

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1812 be amended to read as follows:

1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE  
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2005]:  
6           **Chapter 29. Family Education Tax Credit**  
7           **Sec. 1. As used in this chapter, "dependent" has the meaning**  
8 **set forth in Section 152(a) of the Internal Revenue Code.**  
9           **Sec. 2. As used in this chapter, "qualified education**  
10 **expenditures" means expenditures made by a taxpayer during the**  
11 **twelve (12) month period beginning July 1 and ending June 30 of**  
12 **the taxable year for a dependent with respect to a school of choice**  
13 **for any of the following:**  
14           **(1) Fees for academic tuition or instruction.**  
15           **(2) If the dependent is not enrolled in a school that charges**  
16 **tuition, expenditures for computer software, textbooks,**  
17 **workbooks, curricula, school supplies other than personal**  
18 **computers, and other written materials used primarily for**  
19 **academic instruction and for academic tutoring.**  
20           **(3) Expenditures for transporting the dependent to and from**  
21 **the school of choice in which the dependent is enrolled,**  
22 **excluding transportation for extracurricular activities.**  
23 **However, the total of a taxpayer's expenditures described in this**  
24 **section must be reduced by the amount of a scholarship received**  
25 **under IC 21-1-31 to determine qualified educational expenditures**

1 for purposes of sections 6(1) and 7(b)(1) of this chapter.  
2 **Sec. 3.** As used in this chapter, "school of choice" means:  
3 (1) a nonpublic school (as defined in IC 20-10.1-1-3); or  
4 (2) a public school (as defined in IC 20-10.1-1-2) in which a  
5 dependent is enrolled but that is not the dependent's school  
6 of legal settlement for purposes of the general school tuition  
7 support formula.  
8 **Sec. 4.** As used in this chapter, "taxpayer" means:  
9 (1) an individual who is; or  
10 (2) an individual and the individual's spouse, in the case of a  
11 joint return, who are;  
12 subject to the adjusted gross income tax.  
13 **Sec. 5.** This chapter applies to a taxpayer who has a dependent  
14 who has legal settlement in a school corporation located in Indiana.  
15 **Sec. 6.** Except as provided in section 7 of this chapter, a taxpayer  
16 who makes qualified education expenditures is entitled to a credit  
17 against the adjusted gross income tax imposed by IC 6-3 for the  
18 taxable year. The credit to which the taxpayer is entitled for all the  
19 taxpayer's dependents combined is equal to the lesser of:  
20 (1) the qualified education expenditures of the taxpayer; or  
21 (2) the following amount per taxpayer:

Taxable Year Ending In	Amount
2006 and 2007	\$1,000
2008 and 2009	\$1,500
2010 and 2011	\$2,000
2012 and 2013	\$2,500
2014 and thereafter	\$3,000

28 The credit amount under this subsection with respect to a  
29 dependent is reduced by any credit amount with respect to other  
30 dependents under section 7 of this chapter.  
31 **Sec. 7.** (a) This section applies to the determination of a credit  
32 for any taxpayer with respect to any dependent who is:  
33 (1) not enrolled in a public school in 2005 but who is eligible  
34 for enrollment in a public school in 2005; or  
35 (2) a member of a household with an annual household income  
36 that is more than three hundred fifty percent (350%) of the  
37 federal income poverty level as determined annually by the  
38 federal Office of Management and Budget under 42 U.S.C.  
39 9902.  
40 (b) A taxpayer described in subsection (a) is not entitled to a  
41 credit under this chapter for expenditures made before July 1,  
42 2007, with respect to the dependent described in subsection (a). The  
43 credit for such a taxpayer for expenditures made with respect to  
44 the dependent after June 30, 2007, is equal to the lesser of:  
45 (1) the qualified education expenditures of the taxpayer; or  
46 (2) the following amount per taxpayer:

Taxable Year Ending In	Amount
2008 and 2009	\$500
2010 and 2011	\$1,000
2012 and 2013	\$1,500
2014 and 2015	\$2,000

1	<b>2016 and 2017</b>	<b>\$2,500</b>
2	<b>2018</b>	<b>\$3,000</b>

3 (c) This section expires for taxable years ending after 2018.

