A CORPORATE INCOME TAX CREDIT.*
19
20
21

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

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

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

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

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

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

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

35 (b) As used in this section:

36 (1)(A) "Eligible contribution" means a monetary contribution



1 from an eligible taxpayer or corporation, subject to the restrictions
2 provided in this section, to an eligible nonprofit scholarship-funding
3 organization.

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

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

8 (A) Is exempt from federal income tax under 26 U.S.C. §
9 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2011;

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

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

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

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

17 (B) Is located in Arkansas; and

18 (C) Is not a home school;

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

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

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

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

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

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

36 (A) Is a member of a household whose total annual income

1 the year before he or she receives an educational scholarship under this
2 program does not exceed an amount equal to two hundred percent (200%) of the
3 federal poverty level income standard;

4 (B) Meets requirements to enroll in public school in
5 Arkansas;

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

9 (D) Is eligible to enter kindergarten; or

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

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

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

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

17 (2) Participating in a home education program as defined in § 6-
18 15-501 et. seq.;

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

23 (4) Enrolled in the Arkansas School for the Deaf or the Arkansas
24 School for the Blind.

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

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

34 (3) The total amount of income tax credits and carryforward of
35 income tax credits under this section for each fiscal year under this section
36 is limited to thirty million dollars (\$30,000,000) in tax year 2011 and may

1 expand by no more than ten million dollars (\$10,000,000) each year until it
2 reaches a cap of ninety million dollars (\$90,000,000). Expansion of credit
3 is limited to the amount of revenue necessary to fulfill projected
4 scholarship applications as determined by the eligible nonprofit scholarship-
5 funding organization each year.

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

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

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

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

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

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

29 (2) Shall comply with the following background check
30 requirements:

31 (A)(i) All owners and operators are, upon employment or
32 engagement to provide services, subject to fingerprinting and a background
33 check successfully completed through the Department of Arkansas State Police
34 and the Federal Bureau of Investigation.

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

1 (iii) The cost of the background check may be paid
2 by the eligible nonprofit scholarship-funding organization or the owner or
3 operator;

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

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

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

16 (D)(i) Beginning July 1, 2011, the Department of Arkansas
17 State Police shall search all arrest fingerprint cards against the
18 fingerprints retained in the statewide automated fingerprint identification
19 system.

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

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

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

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

33 (F) An eligible nonprofit scholarship-funding organization
34 whose owner or operator in the last seven (7) years has filed for personal
35 bankruptcy or corporate bankruptcy in a corporation of which he or she owned
36 more than twenty percent (20%) shall not be eligible to provide scholarships

1 under this section;

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

5 (4)(A) Shall provide scholarships from eligible contributions to
6 eligible students for tuition, textbook expenses, or transportation to an
7 eligible private school.

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

10 (5) Shall give priority to eligible students *who previously*
11 *received a scholarship from an eligible nonprofit scholarship-funding*
12 *organization;*

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

16 (7) *Shall provide a scholarship to an eligible student through a*
17 *random, anonymous student selection method unless the eligible student*
18 *qualifies for priority under subdivision (f)(5) or subdivision (f)(6) of this*
19 *section;*

20 (8) *May not restrict or reserve scholarships for use at a*
21 *particular private school or provide scholarships to a child of an owner or*
22 *operator;*

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

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

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

36 (C) An eligible nonprofit scholarship-funding

1 organization, before granting a scholarship for an academic year, shall
2 document each eligible student's scholarship eligibility for that academic
3 year.

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

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

9 (F) All interest accrued from eligible contributions shall
10 be used for scholarships;

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

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

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

21 (C) All transferred funds must be deposited by the
22 receiving eligible nonprofit scholarship-funding organization into its
23 scholarship accounts.

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

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

30 (B) The audit shall be conducted in compliance with
31 generally accepted auditing standards and shall include a report on financial
32 statements presented in accordance with generally accepted accounting
33 principles set forth by the American Institute of Certified Public
34 Accountants for not-for-profit organizations and a determination of
35 compliance with the statutory eligibility and expenditure requirements set
36 forth in this section.

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

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

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

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

15 (17) Annually verify the eligibility of nonprofit scholarship-
16 funding organizations;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (i) If the owner or operator intends to deny,
32 suspend, or revoke an eligible private school's participation in the
33 scholarship program, the eligible nonprofit scholarship-funding organization
34 shall notify the eligible private school of such proposed action in writing
35 by certified mail and regular mail to the eligible private school's address
36 of record with the eligible nonprofit scholarship-funding organization. The

1 notification shall include the reasons for the proposed action and notice of
2 the timelines and procedures set forth in this subdivision (i)(2); and

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

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

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

11 (ii) Fraudulent activity on the part of the eligible
12 private school.

