

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 740

By: Senator J. English
By: Representatives Collins, Westerman

For An Act To Be Entitled

AN ACT TO PROVIDE KINDERGARTEN THROUGH TWELFTH GRADE
(K-12) SCHOLARSHIPS TO ECONOMICALLY DISADVANTAGED
STUDENTS BY PROVIDING A TAX CREDIT FOR CONTRIBUTIONS
TO NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS; TO
REGULATE THE PERSONS AND ENTITIES PARTICIPATING IN
THE PROGRAM TO PROVIDE K-12 SCHOLARSHIPS THAT ARE
SUBJECT TO THE TAX CREDIT; TO DECLARE AN EMERGENCY;
AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE K-12 SCHOLARSHIPS TO
ECONOMICALLY DISADVANTAGED STUDENTS BY
PROVIDING A TAX CREDIT FOR CONTRIBUTIONS
TO NONPROFIT SCHOLARSHIP-FUNDING
ORGANIZATIONS; AND TO DECLARE AN
EMERGENCY.

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

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

Subchapter 26 – K-12 Scholarship Contribution Tax Credit Act

26-51-2601. Title.

This subchapter shall be known and may be cited as the “K-12
Scholarship Contribution Tax Credit Act”.



1
2 26-51-2602. Purpose.

3 The purpose of this subchapter is to:

4 (1) Encourage private voluntary contributions to nonprofit
5 scholarship-funding organizations;

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

8 (3) Enable children in this state to achieve a higher level of
9 excellence in their education.

10
11 26-51-2603. Definitions.

12 As used in this subchapter:

13 (1) "Eligible contribution" means a monetary contribution from
14 an eligible taxpayer, subject to the restrictions provided in this
15 subchapter, to a nonprofit scholarship-funding organization;

16 (2) "Eligible private school" means a nonpublic school that:

17 (A) Provides education to elementary or secondary
18 students;

19 (B) Has notified a nonprofit scholarship-funding
20 organization of its intention to participate and comply with the requirements
21 of this subchapter and the K-12 Scholarship Tax Credit Act, § 6-18-1901 et
22 seq.;

23 (C) Is located in Arkansas; and

24 (D) Is not a home school as defined in § 6-15-501;

25 (3)(A) "Eligible student" means a student who:

26 (i) Meets one (1) of the following criteria:

27 (a) Is a member of a household whose total
28 annual income the year before he or she applies for an educational
29 scholarship under this subchapter does not exceed an amount equal to two
30 hundred fifty percent (250%) of the federal poverty level income standard;

31 (b) Received a scholarship from a nonprofit
32 scholarship-funding organization or from the state during the previous school
33 year and has not graduated from high school or reached twenty-one (21) years
34 of age; or

35 (c) Is a sibling of a student who meets the
36 requirement stated in subdivision (3)(A)(i)(b) of this section;

1 (ii) Is residentially zoned in a school district
2 with a student enrollment that exceeds one thousand (1,000) students; and

3 (iii) Meets one (1) of the following criteria:

4 (a) Is eligible to attend a public school in
5 Arkansas for the first time;

6 (b) For a student participating in the
7 scholarship program for the first time in the 2013-2014 school year, was
8 counted in public school enrollment in Arkansas through the fiscal year
9 three-quarter average daily membership of the 2011-2012 school year or the
10 2012-2013 school year;

11 (c) For a student participating in the
12 scholarship program for the first time in the 2013-2014 school year, was
13 eligible to enroll in an Arkansas public school for the first time in the
14 2012-2013 school year; or

15 (d) For a student participating in the
16 scholarship program for the first time after the 2013-2014 school year, was
17 enrolled in a public school in Arkansas through the fiscal year three-quarter
18 average daily membership of the preceding school year.