4 **Sec. 8.** The department shall develop a process and create forms  
5 that will:

6 (1) permit the taxpayer to assign credits under this chapter to  
7 the school of choice in which the taxpayer's dependent is  
8 enrolled; and

9 (2) allow the school that receives an assignment of credits to  
10 claim and receive the amount of the credit as soon as the  
11 taxpayer has filed the required income tax return for the  
12 taxable year.

13 **Sec. 9.** If the amount of the credit provided by this chapter that  
14 a taxpayer uses during a particular taxable year exceeds the sum  
15 of the taxes imposed on the taxpayer by IC 6-3 for the taxable year  
16 after the application of all credits that under IC 6-3.1-1-2 are to be  
17 applied before the credit provided by this chapter, the excess shall  
18 be returned to the taxpayer as a refund.

19 **Sec. 10.** Acceptance by a taxpayer of a credit for qualified  
20 education expenditures for a dependent under this chapter does not  
21 provide any governmental entity or agency of the state with  
22 jurisdiction, authority, or control over the dependent's educational  
23 provider.".

24 Page 4, between lines 21 and 22, begin a new paragraph and insert:  
25 "SECTION 3. IC 21-1-31 IS ADDED TO THE INDIANA CODE  
26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2005]:

28 **Chapter 31. Freedom to Achieve Scholarship Program**

29 **Sec. 1.** As used in this chapter, "ADM" has the meaning set  
30 forth in IC 21-3-1.6-1.1 and includes adjusted ADM.

31 **Sec. 2.** As used in this chapter, "eligible student" means a  
32 student who meets the requirements of section 6 of this chapter.

33 **Sec. 3.** As used in this chapter, "school of choice" means a  
34 nonpublic school (as defined in IC 20-10.1-1-3) or a public school  
35 (as defined in IC 20-10.1-1-2) in which a dependent is enrolled but  
36 that is not the dependent's school of legal settlement for purposes  
37 of the general school tuition support formula, if the school:

38 (1) is accredited by the state of Indiana or a national  
39 accrediting body;

40 (2) is not required to provide supplemental educational  
41 services for its students or to institute corrective action under  
42 20 U.S.C. 6316;

43 (3) complies with all health and safety laws that apply to  
44 public or nonpublic schools, respectively;

45 (4) holds a valid occupancy permit if required; and

46 (5) certifies that it will not discriminate in admissions on the  
47 basis of race, color, or national origin.

48 **Sec. 4.** As used in this chapter, "scholarship" refers to a  
49 scholarship provided under the scholarship program established by  
50 section 5 of this chapter.

1           **Sec. 5. There is established the freedom to achieve scholarship**  
 2 **program to assist parents and guardians to pay the costs of their**  
 3 **child attending a school of choice.**

4           **Sec. 6. A student who meets the following requirements is**  
 5 **eligible for a scholarship for a school year:**

6           **(1) The student was enrolled in a public school during the**  
 7 **school year preceding the first school year for which a**  
 8 **scholarship is sought.**

9           **(2) The public school attended by the student under**  
 10 **subdivision (1) was either required to provide supplemental**  
 11 **educational services for the student or was required to**  
 12 **institute corrective action under 20 U.S.C. 6316 for the year**  
 13 **the student attended the public school.**

14           **(3) The student has legal settlement in a school corporation**  
 15 **located in Indiana.**

16           **(4) The student is enrolled in a school of choice for the school**  
 17 **year for which a scholarship is sought.**

18           **(5) The student is a member of a household with an annual**  
 19 **household income that not more than three hundred fifty**  
 20 **percent (350%) of the federal income poverty level as**  
 21 **determined annually by the federal Office of Management and**  
 22 **Budget under 42 U.S.C. 9902.**

