

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

# A Bill

HOUSE BILL 1371

4  
5 By: Representatives Bragg, Evans, Vaught, Barker, Beaty Jr., Bentley, M. Berry, Breaux, Brooks, Brown,  
6 C. Cooper, C. Fite, Haak, Lowery, Lundstrum, J. Mayberry, McCollum, S. Meeks, Miller, Penzo,  
7 Pilkington, Ray, Richmond, Rye, B. Smith, Underwood, Watson, Wing, Womack  
8 By: Senators J. Dismang, B. Ballinger, Bledsoe, A. Clark, T. Garner, Hester, Hill, Irvin, B. Johnson,  
9 Rapert, D. Sullivan

## For An Act To Be Entitled

10  
11 AN ACT TO CREATE THE ARKANSAS CHILD ACADEMIC  
12 OPPORTUNITY SCHOLARSHIP AND GRANT ACT; AND FOR OTHER  
13 PURPOSES.  
14

## Subtitle

15  
16  
17 TO CREATE THE ARKANSAS CHILD ACADEMIC  
18 OPPORTUNITY SCHOLARSHIP AND GRANT ACT.  
19  
20  
21

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

24 SECTION 1. Arkansas Code Title 6, Chapter 18, is amended to add an  
25 additional subchapter to read as follows:

26 Subchapter 22 – Arkansas Child Academic Opportunity Scholarship and Grant Act

27  
28 6-18-2201. Title.

29 This subchapter shall be known and may be cited as the "Arkansas Child  
30 Academic Opportunity Scholarship and Grant Act".

31  
32 6-18-2202. Legislative findings and intent.

33 (a) The General Assembly finds that:

34 (1) Each child in this state should have an opportunity to  
35 receive an appropriate education that fits his or her needs regardless of his  
36 or her family income or the area in which he or she lives;



1           (2) A parent, legal guardian, or person standing in loco  
 2 parentis should be able to make educational decisions for his or her child;

3           (3) An appropriate educational setting that fits a child's  
 4 individual needs is important to the civic and economic condition of the  
 5 state; and

6           (4) Providing each child in this state with the opportunity to  
 7 receive an appropriate education is one of the greatest concerns of the  
 8 General Assembly.

9           (b) It is the intent of the General Assembly to ensure that resources  
 10 are available to give families the means and opportunity to provide each  
 11 child with an appropriate education.

12  
 13           6-18-2203. Definitions.

14           As used in this subchapter:

15           (1) "Educational services provider" means a provider of eligible  
 16 educational services under § 6-18-2204;

17           (2) "Eligible contribution" means a monetary contribution from  
 18 an eligible taxpayer, as defined in § 26-51-515, to an eligible student  
 19 support organization subject to the restrictions under this subchapter;

20           (3)(A) "Eligible private school payment" means a payment that  
 21 is:

22                           (i) Funded by eligible contributions under this  
 23 subchapter; and

24                           (ii) Made to a public school, open-enrollment public  
 25 charter school, or nonpublic school for an eligible student who is enrolled  
 26 in a private school and intends to attend a class or participate in a program  
 27 offered by the public school, open-enrollment public charter school, or  
 28 nonpublic school.

29                           (B) "Eligible private school payment" does not include an  
 30 eligible public school payment;

31           (4)(A) "Eligible public school payment" means a grant that is:

32                           (i) Funded by eligible contributions under this  
 33 subchapter; and

34                           (ii) Paid to an eligible public school or an open-  
 35 enrollment public charter school for eligible educational services.

36                           (B) "Eligible public school payment" does not include an

1 eligible private school payment;

2 (5)(A) "Eligible public school" means a public school in which  
3 at least fifty-five percent (55%) of the previous school year's enrolled  
4 students are eligible to receive a free or reduced-price meal under the  
5 National School Lunch Act, 42 U.S.C. § 1751 et seq.

6 (B) "Eligible public school" includes an open-enrollment  
7 public charter school;

8 (6)(A) "Eligible student" means a resident of this state who:

9 (i) Is receiving a scholarship under this subchapter  
10 for the first time;

11 (ii) Is transferring from a public school in this  
12 state at which the student has been enrolled for at least one (1) semester  
13 immediately preceding the first semester for which the student receives a  
14 student scholarship under this subchapter to attend a nonpublic school that  
15 is eligible to participate in the Arkansas Child Academic Opportunity  
16 Scholarship and Grant Act program under § 6-18-2211;

17 (iii) Was not continuously enrolled in a nonpublic  
18 school in this state during the school year immediately preceding the first  
19 semester for which the student receives a student scholarship under this  
20 subchapter to attend a nonpublic school that is eligible to participate in  
21 the Arkansas Child Academic Opportunity Scholarship and Grant Act program  
22 under § 6-18-2211; and

23 (iv) Has a household or family income that is less  
24 than or equal to two hundred percent (200%) of the federal poverty  
25 guidelines.

26 (B) "Eligible student" may include a student who:

27 (i) Has an individualized education program or an  
28 individualized service plan in accordance with the Individuals with  
29 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on  
30 January 1, 2021;

31 (ii) Is eligible to participate in the Succeed  
32 Scholarship Program under § 6-41-901 et seq.;

33 (iii) Has a parent who is a member of the National  
34 Guard or a parent who is a member of the United States Armed Forces and is on  
35 active duty or was killed in the line of duty; or

36 (iv) Is in foster care or has been in the foster

1 care system and achieved permanency through adoption, reunification, or  
2 permanent guardianship;

3 (C) "Eligible student" does not include a student who  
4 attends a home school;

5 (7) "Eligible student support organization" means a charitable  
6 organization that:

7 (A) Is exempt from federal income tax under 26 U.S.C. §  
8 501(c)(3) of the Internal Revenue Code, as it existed on January 1, 2021;

9 (B) Is an Arkansas entity that is formed under the  
10 Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

11 (C) Is certified by the Division of Elementary and  
12 Secondary Education under § 6-18-2205;

13 (D) Complies with the operational requirements under § 6-  
14 18-2206; and

15 (E) Receives eligible contributions to fund and administer  
16 student scholarships and grants to eligible public schools according to the  
17 rules prescribed by this subchapter;

18 (8) "Institution of higher education" means a public or private  
19 institution that provides postsecondary education;

20 (9) "Operator" means:

21 (A) A president, officer, or board member of an eligible  
22 student support organization or a person with equivalent decision-making  
23 authority over an eligible student support organization; or

