

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4
5 By: Senator J. Dismang
6

A Bill

SENATE BILL 630

For An Act To Be Entitled

8 AN ACT TO CREATE THE PHILANTHROPIC INVESTMENT IN
9 ARKANSAS KIDS PROGRAM ACT; AND FOR OTHER PURPOSES.

Subtitle

12 TO CREATE THE PHILANTHROPIC INVESTMENT IN
14 ARKANSAS KIDS PROGRAM ACT.

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

21 Subchapter 22 – Philanthropic Investment in Arkansas Kids Program Act

22
23 6-18-2201. Title.

24 This subchapter shall be known and may be cited as the "Philanthropic
25 Investment in Arkansas Kids Program Act".

26
27 6-18-2202. Definitions.

28 As used in this subchapter:

29 (1) "Educational scholarship" means a grant to a qualified
30 student that covers all or part of the tuition and fees at a private school;

31 (2) "Eligible contribution" means a monetary contribution from a
32 taxpayer to a scholarship-granting organization;

33 (3) "Qualified student" means a student who:

34 (A) Was eligible to attend a public school in this state
35 in the preceding semester;

36 (B) Has an annual family income that is less than or equal



1 to two hundred percent (200%) of the federal poverty guidelines as determined
2 annually in the Federal Register by the United States Department of Health
3 and Human Services under 42 U.S.C. § 9902(2); and

4 (C) Either:

5 (i) Was enrolled on a full-time basis in a public
6 school in this state in the previous school year before enrollment in a
7 private school and received an educational scholarship from a scholarship-
8 granting organization under this subchapter;

9 (ii) Is enrolling in kindergarten through grade
10 twelve (K-12) in the state for the first time;

11 (iii) Was enrolled in a private school in the state
12 and received an educational scholarship from a scholarship-granting
13 organization under this subchapter; or

14 (iv) Was:

15 (a) Residing in another state during the
16 previous school year before enrollment in a private school in this state;

17 (b) Not the recipient of an educational
18 scholarship from a scholarship-granting organization under this subchapter;
19 and

20 (c) Not attending a private school in the
21 state for more than one-half (1/2) of the school year before the year in
22 which the qualified student is applying for an educational scholarship from a
23 scholarship-granting organization under this subchapter;

24 (4) "Scholarship-granting organization" means an organization
25 that:

26 (A) Complies with the requirements of this subchapter;

27 (B) Receives eligible contributions that qualify eligible
28 taxpayers for tax credits under this subchapter; and

29 (C) Provides educational scholarships under this
30 subchapter to qualified students attending private schools without limiting
31 the availability of educational scholarships to qualified students of only
32 one (1) school; and

33 (5) "Taxpayer" means a resident individual or business,
34 including without limitation:

35 (A) Two (2) taxpayers who are eligible to file a joint
36 federal income tax return;

- 1 (B) A domestic or foreign corporation;
- 2 (C) A partnership;
- 3 (D) A Subchapter S corporation;
- 4 (E) Another similar pass-through entity, estate, or trust;
- 5 and
- 6 (F) A partner, member, or Subchapter S corporation
- 7 shareholder of a pass-through entity, estate, or trust.

8

9 6-18-2203. Creation.

10 There is created the Philanthropic Investment in Arkansas Kids Program.

11

12 6-18-2204. Eligible taxpayer contributions.

13 (a) Beginning with tax years on and after January 1, 2022, a taxpayer

14 may claim a state income tax credit against the taxes imposed by the Income

15 Tax Act of 1929, § 26-51-101 et seq., for one hundred percent (100%) of

16 eligible contributions made to a scholarship-granting organization under this

17 subchapter.

18 (b) A tax credit claimed under subsection (a) of this section:

19 (1) Shall be in an amount equal to the total eligible

20 contribution made by the eligible taxpayer to the scholarship-granting

21 organization during the taxable year for which the tax credit is claimed, but

22 not in excess of the Arkansas state income tax liability of the taxpayer; and

23 (2) May be carried forward in any amount to the next-succeeding

24 taxable year and annually thereafter for a total period of three (3) years.

25 (c) The total amount of state income tax credits under this section

26 shall not exceed a tax credit cap of two million dollars (\$2,000,000).

27

28 6-18-2205. Educational scholarships – Disbursement.

29 The average amount of all educational scholarships awarded by a

30 scholarship-granting organization to a qualified student under this

31 subchapter shall not exceed:

32 (1) Eighty percent (80%) of the previous school year’s

33 foundation funding amount under § 6-20-2306 for qualified students who are in

34 kindergarten through grade eight (K-8); and

35 (2) Ninety percent (90%) of the previous school year’s

36 foundation funding amount under § 6-20-2306 for qualified students who are in

1 grades nine through twelve (9-12).

2
3 6-18-2206. Scholarship-granting organizations – Duties.