19 (B) "Eligible student" does not mean a student who:

20 (i) Receives a scholarship from another nonprofit
21 scholarship-funding organization under this subchapter;

22 (ii) Participates in a home school as defined in §
23 6-15-501;

24 (iii) Participates in a virtual school,
25 correspondence school, or distance learning program that receives state
26 funding pursuant to the student's participation unless the participation is
27 limited to no more than two (2) courses per school year; or

28 (iv) Is enrolled in the Arkansas School for the Deaf
29 or the Arkansas School for the Blind;

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

33 (5) "Nonprofit scholarship-funding organization" means a
34 charitable organization that:

35 (A) Is exempt from federal income tax under 26 U.S.C. §
36 501(c)(3) of the Internal Revenue Code, as it existed on January 1, 2013;

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

3 (C) Has notified the Department of Education of its
4 intention to participate and comply with the requirements of this subchapter
5 and the K-12 Scholarship Tax Credit Act, § 6-18-1901 et seq.;

6 (6) "Owner" or "operator" means:

7 (A) An owner, president, officer, or director of a
8 nonprofit scholarship-funding organization or a person with equivalent
9 decision-making authority over a nonprofit scholarship-funding organization;
10 or

11 (B) An owner, operator, superintendent, or principal of an
12 eligible private school or a person with equivalent decision-making authority
13 over an eligible private school;

14 (7) "Scholarship program" means a program that awards
15 scholarships that are funded by eligible contributions made under this
16 subchapter and the K-12 Scholarship Tax Credit Act, § 6-18-1901 et seq.; and

17 (8) "Tuition expenses" means the tuition and fees required for
18 attendance at an eligible private school, including without limitation the
19 costs associated with transportation.

20
21 26-51-2604. Tax credit for eligible contributions.

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

27 (b)(1) An income tax credit under this section may not exceed one
28 hundred percent (100%) of the tax due for the taxable year after the
29 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 tax taking into account the income tax
33 credit under this section and the amount of tax without application of the
34 income tax credit under this section.

35 (3)(A) For the fiscal year beginning July 1, 2013, the total
36 amount of income tax credits and carry forward of income tax credits for the

1 state under this section is limited to ten million dollars (\$10,000,000).

2 (B)(i) For fiscal years beginning on and after July 1,
3 2014, the total amount of tax credits allowed under this section is the
4 amount for the preceding fiscal year.

5 (ii) However, the total amount of credits allowed
6 under subdivision (b)(3)(B)(i) of this section may be increased by up to
7 thirty-five percent (35%) if at least ninety percent (90%) of the total
8 amount of tax credits allowed for the preceding fiscal year was claimed.

9 (4) An eligible taxpayer that 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 (b)(1)–(3) of this
13 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 under subdivision (b)(5)(A) of
17 this section shall become available for purposes of the cap for the state
18 fiscal year under this section to an eligible taxpayer as approved by the
19 Department of Finance and Administration if:

20 (i) The eligible taxpayer receives notice from the
21 department that the rescission has been accepted by the department; and

22 (ii) 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 (b)(5)
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.

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

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

1 required in subsection (b) of this section in the year that the eligible
2 taxpayer intends to use the carry forward.

3 (C) This carry forward applies to all approved eligible
4 contributions made after July 1, 2013.

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

9 (d) An application for an income tax credit under this section shall
10 be submitted to the department on forms prepared by the department.

11 (e) An eligible taxpayer claiming a credit granted under this section
12 shall not take a deduction under the Arkansas income tax law or the premium
13 tax law for the same contribution.

14
15 26-51-2605. Department of Finance and Administration – Duties.

16 The Department of Finance and Administration shall:

17 (1) By July 15, 2013, and by March 15 each year thereafter, list
18 the nonprofit scholarship-funding organizations;

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

21 (3) Annually verify the eligibility of expenditures as provided
22 in § 6-18-1904(4) using the audit required under § 6-18-1904(13);

23 (4) Notify a nonprofit scholarship-funding organization of any
24 of the nonprofit scholarship-funding organization's identified students who
25 are receiving corporate income tax credit scholarships from other nonprofit
26 scholarship-funding organizations;

27 (5) Require quarterly reports by a nonprofit scholarship-funding
28 organization regarding the number of students participating in the
29 scholarship program, the eligible private schools at which the students are
30 enrolled, and other information deemed necessary by the Department of Finance
31 and Administration;

32 (6) Adopt rules necessary to administer this subchapter,
33 including without limitation rules establishing application forms and
34 procedures and governing the allocation of tax credits and carry forward
35 credits under this section on a first-come, first-served basis; and

36 (7) In cooperation with the Department of Education, develop a

1 cooperative agreement to assist in the administration of this subchapter and
2 the K-12 Scholarship Tax Credit Act, § 6-18-1901 et seq.