24 (B) An owner or other person with equivalent decision-  
25 making authority over an educational services provider that receives payment  
26 from a student scholarship under § 6-18-2204;

27 (10) "Parent" means an individual who is a parent, a legal  
28 guardian, or standing in loco parentis of an eligible student;

29 (11) "Private school student support organization" means an  
30 eligible student support organization that makes payments to a public school,  
31 open-enrollment charter school, or nonpublic school for an eligible student  
32 who is enrolled in a private school and intends to attend a class or  
33 participate in a program offered by the public school, open-enrollment  
34 charter school, or nonpublic school;

35 (12) "Public school student support organization" means an  
36 eligible student support organization that makes payments to an eligible

1 public school; and

2 (13) "Student scholarship" means a scholarship established for  
 3 an eligible student under this subchapter that provides funds that are  
 4 disbursed by an eligible student support organization and that a parent may  
 5 use to pay for tuition and other approved educational services on behalf of  
 6 the eligible student.

7  
 8 6-18-2204. Arkansas Child Academic Opportunity Scholarship and Grant  
 9 Act – Creation – Eligible contributions.

10 (a) The Arkansas Child Academic Opportunity Scholarship and Grant Act  
 11 is established under this subchapter.

12 (b) An eligible student support organization may:

13 (1)(A) Finance an:

14 (i) Eligible private school payment for an eligible  
 15 student if the eligible student support organization is a private school  
 16 student support organization; or

17 (ii) Eligible public school payment for an eligible  
 18 public school if the eligible student support organization is a public school  
 19 student support organization.

20 (B) An eligible student support organization shall not be  
 21 required to finance both eligible private school payments and eligible public  
 22 school payments; and

23 (2)(A) Receive eligible contributions under this subchapter.

24 (B) Eligible contributions received by a private school  
 25 student support organization shall be used to fund student scholarships  
 26 awarded to eligible students under this subchapter.

27 (C) Eligible contributions received by a public school  
 28 student support organization shall be used to fund grants awarded to eligible  
 29 public schools under this subchapter.

30 (c) Funds received by a nonpublic school or an educational services  
 31 provider from a private school student support organization on behalf of an  
 32 eligible student shall be used for only the following expenses of the  
 33 eligible student:

34 (1) Tuition, fees, and the cost of required uniforms for a  
 35 nonpublic:

36 (A) School in this state that meets the eligibility

1 requirements under § 6-18-2211; or

2 (B) Online learning program or course;

3 (2) Textbooks required by a nonpublic school or online learning  
4 program or course;

5 (3) Tutoring services provided by a:

6 (A) Teacher who is licensed by the State Board of  
7 Education;

8 (B) Person qualified to be a substitute teacher under § 6-  
9 15-1004 and the rules of the state board;

10 (C) Person who has at least one (1) semester of teaching  
11 experience at an institution of higher education; or

12 (D) Tutoring facility with a license to operate in this  
13 state;

14 (4) Specific course materials, including without limitation any  
15 required supplemental materials;

16 (5) Fees for:

17 (A) Nationally standardized assessments, including without  
18 limitation assessments required by the state board of all public students and  
19 nationally recognized norm-referenced examinations;

20 (B) Advanced Placement exams;

21 (C) College placement examinations, including without  
22 limitation the ACT and the SAT;

23 (D) Industry certification examinations; or

24 (E) Other assessments necessary to complete an eligible  
25 student's course of study;

26 (6) Fees for specialized after-school or summer education  
27 programs whose primary purpose is to provide academic instruction;

28 (7)(A) Services that are provided by a public school district or  
29 an open-enrollment public charter school, including without limitation  
30 academic courses, nonacademic programs, and extracurricular programs.

31 (B) A public school district or an open-enrollment public  
32 charter school that provides services to a student who is the recipient of a  
33 student scholarship under this subchapter is entitled to receive, from the  
34 student's private school student support organization, an amount that is not  
35 more than one-sixth (1/6) of the state foundation funding amount that would  
36 be received by the public school district or open-enrollment public charter

1 school under § 6-20-2305(a)(2) for each academic course in which the student  
 2 is enrolled as described in § 6-18-232;

3 (8) Tuition and fees at an in-state or out-of-state institution  
 4 of higher education if the eligible student is enrolled both in high school  
 5 and an academic course at an in-state or out-of-state institution of higher  
 6 education;

7 (9) Textbooks and materials related to coursework at an  
 8 institution of higher education if an eligible student is enrolled in an  
 9 academic course at an in-state or out-of-state institution of higher  
 10 education;

11 (10) Specialized services that are necessary to facilitate an  
 12 eligible student's education, including without limitation:

13 (A) Applied behavior analysis as defined in § 23-99-418;

14 (B) Audiology as defined in § 17-100-103;

15 (C) Dyslexia support;

16 (D) Occupational therapy as defined in § 17-88-102;

17 (E) Physical therapy as defined in § 17-93-102;

18 (F) Speech-language pathology as defined in § 17-100-103;

19 and

20 (G) Other services approved by the Division of Elementary  
 21 and Secondary Education;

22 (11)(A) Transportation required for travel to and from an  
 23 educational services provider.

24 (B) Student scholarship funds used for expenses related to  
 25 transportation under subdivision (c)(11)(A) of this section shall not exceed  
 26 ten percent (10%) of the student scholarship funds provided under § 6-18-2207  
 27 for that academic year; and

28 (12) Any other legitimate educational expense approved by the  
 29 private school student support organization.

30 (d) A nonpublic school or educational services provider that receives  
 31 payments under this section shall not share the payments with, refund the  
 32 payments to, or rebate the payments under this section to a parent or  
 33 eligible student other than to credit a refund directly to the account that  
 34 contains the eligible student's student scholarship funds.