4 Each scholarship-granting organization shall:

5 (1) Notify the Division of Elementary and Secondary Education of
6 its intent to provide educational scholarships to qualified students
7 attending private schools;

8 (2) Demonstrate proof of exemption from federal income tax under
9 20 U.S.C. § 501(c)(3) of the Internal Revenue Code, as in effect on January
10 1, 2021;

11 (3) Provide a receipt, approved by the division, to taxpayers
12 for eligible contributions made to the scholarship-granting organization;

13 (4) Ensure that first-time recipients of educational
14 scholarships were not continuously enrolled in a private school within the
15 state during the previous school year;

16 (5) Establish a system for parents or guardians of qualified
17 students who receive educational scholarships under this subchapter to direct
18 educational scholarship funds to nonpublic schools by use of:

19 (A) Checks;

20 (B) Electronic funds transfer, including an automated
21 clearinghouse transfer; or

22 (C) Another system that the scholarship-granting
23 organization finds to be commercially viable, cost-effective, and accessible
24 to parents or guardians of qualified students;

25 (6)(A) Cooperate with the division to conduct criminal
26 background checks on all of the scholarship-granting organization's
27 employees.

28 (B) A scholarship-granting organization shall exclude any
29 individual from employment who may reasonably pose a risk to the appropriate
30 use of eligible contributions under this subchapter;

31 (7) Distribute eligible contributions within three (3) tax years
32 of receipt by the scholarship-granting organization;

33 (8) Demonstrate financial viability if it expects to receive
34 eligible contributions equal to or greater than fifty thousand dollars
35 (\$50,000) during the academic school year by filing with the division before
36 the start of the academic school year either:

1 (A) A surety bond payable to the State of Arkansas in an
2 amount equal to the aggregate amount of eligible contributions the
3 scholarship-granting organization expects to receive during the academic
4 school year; or

5 (B) Financial information that demonstrates the financial
6 viability of the scholarship-granting organization;

7 (9) Ensure that participating private schools:

8 (A) Comply with all health and safety laws and rules;

9 (B) Hold valid occupancy of buildings as required by the
10 relevant municipality in which the private school is located;

11 (C)(i) Are held academically accountable by annually
12 administering or making provision for the administration of a nationally
13 recognized norm-referenced test to qualified students in grades three through
14 ten (3-10) who have received educational scholarships under this subchapter.

15 (ii) However, a qualified student in grades three
16 through ten (3-10) who has received an educational scholarship under this
17 subchapter and who has an individualized service plan in accordance with the
18 Individuals with Disabilities Education Act, 20 U.S.C. § 31 1412(a)(10), as
19 it existed on January 1, 2021, shall be exempt from the testing requirement
20 under subdivision (9)(C)(i) of this section; and

21 (D)(i) Annually report the scores and other academic
22 progress to:

23 (a) The parent or guardian of each qualified
24 student who has received an educational scholarship under this subchapter;
25 and

26 (b)(1) An independent research organization
27 selected by the division in accordance with § 6-18-2207(a)(2).

28 (2) Data reported to an independent
29 research organization shall be reported in a manner that ensures
30 disaggregation by grade level, gender, family income level, and race.

31 (ii) The annual report required under this
32 subdivision (9)(D) shall be published by the division on the division's
33 website each year;

34 (10)(A) Report to the division by June 1 of each year the
35 following information based on the previous academic school year:

36 (i) The name and address of the scholarship-granting

1 organization;

2 (ii) The total number and total dollar amount of
 3 eligible contributions the scholarship-granting organization received during
 4 the previous calendar year;

5 (iii) The total number and total dollar amount of
 6 educational scholarships awarded to qualified students under this subchapter
 7 during the previous calendar year; and

8 (iv) The total number of qualified students,
 9 according to the qualified students' respective resident public school
 10 districts, who received an educational scholarship from the scholarship-
 11 granting organization under this subchapter during the previous budget year.

12 (B) The report required under subdivision (10)(A) of this
 13 section shall be prepared by a certified public accountant; and

14 (11) Ensure that at least ninety percent (90%) of revenue from
 15 eligible contributions and one hundred percent (100%) of revenue from
 16 interest or investments is spent within three (3) years of receipt on:

17 (A) Educational scholarships; and

18 (B) Activities pertaining to the oversight of
 19 participating private schools.

20
 21 6-18-2207. Division of Elementary and Secondary Education – Duties.

22 (a) The Division of Elementary and Secondary Education shall:

23 (1)(A) Create and provide a standardized form of receipt to be
 24 issued by a scholarship-granting organization to a taxpayer who makes an
 25 eligible contribution to the scholarship-granting organization that indicates
 26 the value of each eligible contribution made by the eligible taxpayer.