3
4 26-51-2606. Limitations on scholarships – Payment of scholarships.

5 (a)(1)(A) The amount of a scholarship provided to a student for any
6 single school year by a nonprofit scholarship-funding organization from
7 eligible contributions shall not exceed four thousand dollars (\$4,000) for a
8 scholarship awarded to a student enrolled in an eligible private school in
9 the first year of the scholarship program.

10 (B) An increase in foundation funding aid under § 6-20-
11 2305 shall result in an equal percentage increase in the maximum scholarship
12 amount.

13 (2)(A) Payment of the scholarship by the nonprofit scholarship-
14 funding organization shall be by an individual scholarship warrant made
15 payable to the student's parent or guardian.

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

22 (C) A nonprofit scholarship-funding organization shall
23 ensure that the parent or guardian to whom the scholarship warrant is made
24 restrictively endorses the scholarship warrant to the eligible private school
25 for deposit into the scholarship account of the eligible private school.

26 (b) A nonprofit scholarship-funding organization shall obtain
27 verification from the eligible private school of an eligible student's
28 continued attendance at the eligible private school before each scholarship
29 payment.

30 (c) Payment of the scholarship shall be made by the nonprofit
31 scholarship-funding organization at least monthly.

32 (d) An eligible taxpayer making an eligible contribution may not
33 designate a specific child as the beneficiary of the eligible contribution.

34
35 SECTION 2. Arkansas Code Title 6, Chapter 18, is amended to add an
36 additional subchapter to read as follows:

Subchapter 19 – K-12 Scholarship Tax Credit Act

6-18-1901. Title.

This chapter shall be known and may be cited as the “K-12 Scholarship Tax Credit Act”.

6-18-1902. Purpose.

The purpose of this subchapter is to:

(1) Supplement the K-12 Scholarship Contribution Tax Credit Act, § 26-51-2601 et seq.;

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

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

6-18-1903. Definitions.

As used in this chapter:

(1) “Eligible contribution” means a monetary contribution from an eligible taxpayer, subject to the restrictions provided in the K-12 Scholarship Contribution Tax Credit Act, § 26-51-2601 et seq., to a nonprofit scholarship-funding organization;

(2) “Eligible private school” means a nonpublic school that:

(A) Provides education to elementary or secondary students;

(B) Has notified the Department of Education of its intention to participate and comply with the requirements of this subchapter and the K-12 Scholarship Contribution Tax Credit Act, § 26-51-2601 et seq.;

(C) Is located in Arkansas; and

(D) Is not a home school as defined in § 6-15-501;

(3)(A) “Eligible student” means a student who:

(i) Meets one (1) of the following criteria:

(a) Is a member of a household whose total annual income the year before he or she applies for an educational scholarship under the K-12 Scholarship Contribution Tax Credit Act, § 26-51-2601 et seq., does not exceed an amount equal to two hundred fifty percent (250%) of the federal poverty level income standard;

1 (b) Received a scholarship from a nonprofit
2 scholarship-funding organization or from the state during the previous school
3 year and has not graduated from high school or reached twenty-one (21) years
4 of age; or

5 (c) Is a sibling of a student who meets the
6 requirement stated in subdivision (3)(A)(i)(b) of this section;

7 (ii) Is residentially zoned in a school district
8 with a student enrollment that exceeds one thousand (1,000) students; and

9 (iii) Meets one (1) of the following criteria:

10 (a) Is eligible to attend a public school in
11 Arkansas for the first time;

12 (b) For a student participating in the
13 scholarship program for the first time in the 2013-2014 school year, was
14 counted in public school enrollment in Arkansas through the fiscal year
15 three-quarter average daily membership of the 2011-2012 school year or the
16 2012-2013 school year;

17 (c) For a student participating in the
18 scholarship program for the first time in the 2013-2014 school year, was
19 eligible to enroll in an Arkansas public school for the first time in the
20 2012-2013 school year; or

21 (d) For a student participating in the
22 scholarship program for the first time after the 2013-2014 school year, was
23 enrolled in a public school in Arkansas through the fiscal year three-quarter
24 average daily membership of the preceding school year.