35 (e) Funds received by an eligible public school from an eligible  
 36 student support organization shall be used only for the following expenses:

1           (1) Public school technology enhancements, including without  
 2 limitation:

3                   (A) Wireless access points;

4                   (B) Installation of cabling;

5                   (C) Wireless internet hot spots that are available for  
 6 check out;

7                   (D) Laptop computers; and

8                   (E) Tablet computers;

9           (2) Building upgrades for:

10                   (A) Heating, ventilation, and air conditioning repairs;

11 and

12                   (B) Roof repairs;

13           (3) Resources for Response to Intervention;

14           (4) Remote learning intervention platform technology;

15           (5) Social and emotional well-being programming for public  
 16 school students and parents of public school students;

17           (6) Parent support centers for parents of public school students  
 18 who are economically disadvantaged;

19           (7) Parent support centers for parents of public school students  
 20 with intellectual or developmental disabilities;

21           (8) Professional development training for public school staff  
 22 specific to diverse public school student populations;

23           (9) Professional development training for public school staff  
 24 specific to economically disadvantaged public school student populations;

25           (10) Sensory rooms and equipment for indoor and outdoor special  
 26 education services manipulatives that public school students use for hands-on  
 27 problem-solving;

28           (11) Funding for economically disadvantaged public school  
 29 student populations, including without limitation funding for:

30                   (A) Personal care items;

31                   (B) Clothing; and

32                   (C) Food; and

33           (12) After-hours training resources for parents of public school  
 34 students, including without limitation resources for training in:

35                   (A) Basic technology and computer literacy; and

36                   (B) Math and reading literacy.



1  
2 6-18-2205. Application to become eligible student support  
3 organization.

4 (a)(1) An organization that seeks to become or continue to be an  
5 eligible student support organization under this subchapter shall apply to  
6 the Division of Elementary and Secondary Education for initial certification  
7 or renewal of certification as an eligible student support organization by  
8 May 1 immediately preceding the school year for which the organization  
9 intends to fund student scholarships or grants to eligible public schools.

10 (2)(A) An organization shall specify in an application it  
11 submits under this section whether the organization intends to:

12 (i) Operate as a private school student support  
13 organization;

14 (ii) Operate as a public school student support  
15 organization; or

16 (iii) Operate both as a private school student  
17 support organization and a public school student support organization.

18 (B) An organization shall not be required to operate as  
19 both a private school student support organization and a public school  
20 student support organization.

21 (b)(1) An application for initial certification as an eligible student  
22 support organization under subsection (a) of this section shall include:

23 (A) A copy of the organization's incorporation documents  
24 under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

25 (B) A copy of the organization's Internal Revenue Service  
26 determination letter certifying the organization is a nonprofit organization  
27 under 26 U.S.C. § 501(c)(3);

28 (C) A description of the organization's financial plan  
29 that demonstrates the organization has sufficient funds to operate throughout  
30 the upcoming academic year;

31 (D) A copy of the organizational chart of the  
32 organization; and

33 (E) If the organization applies to operate as a private  
34 school student support organization, a description of the:

35 (i) Methodology the organization will use to verify  
36 whether a student is eligible to receive a student scholarship;

1                   (ii) Application process for student scholarships  
2 the organization will use;

3                   (iii) Methodology the organization will use to  
4 establish and fund student scholarships; and

5                   (iv) Plans for compliance with the requirements of §  
6 6-18-2206.

7                   (2) In addition to the information required under subdivision  
8 (b)(1) of this section, an application for renewal of certification shall  
9 include:

10                   (A) The eligible student support organization's completed  
11 Internal Revenue Service Form 990, which shall be submitted to the division  
12 no later than December 31 of the year before the academic year in which the  
13 eligible student support organization intends to operate;

14                   (B) A copy of the audit required under § 6-18-2210;

15                   (C) If the eligible student support organization has  
16 operated as a private school student support organization, an annual report  
17 that includes the total number of:

18                   (i) Applications received from students in the  
19 preceding academic year, sorted by county, school district, and grade;

20                   (ii) Applications received from eligible students  
21 that were received and approved;

22                   (iii) Approved applications received from students  
23 who met the income requirements under § 6-18-2203(6); and

24                   (iv) Student scholarships established on behalf of  
25 eligible students;

26                   (D) The amount of funds:

27                   (i) Received as eligible contributions for the  
28 purposes of this subchapter;

29                   (ii) Distributed as eligible private school payments  
30 under this subchapter if the eligible student support organization has  
31 operated as a private school student support organization; and

32                   (iii) Distributed as eligible public school payments  
33 under this subchapter if the eligible student support organization has  
34 operated as a public school student support organization;

35                   (E) An accounting of any remaining funds after the payment  
36 of administrative expenses and the distribution of:

1                   (i) Eligible private school payments if the eligible  
2 student support organization has operated as a private school student support  
3 organization; or

4                   (ii) Eligible public school payments if the eligible  
5 student support organization has operated as a public school student support  
6 organization; and

7                   (F) A description of how the eligible student support  
8 organization complied with the operational requirements under § 6-18-2206.

9                   (c) Within sixty (60) days after receipt of an application under this  
10 section, the division shall certify or recertify an organization as an  
11 eligible student support organization if the organization meets the  
12 applicable application requirements under subsection (b) of this section.

13                   (d) The division shall maintain a public registry of currently  
14 certified eligible student support organizations on the website of the  
15 division.

16  
17                   6-18-2206. Operation of eligible student support organization.

18                   (a) An eligible student support organization:

19                   (1) Shall:

20                   (A)(i) Expend no more than ten percent (10%) of eligible  
21 contributions received for administrative expenses.

22                   (ii) An eligible student support organization shall  
23 expend or reserve for eligible private school payments and eligible public  
24 school payments at least seventy-five percent (75%) of eligible contributions  
25 received during the fiscal year or school year in which the eligible  
26 contributions are collected.

27                   (iii) No more than twenty-five percent (25%) of  
28 eligible contributions received shall be carried forward to the following  
29 fiscal year; and

30                   (B) Comply with the antidiscrimination provisions of the  
31 Civil Rights Act of 1964, 42 U.S.C. § 1981 et seq., as it existed on January  
32 1, 2021;

33                   (2) Shall not:

34                   (A) Have an operator or employee who owns, operates, or is  
35 employed by an educational services provider that receives a payment for  
36 providing eligible educational services from student scholarships under § 6-

1 18-2204;

2 (B) Provide a student scholarship under this subchapter  
3 for the child of an operator, owner, or full-time employee of an eligible  
4 student support organization;

5 (C) Allow an eligible taxpayer, as defined in § 26-51-515,  
6 to designate an eligible contribution to a specific eligible student or  
7 school or for a specific expense under § 6-18-2204(c) as a condition of  
8 making an eligible contribution to the eligible student support organization;

9 (D) Restrict the parent of an eligible student from  
10 selecting any nonpublic school that is eligible to participate in the  
11 Arkansas Child Academic Opportunity Scholarship and Grant Act under § 6-18-  
12 2211; or

13 (E) Charge an application fee in excess of the actual cost  
14 of processing an application;

15 (3)(A) May transfer eligible contributions to another eligible  
16 student support organization if the Division of Elementary and Secondary  
17 Education approves the transfer.