27 (B) The receipt issued to a taxpayer under subdivision
 28 (a)(1)(A) of this section shall be filed with the taxpayer's tax return for
 29 any year in which the taxpayer claims an eligible contribution under this
 30 subchapter;

31 (2)(A) Select an independent research organization, which may be
 32 a public or private entity or institution of higher education, to which
 33 participating nonpublic schools shall annually report information as required
 34 under § 6-18-2206(9)(D)(i)(b).

35 (B)(i) An independent research organization selected under
 36 subdivision (a)(2)(A) of this section shall annually report to the Division

1 of Elementary and Secondary Education on a statewide basis year-to-year
2 learning gains of qualified students who have received an educational
3 scholarship under this subchapter and who have scores for a nationally
4 recognized norm-referenced test administered during the school year following
5 the effective date of this act for two (2) consecutive years at the same
6 participating private school.

7 (ii) The information reported under subdivision
8 (a)(2)(B)(i) of this section shall be:

9 (a) Disaggregated by the qualified students'
10 grade level, gender, family income level, and race;

11 (b) In compliance with the requirements under
12 the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and

13 (c) Used only for the purpose of creating the
14 annual report as required under § 6-18-2206(9)(D)(i)(b).

15 (iii) The independent research organization shall
16 not disaggregate data to a level that would identify:

17 (a) Individual participating private schools;
18 or

19 (b) The academic level of individual qualified
20 students; and

21 (3)(A) Allow an eligible taxpayer to divert a prorated amount of
22 state income tax withholdings to one (1) or more scholarship-granting
23 organizations of the eligible taxpayer's choosing.

24 (B) However, the diversion of a prorated amount of state
25 income tax withholdings allowed under subdivision (a)(3)(A) of this section
26 shall not exceed the maximum credit allowed under Arkansas law, including
27 without limitation carry-forward credits.

28 (b) The Revenue Division of the Department of Finance and
29 Administration shall:

30 (1) Promulgate rules that are necessary to carry out the
31 purposes of this section; and

32 (2) Consult with the Division of Elementary and Secondary
33 Education during the promulgation of the rules.

34 (c) The Division of Elementary and Secondary Education may:

35 (1) Conduct an audit or other appropriate financial review of a
36 scholarship-granting organization if the Division of Elementary and Secondary

1 Education has substantial evidence that a scholarship-granting organization
2 has violated requirements under this subchapter;

3 (2)(A) Seek and accept gifts, grants, or donations from private
4 or public sources for purposes of selecting an independent research
5 organization under subdivision (a)(2)(A) of this section.

6 (B)(i) The Division of Elementary and Secondary Education
7 shall transmit all gifts, grants, or donations received under subdivision
8 (c)(2)(A) of this section to the Treasurer of State, who shall credit the
9 received gifts, grants, or donations received by the Division of Elementary
10 and Secondary Education to the Philanthropic Investment in Arkansas Kids
11 Academic Accountability Fund under § 19-5-1271.

12 (ii) The funds in the Philanthropic Investment in
13 Arkansas Kids Academic Accountability Fund are subject to annual
14 appropriation by the General Assembly to the Division of Elementary and
15 Secondary Education for the direct and indirect costs associated with
16 selecting an independent research organization as required under subdivision
17 (a)(2)(A) of this section and reporting information as required under § 6-18-
18 2206(9)(D)(i)(b); and

19 (3)(A) Prohibit a scholarship-granting organization from
20 qualifying as a recipient of eligible contributions under this subchapter if
21 the Division of Elementary and Secondary Education establishes that the
22 scholarship-granting organization has intentionally and substantially failed
23 to comply with the requirements under § 6-18-2206.

24 (B) If the Division of Elementary and Secondary Education
25 bars a scholarship-granting organization from qualifying as a recipient of
26 eligible contributions under subdivision (c)(3)(A) of this section, the
27 scholarship-granting organization shall notify the affected qualified
28 students who have received educational scholarships and the qualified
29 students' parents or guardians as soon as reasonably practicable upon
30 notification by the Division of Elementary and Secondary Education of
31 disqualification.

32
33 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
34 amended to add an additional section to read as follows:

35 19-5-1271. Philanthropic Investment in Arkansas Kids Academic
36 Accountability Fund.

1 (a) There is created on the books of the Treasurer of State, the
2 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
3 fund to be known as the "Philanthropic Investment in Arkansas Kids Academic
4 Accountability Fund".

5 (b) The fund shall consist of:

6 (1) Moneys obtained from private or public grants, gifts, or
7 donations that are designated to be credited to the fund; and

8 (2) Any other funds authorized or provided by law.

9 (c) The fund shall be used by the Division of Elementary and Secondary
10 Education to create and maintain the Philanthropic Investment in Arkansas
11 Kids Program under the Philanthropic Investment in Arkansas Kids Program Act,
12 § 6-18-2201 et seq.

13 (d) Moneys remaining in the fund at the end of each fiscal year shall
14 carry forward and be made available for the purposes stated in this section
15 in the next fiscal year.

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