25 (B) "Eligible student" does not mean a student who:

26 (i) Receives a scholarship from another nonprofit
27 scholarship-funding organization under this subchapter;

28 (ii) Participates in a home school as defined in §
29 6-15-501;

30 (iii) Participates in a virtual school,
31 correspondence school, or distance learning program that receives state
32 funding pursuant to the student's participation unless the participation is
33 limited to no more than two (2) courses per school year; or

34 (iv) Is enrolled in the Arkansas School for the Deaf
35 or the Arkansas School for the Blind;

36 (4) "Nonprofit scholarship-funding organization" means a

1 charitable organization that:

2 (A) Is exempt from federal income tax under 26 U.S.C. §
 3 501(c)(3) of the Internal Revenue Code, as it existed on January 1, 2013;

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

6 (C) Has notified the Department of Education of its
 7 intention to participate and comply with the requirements of this subchapter
 8 and the K-12 Scholarship Contribution Tax Credit Act, § 26-51-2601 et seq.;

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

10 (A) An owner, president, officer, or director of a
 11 nonprofit scholarship-funding organization or a person with equivalent
 12 decision-making authority over a nonprofit scholarship-funding organization;
 13 or

14 (B) An owner, operator, superintendent, or principal of an
 15 eligible private school or a person with equivalent decision-making authority
 16 over an eligible private school;

17 (6) "Scholarship program" means a program that awards
 18 scholarships that are funded by eligible contributions made under this
 19 subchapter and the K-12 Scholarship Contribution Tax Credit Act, § 26-51-2601
 20 et seq.; and

21 (7) "Tuition expenses" means the tuition and fees required for
 22 attendance at an eligible private school, including without limitation the
 23 costs associated with transportation.

24
 25 6-18-1904. Nonprofit scholarship-funding organization – Requirements.

26 A nonprofit scholarship-funding organization:

27 (1) Shall comply with the antidiscrimination provisions of 42
 28 U.S.C. § 2000d, as it existed on January 1, 2013;

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

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

35 (ii) The nonprofit scholarship-funding organization
 36 shall provide the results of the state and national criminal history check to

1 the Department of Education for screening;

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

7 (C)(i) All fingerprints submitted to the Department of
8 Arkansas State Police as required by this subdivision (2) shall be retained
9 by the Department of Arkansas State Police in a manner approved by rule and
10 entered into the statewide automated fingerprint identification system.

11 (ii) The fingerprints shall be available for all
12 purposes and uses authorized by law for arrest fingerprint cards entered into
13 the statewide automated fingerprint identification system;

14 (D)(i) The Department of Arkansas State Police shall
15 search all arrest fingerprint cards against the fingerprints retained in the
16 statewide automated fingerprint identification system.

17 (ii) An arrest record that is identified with an
18 owner's or operator's fingerprints shall be reported to the Department of
19 Education.

20 (iii) The Department of Arkansas State Police may
21 adopt a rule setting the amount of the annual fee to be paid by the
22 Department of Education for performing the services under this subdivision
23 (2) and establishing the procedures for the retention of owner and operator
24 fingerprints and the dissemination of search results; and

25 (E) A nonprofit scholarship-funding organization is not
26 eligible to provide scholarships under this subchapter if:

27 (i) The owner or operator of the nonprofit
28 scholarship-funding organization does not provide a satisfactory background
29 check; or

30 (ii) In the last seven (7) years, the owner or
31 operator of the nonprofit scholarship-funding organization has has filed for
32 personal bankruptcy or corporate bankruptcy in a corporation of which he or
33 she owned more than twenty percent (20%);

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

1 (4) Shall provide scholarships from eligible contributions to
2 eligible students for the lesser of the maximum scholarship amount or the
3 full cost of tuition expenses;