18 (B) All transferred funds received by an eligible student  
19 support organization under subdivision (a)(3)(A) of this section shall be:

20 (i) Deposited by the receiving eligible student  
21 support organization into the receiving eligible student support  
22 organization's accounts as funds for eligible private school payments or  
23 eligible public school payments of expenses permitted under § 6-18-2204; and

24 (ii) Separately disclosed in the receiving eligible  
25 student support organization's annual financial audit under § 6-18-2210;

26 (4) Shall:

27 (A) Maintain separate accounts for:

28 (i) Eligible private school payment funds;

29 (ii) Administrative and operating funds;

30 (iii) Eligible public school payment funds; and

31 (iv) Each eligible student who receives funds for  
32 the payment of expenses permitted under § 6-18-2204;

33 (B)(i) Prepare quarterly reports to submit to the division  
34 and to post on the website of the eligible student support organization.

35 (ii) The quarterly report shall include without  
36 limitation the following information:

1 (a) How funds received under this subchapter  
2 were distributed; and

3 (b)(1) Which nonpublic schools and eligible  
4 public schools received eligible private school payments or eligible public  
5 school payments under this subchapter.

6 (2) The division shall maintain a list  
7 of eligible public schools that may receive eligible public school payments  
8 and make the list available on the division's website;

9 (C) Submit in a timely manner any information requested by  
10 the division pertaining to a student scholarship that is awarded by the  
11 eligible student support organization under this subchapter, including  
12 without limitation information that is requested in support of any evaluation  
13 of the program;

14 (D) Report to the division all educational expenses  
15 approved and paid by the eligible student support organization under § 6-18-  
16 2204 in the manner prescribed by the division;

17 (E)(i) Establish a process by which an individual may  
18 notify the eligible student support organization and file a written complaint  
19 concerning a violation of this subchapter by a parent, educational services  
20 provider, or public school district.

21 (ii) The eligible student support organization  
22 shall:

23 (a) Conduct an inquiry of a written complaint  
24 under subdivision (a)(4)(E)(i) of this section; or

25 (b) Make a referral to the appropriate agency,  
26 as determined by the division, for an investigation into a complaint under  
27 subdivision (a)(4)(E)(i) of this section; and

28 (F) Allocate all interest accrued from eligible  
29 contributions to the funding of eligible private school payments and eligible  
30 public school payments.

31 (b)(1) The division shall send written notice to an eligible student  
32 support organization if the division determines that the eligible student  
33 support organization has violated this subchapter.

34 (2)(A) An eligible student support organization that receives a  
35 notice under subdivision (b)(1) of this section has sixty (60) days to  
36 correct a violation identified in the notice by the division.

1                   (B)(i) If an eligible student support organization fails  
2 or refuses to correct a violation identified under subdivision (b)(1) of this  
3 section, then the division may revoke the certification of the eligible  
4 student support organization.

5                   (ii)(a) An eligible student support organization may  
6 request an administrative hearing under the Arkansas Administrative Procedure  
7 Act, § 25-15-201 et seq., upon the revocation of the certification.

8                   (b) A final decision issued following a  
9 hearing under subdivision (b)(2)(B)(ii)(a) is subject to judicial review.

10                   (3)(A) An eligible student support organization whose  
11 certification has been revoked under subdivision (b)(2)(B)(i) of this section  
12 shall not accept any further eligible contributions made to the eligible  
13 student support organization for the purpose of funding eligible private  
14 school payments or eligible public school payments under this subchapter.

15                   (B) If an eligible student support organization receives  
16 any eligible contributions made for the purpose of funding eligible private  
17 school payments or eligible public school payments under this subchapter  
18 after the date of the notice of the revocation of the eligible student  
19 support organization's certification under subdivision (b)(2)(B)(i) of this  
20 section, then the eligible student support organization shall refund the  
21 eligible contributions.

22                   (c)(1) If an eligible student support organization determines that it  
23 cannot continue to operate, then the eligible student support organization  
24 shall transfer its eligible private school payment or eligible public school  
25 payment funds to another eligible student support organization upon approval  
26 by the division.

27                   (2) If funds are available, an eligible student support  
28 organization that receives a transfer of funds for eligible private school  
29 payments or eligible public school payments under subdivision (c)(1) of this  
30 section shall oversee the eligible private school payments and eligible  
31 public school payments established by the eligible student support  
32 organization that transferred the funds for the eligible private school  
33 payments or eligible public school payments.

34  
35                   6-18-2207. Establishment of student scholarships – Payments.

36                   (a) An eligible student support organization may contract with an

1 entity that is qualified to manage student scholarships.

2 (b) An eligible student support organization shall:

3 (1) Not be required to disburse both eligible public school  
4 payments and eligible private school payments;

5 (2) Establish student scholarships under this subchapter for  
6 eligible students in an amount not to exceed the foundation funding amount  
7 under § 6-20-2305(a)(2) for each academic year in which the eligible student  
8 participates in the Arkansas Child Academic Opportunity Scholarship and Grant  
9 Act;

10 (3) Disburse student scholarships established under subdivision  
11 (b)(2) of this section in quarterly installments throughout the school year  
12 to the nonpublic schools attended by eligible students under this subchapter;

13 (4) Disburse eligible public school payments allocated for  
14 eligible public schools under this subchapter to eligible public schools; and

15 (5) Establish a system for a parent to direct student  
16 scholarship funds to nonpublic schools and educational services providers by:

17 (A) Electronic funds transfer, including an automated  
18 clearinghouse transfer; or

19 (B) Another system that the eligible student support  
20 organization determines is commercially viable, cost-effective, and  
21 convenient for parents to use.

22 (c) Funds received under this subchapter are not taxable income of a  
23 parent or an eligible student.

24  
25 6-18-2208. Application for student scholarship.

26 (a) A parent may apply to a private school student support  
27 organization to establish a student scholarship for an eligible student.

28 (b) A private school student support organization shall approve an  
29 application for a student scholarship upon:

30 (1) Verifying the eligibility of the student; and

31 (2) Entering into an agreement with the parent under subdivision  
32 (d)(1) of this section.

