

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

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S4/7/21

A Bill

SENATE BILL 630

5 By: Senator J. Dismang
6

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

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11
12 TO CREATE THE PHILANTHROPIC INVESTMENT IN
13 ARKANSAS KIDS PROGRAM ACT.
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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) Is eligible to attend a public school in this state;

35 (B) Has an annual family income that is less than or equal
36 to two hundred percent (200%) of the federal poverty guidelines as determined



1 annually in the Federal Register by the United States Department of Health
2 and Human Services under 42 U.S.C. § 9902(2); and

3 (C) Either:

4 (i) Was enrolled on a full-time basis in a public
5 school in this state in the previous school year;

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

8 (iii) Was enrolled in a private school in the state
9 and received an educational scholarship from a scholarship-granting
10 organization under this subchapter in the previous school year; or

11 (iv) Was:

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

14 (b) Not the recipient of an educational
15 scholarship from a scholarship-granting organization under this subchapter;
16 and

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

21 (4) "Scholarship-granting organization" means an organization
22 that:

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

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

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

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

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

34 (B) A domestic or foreign corporation;

35 (C) A partnership;

36 (D) A Subchapter S corporation;

1 (E) Another similar pass-through entity, estate, or trust;
2 and

3 (F) A partner, member, or Subchapter S corporation
4 shareholder of a pass-through entity, estate, or trust.

5
6 6-18-2203. Creation.

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

8
9 6-18-2204. Eligible taxpayer contributions.

10 (a) Beginning with tax years on and after January 1, 2022, a taxpayer
11 may claim a state income tax credit against the taxes imposed by the Income
12 Tax Act of 1929, § 26-51-101 et seq., for one hundred percent (100%) of
13 eligible contributions made to a scholarship-granting organization under this
14 subchapter.

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

16 (1) Shall be in an amount equal to the total eligible
17 contribution made by the eligible taxpayer to the scholarship-granting
18 organization during the taxable year for which the tax credit is claimed, but
19 not in excess of the Arkansas state income tax liability of the taxpayer; and

20 (2) May be carried forward in any amount to the next-succeeding
21 taxable year and annually thereafter for a total period of three (3) years.

22 (c) The total amount of state income tax credits under this section
23 shall not exceed a tax credit cap of two million dollars (\$2,000,000).

24
25 6-18-2205. Educational scholarships – Disbursement.

26 The average amount of all educational scholarships awarded by a
27 scholarship-granting organization to a qualified student under this
28 subchapter shall not exceed:

29 (1) Eighty percent (80%) of the previous school year's
30 foundation funding amount under § 6-20-2306 for qualified students who are in
31 kindergarten through grade eight (K-8); and

32 (2) Ninety percent (90%) of the previous school year's
33 foundation funding amount under § 6-20-2306 for qualified students who are in
34 grades nine through twelve (9-12).

35
36 6-18-2206. Scholarship-granting organizations – Duties.

1 Each scholarship-granting organization shall:

2 (1) Notify the Division of Elementary and Secondary Education of
3 its intent to provide educational scholarships to qualified students
4 attending private schools;

5 (2) Demonstrate proof of exemption from federal income tax under
6 20 U.S.C. § 501(c)(3) of the Internal Revenue Code, as in effect on January
7 1, 2021;

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

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

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

16 (A) Checks;

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

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

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

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

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

30 (8) Demonstrate financial viability if it expects to receive
31 eligible contributions equal to or greater than fifty thousand dollars
32 (\$50,000) during the academic school year by filing with the division before
33 the start of the academic school year either:

34 (A) A surety bond payable to the State of Arkansas in an
35 amount equal to the aggregate amount of eligible contributions the
36 scholarship-granting organization expects to receive during the academic

1 school year; or

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

4 (9) Ensure that participating private schools:

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

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

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

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

18 (D)(i) Annually report the scores and other academic
19 progress to:

20 (a) The parent or guardian of each qualified
21 student who has received an educational scholarship under this subchapter;
22 and

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

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

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

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

33 (i) The name and address of the scholarship-granting
34 organization;

35 (ii) The total number and total dollar amount of
36 eligible contributions the scholarship-granting organization received during

1 the previous calendar year;

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

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

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

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

14 (A) Educational scholarships; and

15 (B) Activities pertaining to the oversight of
16 participating private schools.

17
18 6-18-2207. Division of Elementary and Secondary Education – Duties.

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

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

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

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

32 (B)(i) An independent research organization selected under
33 subdivision (a)(2)(A) of this section shall annually report to the Division
34 of Elementary and Secondary Education on a statewide basis year-to-year
35 learning gains of qualified students who have received an educational
36 scholarship under this subchapter and who have scores for a nationally

1 recognized norm-referenced test administered during the school year following
2 the effective date of this act for two (2) consecutive years at the same
3 participating private school.

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

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

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

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

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

14 (a) Individual participating private schools;
15 or

16 (b) The academic level of individual qualified
17 students; and

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

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

25 (b) The Revenue Division of the Department of Finance and
26 Administration shall:

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

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

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

32 (1) Conduct an audit or other appropriate financial review of a
33 scholarship-granting organization if the Division of Elementary and Secondary
34 Education has substantial evidence that a scholarship-granting organization
35 has violated requirements under this subchapter;

36 (2)(A) Seek and accept gifts, grants, or donations from private

1 or public sources for purposes of selecting an independent research
2 organization under subdivision (a)(2)(A) of this section.

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

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

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

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

29
30 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
31 amended to add an additional section to read as follows:

32 19-5-1271. Philanthropic Investment in Arkansas Kids Academic
33 Accountability Fund.

34 (a) There is created on the books of the Treasurer of State, the
35 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
36 fund to be known as the "Philanthropic Investment in Arkansas Kids Academic

1 Accountability Fund".

2 (b) The fund shall consist of:

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

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

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

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

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14 */s/J. Dismang*
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