4 (5) Shall give priority to an eligible student who previously
5 received a scholarship from a nonprofit scholarship-funding organization;

6 (6) Shall give priority to the sibling or siblings of an
7 eligible student who has received a scholarship under the scholarship program
8 and is currently enrolled in a private school through the scholarship
9 program;

10 (7) Shall provide a scholarship to an eligible student through a
11 random and anonymous student selection method unless the eligible student
12 qualifies for priority under subdivision (5) or (6) of this section;

13 (8) Shall not restrict or reserve scholarships for use at a
14 particular private school;

15 (9) Shall allow an eligible student to attend any eligible
16 private school and shall allow a parent or guardian of an eligible student to
17 transfer a scholarship during a school year to any other eligible private
18 school of the parent's or guardian's choice if the eligible student was
19 excused by the current eligible private school for illness or other good
20 cause;

21 (10)(A) Except as otherwise provided in this section, shall
22 obligate one hundred percent (100%) of the eligible contributions to provide
23 full-year or partial-year scholarships to eligible private schools in the
24 fiscal year in which the contribution was received.

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

28 (C) A nonprofit scholarship-funding organization, before
29 granting a scholarship for an academic year, shall document each eligible
30 student's scholarship eligibility for that academic year.

31 (D) A nonprofit scholarship-funding organization shall not
32 grant multiyear scholarships in one (1) approval process.

33 (E) Up to eight percent (8%) of eligible contributions may
34 be used for administrative expenses of the nonprofit scholarship-funding
35 organization.

36 (F) All interest accrued from eligible contributions shall

1 be used for scholarships;

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

4 (12)(A) With the prior approval of the Department of Finance and
5 Administration, may transfer funds to another nonprofit scholarship-funding
6 organization if additional funds are required to meet scholarship demand at
7 the receiving nonprofit scholarship-funding organization.

8 (B) A transfer under subdivision (12)(A) of this section
9 shall be limited to the greater of five hundred thousand dollars (\$500,000)
10 or twenty percent (20%) of the total eligible contributions received by the
11 nonprofit scholarship-funding organization making the transfer.

12 (C) All funds transferred under subdivision (12)(A) of
13 this section shall be deposited by the receiving nonprofit scholarship-
14 funding organization into its scholarship accounts.

15 (D) All transferred amounts received by a nonprofit
16 scholarship-funding organization shall be disclosed separately in the annual
17 financial and compliance audit required under subdivision (13) of this
18 section;

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

22 (B) The audit required under subdivision (13)(A) of this
23 section shall be conducted in compliance with generally accepted auditing
24 standards and shall include the following:

25 (i) A report on financial statements presented in
26 accordance with generally accepted accounting principles set forth by the
27 American Institute of Certified Public Accountants for not-for-profit
28 organizations; and

29 (ii) A determination of compliance with the
30 statutory eligibility and expenditure requirements stated in this section.

31 (C) Each audit required under subdivision (13)(A) of this
32 section shall be provided to the Department of Finance and Administration
33 within one hundred eighty (180) days after completion of the nonprofit
34 scholarship-funding organization's fiscal year;

35 (14) Shall prepare and submit quarterly reports to the
36 Department of Finance and Administration;

1 (15)(A) Shall submit in a timely manner any information
2 requested by the Department of Education relating to the scholarship program.

3 (B) Information submitted to the Department of Education
4 under subdivision (15)(A) of this section shall be made available on the
5 website maintained by the nonprofit scholarship-funding organization;

6 (16) Shall establish a website that provides parents, guardians,
7 and private schools with information on participation in the scholarship
8 program;

9 (17) Shall not provide scholarships to a child of an owner or
10 operator;

11 (18) Shall provide annually to the parent or guardian of each
12 eligible student who participates in a scholarship program a copy of the
13 results of the nationally recognized norm-referenced test taken by the
14 student;

15 (19) Shall report eligible student information to the Department
16 of Education that would allow the Department of Education to aggregate
17 student data by grade level, gender, family income level, and race;

18 (20) Shall publish the graduation rates of eligible students who
19 participate in a scholarship program;

20 (21)(A) Shall provide to the Department of Education by August 1
21 each year the name of each eligible student who received a scholarship for
22 the upcoming school year and the name of the eligible student's previous
23 school district or charter school.