33 (c) The private school student support organization:

34 (1) Shall approve applications in order of receipt;

35 (2) Shall approve an application only if student scholarship  
36 funds are available; and

1           (3) May approve applications throughout the calendar year.

2           (d) As part of the application process under this section, a parent  
3 shall:

4           (1) Enter into an agreement with a private school student  
5 support organization to:

6                   (A) Use student scholarship funds only for the expenses  
7 permitted under § 6-18-2204;

8                   (B)(i) Not enroll the eligible student as a full-time  
9 student in a public school.

10                   (ii) A parent who uses student scholarship funds to  
11 pay for services provided by a public school district or an open-enrollment  
12 public charter school under § 6-18-2204(c)(7) is not in violation of the  
13 agreement under this subdivision (d)(1);

14                   (C) Not accept a Succeed Scholarship under § 6-41-901 et  
15 seq. in addition to a student scholarship provided under this subchapter; and

16                   (D) Provide to the eligible student an organized and  
17 appropriate educational program with measurable annual goals; and

18           (2) Sign a form verifying that the parent has reviewed  
19 information developed by the Division of Elementary and Secondary Education  
20 that explains without limitation:

21                   (A) The allowable uses of student scholarship funds;

22                   (B) The responsibilities of:

23                           (i) Parents;

24                           (ii) Private school student support organizations;

25 and

26                           (iii) The division;

27                   (C) That a parent may choose to enroll his or her child in  
28 a public school at any time subject to the provisions of § 6-18-2209(a)(4);

29 and

30                   (D) The student's entitlement to an appropriate education  
31 environment under the Individuals with Disabilities Education Act, 20 U.S.C.  
32 § 1412(a)(10)(A), as it existed on January 1, 2021, for students with  
33 disabilities as described in § 6-18-2203(6)(B)(i).

34           (e)(1) A private school student support organization shall annually  
35 renew an eligible student's student scholarship if:

36                   (A) Student scholarship funds are available; and



1                   (B) The parent of the eligible student applies for re-  
2 enrollment in the Arkansas Child Academic Opportunity Scholarship and Grant  
3 Act for the academic year in which the eligible student expects to receive a  
4 student scholarship under this subchapter.

5                   (2) As part of the re-enrollment process under subdivision  
6 (e)(1)(B) of this section, the private school student support organization or  
7 an organization chosen by the private school student support organization  
8 shall conduct a parental survey that asks the parent of the eligible student  
9 to detail the:

10                   (A) Satisfaction of the parent with the program;

11                   (B) Opinion of the parent regarding other topics and  
12 issues that concern the effectiveness of the program; and

13                   (C) Number of years his or her child has participated in  
14 the program.

15  
16                   6-18-2209. Duration of participation in the Arkansas Child Academic  
17 Opportunity Scholarship and Grant Act program – Return of student scholarship  
18 funds.

19                   (a) If funds are available, a private school student support  
20 organization shall continue to provide student scholarship funds to an  
21 eligible student under § 6-18-2207 until:

22                   (1) The parent does not apply to re-enroll in the Arkansas Child  
23 Academic Opportunity Scholarship and Grant Act program under § 6-18-2208;

24                   (2) The private school student support organization determines  
25 that the student no longer qualifies as an eligible student;

26                   (3) The parent fails to comply with the agreement made under §  
27 6-18-2208(d)(1);

28                   (4)(A) The eligible student enrolls full-time in a public  
29 school.

30                   (B)(i) A parent shall immediately notify the private  
31 school student support organization if the eligible student enrolls full-time  
32 in a course of study at a public school.

33                   (ii) If an eligible student enrolls full-time in a  
34 public school, the private school student support organization shall place  
35 the student scholarship on inactive status for a maximum period of one (1)  
36 academic year, during which time the student scholarship funds shall be

1 frozen.

2 (iii) After one (1) academic year of inactive status  
3 under subdivision (a)(4)(B)(ii) of this section, the private school student  
4 support organization shall:

5 (a) Return the student scholarship funds to  
6 active status if the:

7 (1) Parent notifies the private school  
8 student support organization that the student is no longer enrolled full-time  
9 in a public school; and

10 (2) Student continues to meet the  
11 eligibility requirements under this subchapter; or

12 (b) Close the student scholarship account and  
13 utilize any remaining funds from the closed student scholarship account for  
14 other student scholarships if the:

15 (1) Parent does not notify the private  
16 school student support organization that the student is no longer enrolled  
17 full-time in a public school; or

18 (2) Student ceases to meet the  
19 eligibility requirements under this subchapter;

20 (5) The eligible student graduates from high school; or

21 (6)(A) The Division of Elementary and Secondary Education:

22 (i) Suspends or revokes the student scholarship; or

23 (ii) Deems the eligible student to be no longer  
24 eligible upon a finding of fraud or intentional or substantial misuse of  
25 student scholarships funds by the eligible student's parent, including  
26 without limitation the accepting of a refund or rebate in violation of § 6-  
27 18-2204(d).

28 (B) The division shall establish procedures to ensure a  
29 fair process to determine whether fraud or intentional or substantial misuse  
30 of student scholarship funds has occurred.

31 (C) The division may refer cases of fraud or intentional  
32 or substantial misuse of student scholarship funds to law enforcement  
33 agencies for investigation if evidence of the fraud or intentional or  
34 substantial misuse is obtained.

35 (D)(i) A parent may appeal the decision of the division to  
36 suspend or revoke a student scholarship or deem an eligible student no longer

1 eligible under subdivision (a)(6)(A)(i) or subdivision (a)(6)(A)(ii) of this  
2 section for the program.

3 (ii) An appeal under subdivision (a)(6)(D)(i) of  
4 this section shall be conducted through internal procedures established by  
5 the division.

6 (b) Following a determination that a student is no longer eligible  
7 under subdivision (a)(4)(B)(iii)(b)(2) or subdivision (a)(6)(A)(ii) of this  
8 section, any remaining student scholarship funds shall be returned to the  
9 private school student support organization that contributed the student  
10 scholarship funds to the eligible student's account.

11  
12 6-18-2210. Audit.

13 (a) By October 1 of each year, each eligible student support  
14 organization shall contract with an independent certified public accountant  
15 licensed in this state to conduct an annual financial audit of accounts and  
16 records from the previous fiscal year according to generally accepted  
17 auditing standards.