23           **Sec. 7. The parent or guardian of an eligible student seeking a**  
 24 **scholarship must apply to the department. The department shall**  
 25 **prescribe the form of the application. The application must be filed**  
 26 **after June 15 and before July 16 for a scholarship for the upcoming**  
 27 **school year. The department shall make a determination whether**  
 28 **an applicant has an eligible student within thirty (30) days after the**  
 29 **application is filed. The amount of the scholarship for each eligible**  
 30 **student who is enrolled in a school of choice that is a nonpublic**  
 31 **school is the lesser of:**

32           **(1) the cost of tuition, textbooks, and other mandatory fees,**  
 33 **not including fees for extracurricular activities, charged by**  
 34 **the school of choice for the eligible student; or**

35           **(2) the sum of the average amount per ADM with respect to**  
 36 **the public school in which the dependent is eligible for**  
 37 **enrollment for:**

38           **(A) all components of state tuition support and categorical**  
 39 **grants, except special education grants; plus**

40           **(B) the ad valorem property taxes for the school**  
 41 **corporation's general fund;**

42 **for the school year for which the scholarship applies. The**  
 43 **department shall provide the full scholarship amount by paying**  
 44 **equal installments to the school of choice at the same times the**  
 45 **department makes a tuition support distribution to the public**  
 46 **school in which the eligible student has legal settlement. If an**  
 47 **eligible student withdraws from a school of choice, the school of**  
 48 **choice shall notify the department within ten (10) days. The**  
 49 **department shall thereafter terminate payments to the school of**  
 50 **choice for that student.**

1           **Sec. 8. To receive a scholarship distribution, a school of choice**  
 2 **must agree with the department to do the following:**

3           **(1) Determine before enrolling any potential scholarship**  
 4 **students the specific number of scholarship students that will**  
 5 **be admitted, and, if applicants under the program exceed the**  
 6 **determined number of spaces available at any particular**  
 7 **grade level, conduct a random selection process to determine**  
 8 **those students that are admitted to that grade level.**  
 9 **Exceptions to this random selection may be made to**  
 10 **accommodate siblings of students who are already enrolled or**  
 11 **selected for enrollment in the school.**

12           **(2) Not charge any tuition or other fees in excess of the**  
 13 **scholarship amount.**

14           **(3) Not charge any tuition or other fees under the scholarship**  
 15 **program that exceed the standard rates charged to other**  
 16 **students who pay tuition to enroll in the school.**

17           **(4) Not refund, rebate, or share a student's scholarship with**  
 18 **a parent or the student in any manner.**

19           **(5) Use a student's scholarship only for educational purposes.**

20           **(6) Provide regular academic progress reports to the parents**  
 21 **of students enrolled under the scholarship program.**

22           **Sec. 9. (a) Notwithstanding the state tuition support formula and**  
 23 **laws governing the counting of pupils in ADM, an eligible student**  
 24 **who:**

25           **(1) is enrolled in a school of choice that is a public school; and**

26           **(2) is not already being counted in ADM of the school**  
 27 **corporation in which the dependent has legal settlement;**

28 **shall, for purposes of calculating tuition support distributions, be**  
 29 **counted as a full additional ADM of the school corporation in**  
 30 **which the public school of choice is located after otherwise**  
 31 **computing the ADM of that school corporation under the state**  
 32 **tuition support formula.**

33           **(b) This section applies to a school corporation for purposes of**  
 34 **calculating tuition support distributions regardless of how the**  
 35 **scholarship student might otherwise be treated under the school**  
 36 **funding formula.**

37           **Sec. 10. An amount sufficient to provide scholarships and grants**  
 38 **under this chapter shall be paid from the state general fund.**

39           **SECTION 3. [EFFECTIVE JULY 1, 2005] IC 6-3.1-29, as added**  
 40 **by this act, applies to taxable years beginning after December 31,**  
 41 **2005."**

42           Renumber all SECTIONS consecutively.

(Reference is to HB 1812 as printed February 9, 2005.)

Representative BEHNING