24 (B) The nonprofit scholarship-funding organization shall
25 provide verification to the Department of Education that each eligible
26 student has been awarded a scholarship under the scholarship program and has
27 enrolled in an eligible private school for the upcoming school year;

28 (22) Shall require and retain an annual notarized and sworn
29 compliance statement by each participating eligible private school,
30 certifying compliance with state laws;

31 (23) Shall cross-check the list of participating scholarship
32 students with the public school enrollment lists to avoid duplication;

33 (24) Shall annually verify the eligibility of private schools
34 under § 6-18-1906;

35 (25)(A) Shall establish a process by which individuals may
36 notify the nonprofit scholarship-funding organization of a violation of this

1 subchapter by a parent, guardian, eligible private school, or school
2 district.

3 (B)(i) The nonprofit scholarship-funding organization
4 shall conduct an inquiry of any written complaint of a violation of this
5 subchapter or make a referral to the appropriate agency for an investigation
6 if the complaint is signed by the complainant and is legally sufficient.

7 (ii) A complaint is legally sufficient if it alleges
8 facts that constitute a violation of this section.

9 (iii) In order to determine legal sufficiency, the
10 nonprofit scholarship-funding organization may require supporting information
11 or documentation from the complainant;

12 (26)(A) Shall conduct unscheduled site visits to eligible
13 private schools participating in a scholarship program.

14 (B) The purpose of an unscheduled site visit under
15 subdivision (26)(A) of this section is solely to verify the information
16 reported by an eligible private school concerning the enrollment and
17 attendance of students, background screening of teachers, and teachers'
18 fingerprinting results.

19 (C) The nonprofit scholarship-funding organization shall
20 not make more than one (1) unscheduled site visit each year to the same
21 eligible private school.

22 (27) Shall report annually by December 15 to the Governor, the
23 President Pro Tempore of the Senate, and the Speaker of the House of
24 Representatives the nonprofit scholarship-funding organization's actions with
25 respect to the following:

26 (A) The nonprofit scholarship-funding organization's
27 implementation of accountability standards in the scholarship program under
28 this section; and

29 (B) Any substantiated allegations of a violation of law or
30 rule by an eligible private school under this subchapter concerning the
31 enrollment and attendance of students, background screening of teachers, or
32 teachers' fingerprinting results and the corrective action taken by the
33 nonprofit scholarship-funding organization;

34 (28)(A)(i) Shall deny, suspend, or revoke an eligible private
35 school's participation in the scholarship program according to the policies
36 and procedures adopted by the nonprofit scholarship-funding organization if

1 the nonprofit scholarship-funding organization determines that the eligible
2 private school has failed to comply with this subchapter.

3 (ii) However, if the noncompliance is correctable
4 within a reasonable amount of time and the health, safety, or welfare of the
5 students is not threatened, the nonprofit scholarship-funding organization
6 may issue a notice of noncompliance that provides the eligible private school
7 with a deadline by which to provide evidence of compliance before the
8 nonprofit scholarship-funding organization takes action to suspend or revoke
9 the eligible private school's participation in a scholarship program.

10 (B) The nonprofit scholarship-funding organization's
11 determination is subject to the following:

12 (i)(a) If the nonprofit scholarship-funding
13 organization intends to deny, suspend, or revoke an eligible private school's
14 participation in a scholarship program, the nonprofit scholarship-funding
15 organization shall notify the eligible private school of the proposed action
16 in writing by certified mail to the eligible private school's address of
17 record with the nonprofit scholarship-funding organization.

18 (b) The notification shall include the reasons
19 for the proposed action and notice of the timelines and procedures stated in
20 this subdivision (28); and

21 (ii) The eligible private school that is adversely
22 affected by the proposed action may appeal the decision to the Department of
23 Finance and Administration.