18 (b) Each eligible student support organization shall provide to the  
19 Division of Elementary and Secondary Education a copy of the report of the  
20 audit required under subsection (a) of this section within thirty (30) days  
21 of receiving the report of the audit.

22  
23 6-18-2211. Nonpublic school eligibility.

24 (a) A nonpublic school shall notify the Division of Elementary and  
25 Secondary Education of the intent of the nonpublic school to participate in  
26 the Arkansas Child Academic Opportunity Scholarship and Grant Act program  
27 using a process established by the division.

28 (b) The division shall approve a nonpublic school as eligible to  
29 participate in the program if the nonpublic school:

30 (1) Either:

31 (A) Meets the accreditation requirements established by  
32 the State Board of Education, the Arkansas Nonpublic School Accrediting  
33 Association, Inc., or its successor, or another accrediting association that  
34 is recognized by the state board; or

35 (B)(i) Is an associate member of or has applied for  
36 accreditation by the Arkansas Nonpublic School Accrediting Association, Inc.,

1 or its successor, or another accrediting association that is recognized by  
2 the state board.

3 (ii) A nonpublic school is ineligible to participate  
4 in the program if:

5 (a) The nonpublic school has applied for  
6 accreditation as described in subdivision (b)(1)(B)(i) of this section and  
7 has not received accreditation within two (2) years of becoming eligible to  
8 participate in the program under this section;

9 (b) It becomes impossible for the nonpublic  
10 school to obtain accreditation within four (4) years; or

11 (c) The accrediting association determines  
12 that the nonpublic school is ineligible or unable to continue the  
13 accreditation process.

14 (iii) A nonpublic school that becomes ineligible to  
15 participate in the program under subdivision (b)(1)(B)(ii) of this section  
16 shall regain eligibility if the nonpublic school receives accreditation under  
17 subdivision (b)(1)(A) of this section;

18 (2) Demonstrates fiscal soundness by:

19 (A) Having been in operation for one (1) school year; or

20 (B)(i) Providing the division with a statement by an  
21 independent certified public accountant confirming that the nonpublic school  
22 is insured and has sufficient capital or credit to operate during the  
23 upcoming school year.

24 (ii) In lieu of a statement under subdivision  
25 (b)(2)(B)(i) of this section, a surety bond or letter of credit for the  
26 amount equal to the aggregate amount of eligible contributions expected to be  
27 received during the school year may be filed with the division;

28 (3) Complies with the antidiscrimination provisions of the Civil  
29 Rights Act of 1964, 42 U.S.C. § 1981 et seq., as it existed on January 1,  
30 2022;

31 (4) Meets state and local health and safety requirements;

32 (5) Employs or contracts with teachers who hold baccalaureate or  
33 higher degrees; and

34 (6) Complies with all state laws and rules that govern nonpublic  
35 schools.

36 (c) The division shall maintain a list of nonpublic schools that are

1 eligible to participate in the program and make the list available on the  
2 division's website.

3 (d)(1) An eligible nonpublic school under this section shall  
4 administer annually or make provision for a participating eligible student to  
5 take a nationally recognized norm-referenced test as established by the state  
6 board.

7 (2) An eligible student with a disability under the Individuals  
8 with Disabilities Act, 20 U.S.C. § 1400 et seq., who is determined by a  
9 private school to need an exemption to standardized testing due to the nature  
10 of the eligible student's disability is not required to take a test  
11 administered under subdivision (d)(1) of this section.

12  
13 6-18-2212. Annual report.

14 (a)(1) The Division of Elementary and Secondary Education or an  
15 organization selected by the division shall produce, in compliance with  
16 student privacy laws, an annual report that is accessible on the website of  
17 the division.

18 (2) Annual report findings shall be aggregated according to a  
19 student's grade level, gender, family income level, race, and number of years  
20 of participation in the Arkansas Child Academic Opportunity Scholarship and  
21 Grant Act program.

22 (b) The annual report required under subsection (a) of this section  
23 shall:

24 (1) Measure:

25 (A) Student performance on state achievement tests or  
26 nationally recognized norm-referenced tests, including without limitation  
27 learning gains;

28 (B) High school graduation rates;

29 (C) Parental satisfaction according to the survey  
30 conducted under § 6-18-2208(e)(2); and

31 (D) The percentage of student scholarship funds used for  
32 each expense type identified in § 6-18-2204(c);

33 (2) Include data and information on educational expenses  
34 approved and paid by each eligible student support organization under § 6-18-  
35 2204;

36 (3) Apply appropriate methodologies to ensure public confidence

1 in the annual report required under subsection (a) of this section; and

2 (4) Protect the identity of participating eligible students and  
 3 schools using methods that include without limitation the preservation of  
 4 student anonymity in disaggregated data.

5  
 6 6-18-2213. Autonomy of nonpublic schools and educational services  
 7 providers.

8 (a) A nonpublic school or educational services provider that receives  
 9 payment from student scholarship funds under this subchapter is not an agent  
 10 or an instrumentality of the state or of a public school district.

11 (b) The curriculum and educational plan for an eligible student who  
 12 attends a nonpublic school or who receives educational services from an  
 13 educational services provider under this subchapter are not subject to the  
 14 regulatory authority of the State Board of Education.

15 (c) As a condition of continued receipt of student scholarship funds,  
 16 the state board may require a nonpublic school or educational services  
 17 provider to certify on a semiannual basis under oath that a participating  
 18 eligible student has been:

19 (1) Except for excused absences, enrolled in and attending the  
 20 nonpublic school; or

21 (2) Receiving educational services from the educational services  
 22 provider.

23  
 24 6-18-2214. Rules.

25 The Division of Elementary and Secondary Education shall promulgate  
 26 rules necessary to implement this subchapter.

27  
 28 SECTION 2. Arkansas Code § 6-13-1603, concerning administrative  
 29 reorganization under the Public Education Reorganization Act, is amended to  
 30 add an additional subsection to read as follows:

31 (1) A student who is a recipient of a student scholarship under the  
 32 Arkansas Child Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et  
 33 seq.:

34 (1) May be counted for the purposes of a consolidation  
 35 determination made under this subchapter; and

36 (2) Shall not be counted for the purposes of a funding

1 determination made under this subchapter.

3 SECTION 3. Arkansas Code § 6-18-232 is amended to read as follows:

4 6-18-232. Enrollment of private school, ~~or~~ home school, or Arkansas  
5 Child Academic Opportunity Scholarship and Grant Act students.