13 (D) In incidents of alleged fraudulent activity, the
14 eligible nonprofit scholarship-funding organization may release personally
15 identifiable records or reports of students to the following persons or
16 organizations:

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

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

26 (iii) Any person, entity, or authority issuing a
27 subpoena for law enforcement purposes when the court or other issuing agency
28 has ordered that the existence or the contents of the subpoena or the
29 information furnished in response to the subpoena not be disclosed,
30 consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. §
31 1232(g), as in effect of January 1, 2011, and 34 C.F.R. § 99.31, as in effect
32 January 1, 2011.

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

36 (23) Identify and select the nationally norm-referenced tests

1 that are comparable to the norm-referenced provisions of the Arkansas
2 Comprehensive Testing, Assessment, and Accountability Program provided that
3 the Arkansas Comprehensive Testing, Assessment, and Accountability Program
4 assessments may be one (1) of the tests selected; and

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

9 (B) The independent research organization shall report
10 annually to the Department of Education on the year-to-year improvements of
11 participating students.

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

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

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

27 (F) The sharing of student data shall be in accordance
28 with requirements of the Family Educational Rights and Privacy Act, 20 U.S.C.
29 § 1232(g), as in effect on January 1, 2011, and shall be for the sole purpose
30 of conducting the evaluation.

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

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

35 (g)(1) To qualify his or her child for a scholarship from an eligible
36 nonprofit scholarship-funding organization, a parent shall select an eligible

1 private school and apply for the admission of his or her child.

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

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

7 (4) Each parent and each eligible student has an obligation to
8 the eligible private school to comply with the eligible private school's
9 published policies.

10 (5)(A) Upon receipt of a scholarship warrant from the eligible
11 nonprofit scholarship-funding organization, the parent to whom the
12 scholarship warrant is made must restrictively endorse the scholarship
13 warrant to the eligible private school for deposit into the account of the
14 eligible private school.

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

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

20 (h) An eligible private school may be sectarian or nonsectarian and
21 shall:

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

24 (2) Provide to the eligible nonprofit scholarship-funding
25 organization, upon request, all documentation required for the student's
26 participation, including the eligible private school's and student's fee
27 schedules;

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

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

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

36 (ii) Students with disabilities for whom

1 standardized testing is not appropriate as stated in the students
2 individualized education plan are exempt from this requirement. However, the
3 participating eligible private school must prepare a portfolio that provides
4 information to the parent or parents of a student's progress each year.

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

10 (4) Comply with all requirements and laws for private schools in
11 Arkansas; and

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

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

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

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

20 (2) Annually verify the eligibility of nonprofit scholarship-
21 funding organizations;

22 (3) Annually verify the eligibility of expenditures as provided
23 in subdivision (f)(4) of this section using the audit required by subdivision
24 (f)(13) of this section;

25 (4) Notify an eligible nonprofit scholarship-funding
26 organization of any of the eligible nonprofit scholarship-funding
27 organization's identified students who are receiving corporate income tax
28 credit scholarships from other eligible nonprofit scholarship-funding
29 organizations; and

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

35 (j)(1) The amount of a scholarship provided to any student for any
36 single school year by an eligible nonprofit scholarship-funding organization

1 from eligible contributions shall not exceed three thousand seven hundred
2 fifty dollars (\$3,750) for a scholarship awarded to a student enrolled in an
3 eligible private school.

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

7 (B) If the parent chooses that his or her child attend an
8 eligible private school, the warrant must be delivered by the eligible
9 nonprofit scholarship-funding organization to the eligible private school of
10 the parent's choice, and the parent shall restrictively endorse the warrant
11 to the eligible private school.

12 (C) An eligible nonprofit scholarship-funding organization
13 shall ensure that the parent to whom the warrant is made restrictively
14 endorsed the warrant to the eligible private school for deposit into the
15 account of the eligible private school.

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

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

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

26 (B) An eligible taxpayer that seeks to carry forward an
27 unused amount of the income tax credit under this section must submit an
28 application for allocation of tax credits or carryforward credits as required
29 in subsection (e) of this section in the year that the eligible taxpayer
30 intends to use the carryforward.

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

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