24 (C) The nonprofit scholarship-funding organization may
25 suspend payment of scholarship funds if it is determined that there is cause
26 to believe that there is:

27 (i) An imminent threat to the health, safety, or
28 welfare of the students; or

29 (ii) Fraudulent activity on the part of the eligible
30 private school.

31 (D) In incidents of alleged fraudulent activity, the
32 nonprofit scholarship-funding organization may release personally
33 identifiable records or reports of students to the following persons or
34 organizations:

35 (i) A court of competent jurisdiction in compliance
36 with 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 it existed on January 1, 2013;

3 (ii) A person or entity authorized by a court of
4 competent jurisdiction in compliance with an order of that court or the
5 attorney of record under a lawfully issued subpoena, consistent with the
6 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed
7 on January 1, 2013; and

8 (iii) Any person, entity, or authority issuing a
9 subpoena for law enforcement purposes when the court or other issuing agency
10 has ordered that the existence or the contents of the subpoena or the
11 information furnished in response to the subpoena not be disclosed,
12 consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. §
13 1232g, as in effect of January 1, 2013, and 34 C.F.R. § 99.31, as it existed
14 January 1, 2013.

15 (E) The nonprofit scholarship-funding organization's order
16 suspending payment under this subdivision (28) may be appealed to the
17 Department of Finance and Administration under the policies and procedures
18 adopted by the nonprofit scholarship-funding organization; and

19 (29) Shall adopt policies and procedures as necessary to perform its
20 duties under this subchapter.

21
22 6-18-1905. Requirements for eligible students and parents and
23 guardians of eligible students.

24 (a)(1) To qualify a child for a scholarship from a nonprofit
25 scholarship-funding organization, a parent or guardian shall select an
26 eligible private school and apply for the admission of his or her child.

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

30 (b)(1) Upon receipt of a scholarship warrant from the nonprofit
31 scholarship-funding organization under § 26-51-2606, the parent or guardian
32 to whom the scholarship warrant is issued shall restrictively endorse the
33 scholarship warrant to the eligible private school for deposit into the
34 scholarship account of the eligible private school.

35 (2) The parent or guardian shall not designate an entity or
36 individual associated with the participating eligible private school as the

1 parent's or guardian's attorney-in-fact to endorse a scholarship warrant.

2 (3) A parent or guardian who fails to comply with this
3 subsection forfeits the scholarship on behalf of the eligible student.

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

7 (d) Each parent or guardian and each eligible student shall comply
8 with the eligible private school's published policies.

9
10 6-18-1906. Eligible private school – Requirements.

11 (a) An eligible private school may be sectarian or nonsectarian and
12 shall:

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

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

18 (3) Identify and select the nationally recognized norm-
19 referenced tests that measure learning gains in math and language arts for
20 the students in the grades that require testing under the Arkansas
21 Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401
22 et seq.;

23 (4) Be academically accountable to the parent or guardian for
24 meeting the educational needs of the student by:

25 (A) Annually providing to the parent or guardian a written
26 explanation of the student's progress; and

27 (B)(i) Annually administering or making provision for
28 students participating in the scholarship program to take a nationally
29 recognized norm-referenced test.

30 (ii)(a) A student with a disability for whom
31 standardized testing is not appropriate as stated in the student's
32 individualized education plan is exempt from the requirement under
33 subdivision (a)(4)(B)(i) of this section.

34 (b) However, if a student is exempt under
35 subdivision (a)(4)(B)(ii)(a) of this section, the participating eligible
36 private school shall prepare annually a portfolio that provides information

1 regarding the student's progress to the parent or guardian.

2 (iii) A participating eligible private school shall
 3 report a student's standardized test scores to the parent or guardian and to
 4 the qualified researcher selected by the Department of Education as described
 5 in § 6-18-1907(1) under the Family Educational Rights and Privacy Act, 20
 6 U.S.C. § 1232g, as it existed on January 1, 2013;

7 (5) Comply with all requirements and laws for private schools in
 8 Arkansas; and

9 (6) Demonstrate financial viability if the eligible private
 10 school is to receive eligible contributions of at least fifty thousand
 11 dollars (\$50,000) during a school year by filing with the nonprofit
 12 scholarship-funding organization before the beginning of the school year:

13 (A) A surety bond payable to the nonprofit scholarship-
 14 funding organization in an amount equal to the aggregate amount of eligible
 15 contributions received the prior year; or

16 (B) Financial information that demonstrates the financial
 17 viability of the eligible private school.