6 (a) As used in this section, "student" means a person who:

7 (1) Attends a private school;

8 (2) Attends a home school; or

9 (3) Is a recipient of a student scholarship under the Arkansas  
10 Child Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et seq.

11 ~~(a)(b)~~ Except as provided under ~~subsection (d)~~ subsection (e) of this  
12 section, a public school district or an open-enrollment public charter school  
13 shall adopt a policy that allows a student ~~who attends a private school or a~~  
14 ~~home school~~ to enroll in an academic course at a public school or an open-  
15 enrollment public charter school if the student resides in the public school  
16 district where the public school or open-enrollment public charter school is  
17 located.

18 ~~(b)(c)~~ A policy adopted by a public school district or open-enrollment  
19 public charter school under ~~subsection (a)~~ subsection (b) of this section  
20 may:

21 (1)(A) Include provisions that apply to a ~~private school or~~  
22 ~~home schooled~~ student who is enrolled in an academic course at a public  
23 school or open-enrollment public charter school, including without limitation  
24 provisions regarding:

25 (i) Academic or grade-level prerequisites;

26 (ii) Attendance;

27 (iii) Testing;

28 (iv) Coursework;

29 (v) Grades; and

30 (vi) Conduct.

31 (B) The provisions included under ~~subdivision (b)(1)(A)~~  
32 subdivision (c)(1)(A) of this section shall be consistent with provisions  
33 included in the public school district's or open-enrollment public charter  
34 school's policies that apply to public school students;

35 (2) Allow a student ~~who attends a private school or a home~~  
36 ~~school~~ to enroll in one (1) or more academic courses in a semester; and

1 (3) Limit enrollment if the enrollment of a ~~private school or~~  
2 ~~home schooled~~ student would:

3 (A) Create a financial loss for the public school district  
4 or open-enrollment public charter school; or

5 (B) Violate any state or federal law or any rule  
6 established by the Division of Elementary and Secondary Education.

7 ~~(e)(1)(d)(1)(A)~~ A public school district or an open-enrollment public  
8 charter school that enrolls a student who attends a private school or a home  
9 school in an academic course is entitled to an amount equal to one-sixth  
10 (1/6) of the state foundation funding amount for each academic course in  
11 which a student who attends a private school or a home school is enrolled.

12 (B) A public school district or an open-enrollment public  
13 charter school that enrolls a student who is a recipient of a student  
14 scholarship under the Arkansas Child Academic Opportunity Scholarship and  
15 Grant Act, § 6-18-2201 et seq., in an academic course is entitled to receive  
16 from the student's private school student support organization, for each  
17 academic course in which the student is enrolled, an amount that is equal to  
18 the state foundation funding amount that would be received by the public  
19 school district or open-enrollment public charter school under subdivision  
20 (d)(1)(A) of this section.

21 (2)(A) A public school district or an open-enrollment public  
22 charter school is not entitled to more than the equivalent of the state  
23 foundation funding amount for one (1) average daily membership per student  
24 regardless of the number of academic courses in which the student who attends  
25 a private school or a home school is enrolled.

26 (B) A public school district or an open-enrollment public  
27 charter school is not entitled to receive from a private school student  
28 support organization, for each student who is a recipient of a student  
29 scholarship under the Arkansas Child Academic Opportunity Scholarship and  
30 Grant Act, § 6-18-2201 et seq., more than the equivalent of the state  
31 foundation funding amount that would be received by the public school  
32 district or open-enrollment public charter school under subdivision (d)(2)(A)  
33 of this section.

34 ~~(d)(e)~~ A public school district or an open-enrollment public charter  
35 school may seek a waiver from the division from the requirements under this  
36 section.



1       ~~(e)(f)~~ If a student ~~who attends a private school or a home school~~  
 2 enrolls in an endorsed concurrent enrollment course as defined by § 6-16-  
 3 1202(2), the student shall not be charged for the endorsed concurrent  
 4 enrollment course unless the public school district also charges public  
 5 school students or open-enrollment public charter school students for the  
 6 endorsed concurrent enrollment course.

7       ~~(f)(g)~~ A public school district or open-enrollment public charter  
 8 school under this section:

9           (1) May provide transportation for a ~~private school or home-~~  
 10 ~~schooled~~ student to or from the location of the academic course; and

11           (2) Shall provide a final grade and transcript to each ~~private~~  
 12 ~~school or home-schooled~~ student who completes an academic course in which the  
 13 student is enrolled at a public school or open-enrollment public charter  
 14 school.

15       ~~(g)(1)(h)(1)~~ A ~~private school or home-schooled~~ student is not  
 16 considered truant from a public school or open-enrollment public charter  
 17 school under this section due to unexcused absences from the academic course  
 18 in which the ~~private school or home-schooled~~ student is enrolled.

19           (2) However, a public school or open-enrollment public charter  
 20 school may drop a ~~private school or home-schooled~~ student from an academic  
 21 course in the event of excessive unexcused absences or any other violation of  
 22 policies regarding the academic course in which the ~~private school or home-~~  
 23 ~~schooled~~ student is enrolled.

24       ~~(h)(i)~~ This section does not apply to a statewide open-enrollment  
 25 public charter school that operates primarily as a virtual school.

26       (j) A recipient of a student scholarship under the Arkansas Child  
 27 Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et seq., may pay  
 28 for an academic course in which he or she is enrolled under this section  
 29 using the student scholarship funds disbursed under the Arkansas Child  
 30 Academic Opportunity Scholarship and Grant Act, § 6-18-2201 et seq.

31  
 32       SECTION 4. Arkansas Code Title 26, Chapter 51, Subchapter 5, is  
 33 amended to add an additional section to read as follows:

34       26-51-515. Tax credit for contribution to student scholarship funds  
 35 and eligible payments to eligible public schools.

36       (a) As used in this section:

1           (1) "Eligible student support organization" means the same as  
2 defined in § 6-18-2203; and

3           (2)(A) "Eligible taxpayer" means an individual or business,  
4 including without limitation a:

5                   (i) Corporation;

6                   (ii) Partnership;

7                   (iii) Limited liability company; or

8                   (iv) Sole proprietorship.