18 (b) The inability of an eligible private school to meet the
 19 requirements of this section constitutes a basis for the revocation of the
 20 private school's eligibility to participate in a scholarship program by the
 21 nonprofit scholarship-funding organization.

22
 23 6-18-1907. Department of Education – Duties.

24 The Department of Education shall:

25 (1)(A) Contract and cooperate with one (1) or more qualified
 26 researchers who have previous experience evaluating school choice programs to
 27 study the scholarship program created under this subchapter and the K-12
 28 Scholarship Contribution Tax Credit Act, § 26-51-2601 et seq.

29 (B) The Department of Education may use any funds
 30 available to it to fund the study required under this subdivision (1).

31 (C) The study required under this subdivision (1) shall
 32 assess the following:

33 (i) Parents' and guardians' satisfaction with the
 34 scholarship program;

35 (ii) Socioeconomic data for the families of the
 36 eligible students participating in the scholarship program;

1 (iii) The fiscal impact of the scholarship program
2 in relation to the state and to the families of the eligible students
3 participating in the scholarship program;

4 (iv) The impact of the scholarship program on public
5 school districts, public school students, and the quality of life in the
6 relevant communities;

7 (v) The impact of the scholarship program on the
8 capacity, availability, and quality of public and private schools; and

9 (vi) The academic performance and graduation rate of
10 the eligible students participating in the scholarship program.

11 (D) The qualified researchers conducting the study
12 required under this subdivision (1) shall:

13 (i) Apply appropriate analytical and behavioral
14 science methodologies to promote and ensure public confidence in the study;

15 (ii) When possible, develop the comparison group of
16 eligible students participating in the scholarship program based on random
17 assignment methodology, which is feasible if the scholarship program receives
18 a significant number of applications over the number of available
19 scholarships or openings in eligible private schools;

20 (iii) If the random assignment methodology is not
21 feasible, measure the performance of the eligible students participating in
22 the scholarship program against the performance of similar students with
23 respect to academic achievement and, when possible, demographic factors,
24 including without limitation poverty level, race, and ethnicity;

25 (iv) Protect the identity of the participating
26 schools and students by taking appropriate measures, including without
27 limitation maintaining the anonymity of disaggregated data other than grade
28 level, gender, race, and ethnicity;

29 (v) Provide a final copy of the study required under
30 this subdivision (2) to the General Assembly and each nonprofit scholarship-
31 funding organization; and

32 (vi) Make the data and methodology from the study
33 available for public review subject to the requirements of the Family
34 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as it existed on
35 January 1, 2013.

36 (E) The General Assembly may require periodic reports from

1 the qualified researchers conducting the study required under this
2 subdivision (2).

3 (2) Remove the eligible students from the list provided by a
4 nonprofit scholarship-funding organization under § 6-18-1904(21) from the
5 fiscal year three-quarter average daily membership used to determine school
6 funding under § 6-20-2305;

7 (3) Adopt rules necessary to administer this subchapter; and

8 (4) In cooperation with the Department of Finance and
9 Administration, develop a cooperative agreement to assist in the
10 administration of this subchapter and the K-12 Scholarship Contribution Tax
11 Credit Act, § 26-51-2601 et seq.

12
13 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that attendance at a private school
15 is often cost prohibitive for many Arkansas children; that these children
16 should be allowed to attend the school that best meets their educational
17 needs; that providing scholarships would allow many children to attend
18 private schools who are not currently financially able to do so; that
19 allowing an income tax credit would encourage donations that could be used
20 for scholarships for these children; and that this act is necessary to
21 provide the relevant state agencies, private schools, and scholarship-funding
22 organizations with sufficient time to adequately prepare to establish
23 scholarships for the 2013-2014 school year. Therefore, an emergency is
24 declared to exist, and this act being necessary for the preservation of the
25 public peace, health, and safety shall become effective on July 1, 2013.