9           (B) "Eligible taxpayer" does not include an individual or  
10 business that has a direct financial relationship with any of the following  
11 that receive funds under the Arkansas Child Academic Opportunity Scholarship  
12 and Grant Act, § 6-18-2201 et seq.:

13                   (i) A public school;

14                   (ii) A nonpublic school; or

15                   (iii) An eligible student support organization.

16           (b) A state income tax credit is allowed against the taxes imposed by  
17 the Income Tax Act of 1929, § 26-51-101 et seq., for one hundred percent  
18 (100%) of an eligible contribution made by an eligible taxpayer in a tax year  
19 to an eligible student support organization for student scholarships or  
20 eligible payments to eligible public schools at the time of the eligible  
21 contribution.

22           (c)(1)(A) The amount of the state income tax credit under this section  
23 that may be claimed by an eligible taxpayer in a tax year shall not exceed  
24 the amount of state income tax due by the eligible taxpayer.

25           (B) Unused income tax credit under this section may be  
26 carried forward for a maximum of five (5) consecutive tax years for credit  
27 against the state income tax.

28           (2)(A) Beginning with tax year 2021, the total amount of state  
29 income tax credits under this section shall not exceed a tax credit cap of  
30 ten million dollars (\$10,000,000).

31           (B) Of the ten million dollars (\$10,000,000) in state  
32 income tax credits allowed under subdivision (c)(2)(A) of this section, six  
33 million dollars (\$6,000,000) shall be allotted for eligible contributions  
34 made for the purpose of funding eligible public school payments and four  
35 million dollars (\$4,000,000) shall be allotted for eligible contributions  
36 made for the purpose of funding eligible private school payments.

1           (C)(i) In any fiscal year in which the tax credit amount  
2 claimed for eligible contributions made for the purpose of funding eligible  
3 public school payments is equal to or greater than ninety percent (90%) of  
4 the tax credit cap allotted for eligible contributions made for the purpose  
5 of funding eligible public school payments, the tax credit cap allotted for  
6 eligible contributions made for the purpose of funding eligible public school  
7 payments shall be increased by twenty-five percent (25%) for the following  
8 fiscal year.

9           (ii) The twenty-five-percent increase to the tax  
10 credit cap under subdivision (c)(2)(C)(i) of this section shall be allotted  
11 for eligible contributions made for the purpose of funding eligible public  
12 school payments.

13           (D)(i) In any fiscal year in which the tax credit amount  
14 claimed for eligible contributions made for the purpose of funding eligible  
15 private school payments is equal to or greater than ninety percent (90%) of  
16 the tax credit cap allotted for eligible contributions made for the purpose  
17 of funding eligible private school payments, the tax credit allotted for  
18 eligible contributions made for the purpose of funding eligible private  
19 school payments shall be increased by twenty-five percent (25%) for the  
20 following fiscal year.

21           (ii) The twenty-five-percent increase to the tax  
22 credit cap under subdivision (c)(2)(D)(i) of this section shall be allotted  
23 for eligible contributions made for the purpose of funding eligible private  
24 school payments.

25           (E) The Division of Elementary and Secondary Education and  
26 the Department of Finance and Administration shall publish on their  
27 respective websites information identifying the tax credit cap when it is  
28 increased under subdivision (c)(2)(C) or subdivision (c)(2)(D) of this  
29 section.

30           (d) An eligible taxpayer who files a consolidated corporate income tax  
31 return as a member of an affiliated group under § 26-51-805 may be allowed  
32 the state income tax credit under this section on a consolidated return basis  
33 subject to the limitations established under subsection (c) of this section.

34           (e) Spouses who file separately on the same income tax form for a tax  
35 year in which they could have filed a joint return may each claim only one-  
36 half (1/2) of the state income tax credit that would have been allowed for a

1 joint return under this section.

2 (f)(1) An eligible taxpayer who seeks to carry forward an unused  
3 amount of the state income tax credit under this section shall:

4 (A) Submit an application for allocation of tax credits;  
5 or

6 (B)(i) Carry forward credits in the year that the eligible  
7 taxpayer intends to use the carry-forward credits.

8 (ii) Any unused state income tax credit under this  
9 section may be carried forward for five (5) consecutive years following the  
10 tax year in which the state income tax credit was earned.

11 (2) An eligible taxpayer shall not convey, assign, or transfer  
12 the state income tax credit under this section to another entity unless all  
13 of the assets of the taxpayer are conveyed, assigned, or transferred in the  
14 same transaction.

15 (g) For purposes of this section, an eligible contribution for which a  
16 state income tax credit is claimed that is made on or before the fifteenth  
17 day of the fourth month following the close of the tax year:

18 (1) Applies to either the current or preceding tax year; and

19 (2) Is considered to have been made on the last day of the tax  
20 year.

21 (h) An application for a state income tax credit under this section  
22 shall be submitted to the department on forms established by rule of the  
23 division.

24 (i) The division shall develop a cooperative agreement to assist in  
25 the administration of this section.

26 (j) The department shall adopt rules necessary to administer this  
27 section, including without limitation rules governing the allocation of state  
28 tax credits and carry-forward credits under this section on a first-come,  
29 first-served basis.

30  
31 SECTION 5. DO NOT CODIFY. TEMPORARY LANGUAGE.

32 For the 2022-2023 school year, an organization that seeks to become an  
33 eligible student support organization under the Arkansas Child Academic  
34 Opportunity Scholarship and Grant Act, § 6-18-2201 et seq., shall, by  
35 December 31, 2021:

36 (1) Apply to the Division of Elementary and Secondary Education

1 for initial certification as an eligible student support organization; and  
 2 (2) Submit to the division the organization's completed Internal  
 3 Revenue Service Form 990 from the previous tax year.

4  
 5 SECTION 6. DO NOT CODIFY. TEMPORARY LANGUAGE.

6 (a) When the Division of Elementary and Secondary Education adopts  
 7 initial rules to implement this act, the final rule shall be filed with the  
 8 Secretary of State for adoption under § 25-15-204(f):

9 (1) On or before January 1, 2022; or

10 (2) If approval under § 10-3-309 has not occurred by January 1,  
 11 2022, as soon as practicable after approval under § 10-3-309.

12 (b) The division shall file the proposed rule with the Legislative  
 13 Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so  
 14 that the Legislative Council may consider the rule for approval before  
 15 January 1, 2022.

16  
 17 SECTION 7. EFFECTIVE DATE.

18 This act is effective for tax years beginning on or after January 1,  
 19 2022.