

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1003

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]:** **Sec. 22. (a) The following definitions apply throughout this section:**

(1) "Dependent child" means an individual who:

- (A) is eligible to receive a free elementary or high school education in an Indiana school corporation;**
- (B) qualifies as a dependent (as defined in Section 152 of the Internal Revenue Code) of the taxpayer; and**
- (C) is the natural or adopted child or the taxpayer or, if custody of the child has been awarded in a court proceeding to someone other than the mother or father, the court appointed guardian or custodian of the child.**

If the parents of a child are divorced, the term refers to the parent who is eligible to take the exemption for the child under Section 151 of the Internal Revenue Code.

(2) "Education expenditure" refers to any expenditures made in connection with enrollment, attendance, or participation of the taxpayer's dependent child in a private elementary or high school education program. The term includes tuition, fees, computer software, textbooks, workbooks, curricula, school

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supplies (other than personal computers), and other written materials used primarily for academic instruction or for academic tutoring, or both.

(3) "Private elementary or high school education program" means:

- (A) home schooling; or
- (B) attendance at a private school;

in Indiana that satisfies a child's obligation under IC 20-33-2 for compulsory attendance at a school. The term does not include the delivery of instructional service in a home setting to a dependent child who is enrolled in a school corporation or a charter school.

(b) This section applies to taxable years beginning after December 31, 2010.

(c) A taxpayer who makes an unreimbursed education expenditure during the taxpayer's taxable year is entitled to a deduction against the taxpayer's adjusted gross income in the taxable year.

(d) The amount of the deduction is:

- (1) one thousand dollars (\$1,000); multiplied by
- (2) the number of the taxpayer's dependent children for whom the taxpayer made education expenditures in the taxable year.

A husband and wife are entitled to only one (1) deduction under this section.

(e) To receive the deduction provided by this section, a taxpayer must claim the deduction on the taxpayer's annual state tax return or returns in the manner prescribed by the department.

SECTION 2. IC 6-3.1-30.5-3, AS ADDED BY P.L.182-2009(ss), SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this chapter, "scholarship granting organization" refers to an organization that:

- (1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and
- (2) conducts a school scholarship program **without limiting the availability of scholarships to students of only one (1) participating school (as defined in IC 20-51-1-6).**

SECTION 3. IC 6-3.1-30.5-12, AS ADDED BY P.L.182-2009(ss), SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. A contribution to a scholarship granting organization shall be treated as having been made for use in a school scholarship program if:

- (1) the contribution is made directly to a scholarship granting

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organization; and

(2) either:

(A) not later than the date of the contribution, the taxpayer designates in writing to the scholarship granting organization that the contribution is to be used only for a school scholarship program; or

(B) the scholarship granting organization provides the taxpayer with written confirmation that the contribution will be dedicated solely for use in a school scholarship program.

SECTION 4. IC 6-3.1-30.5-13, AS ADDED BY P.L.182-2009(ss), SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. The total amount of tax credits awarded under this chapter may not exceed ~~two million five hundred thousand dollars (\$2,500,000)~~ **five million dollars (\$5,000,000)** in any a state fiscal year.

SECTION 5. IC 20-51-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.5. "Eligible individual" refers to an individual who:**

- (1) has legal settlement in Indiana;**
- (2) is at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in IC 20-33-2-7;**
- (3) either has been or is currently enrolled in an accredited school;**
- (4) is a member of a household with an annual income of not more than one hundred fifty percent (150%) of the amount required for the individual to qualify for the federal free or reduced price lunch program; and**
- (5) either:**

(A) was enrolled in grade 1 through 12 in a school corporation that did not charge the individual transfer tuition for at least two (2) semesters immediately preceding the first semester for which the individual receives a choice scholarship under IC 20-51-4; or

(B) received a scholarship from a scholarship granting organization under IC 20-51-3 or a choice scholarship under IC 20-51-4 in a preceding school year, including a school year that does not immediately precede a school year in which the individual receives a scholarship from a scholarship granting organization under IC 20-51-3 or a choice scholarship under IC 20-51-4.

SECTION 6. IC 20-51-1-4.7 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.7. "Eligible school" refers to a public or nonpublic elementary school or high school that:**

- (1) is located in Indiana;**
- (2) requires an eligible individual to pay tuition or transfer tuition to attend;**
- (3) voluntarily agrees to enroll an eligible individual;**
- (4) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board;**
- (5) administers the Indiana statewide testing for educational progress (ISTEP) program under IC 20-32-5;**
- (6) is not a charter school or the school corporation in which an eligible individual has legal settlement under IC 20-26-11; and**
- (7) submits to the department data required for a category designation under IC 20-31-8-3.**

SECTION 7. IC 20-51-1-7, AS ADDED BY P.L.182-2009(ss), SECTION 364, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 7. "Scholarship granting organization" refers to an organization that:**

- (1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and**
- (2) is organized at least in part to grant school scholarships without limiting the availability of scholarships to students of only one (1) participating school.**

SECTION 8. IC 20-51-3-1, AS ADDED BY P.L.182-2009(ss), SECTION 364, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1. (a)** A program qualifies for certification as a school scholarship program if:

- (1) the program:**
 - (A) is administered by a scholarship granting organization; and**
 - (B) has the primary purpose of providing school scholarships to eligible students; and**
- (2) the scholarship granting organization administering the program:**
 - (A) applies to the department on the form and in the manner prescribed by the department; and**
 - (B) enters into an agreement with the department to comply with this article.**

(b) A program may not be certified as a school scholarship program

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if the program:

- (1) limits a recipient of a school scholarship to attending specific participating schools; or
- (2) limits the ability of a recipient of a school scholarship to change attendance from one (1) participating school to another participating school.

SECTION 9. IC 20-51-3-5, AS ADDED BY P.L.182-2009(ss), SECTION 364, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) An agreement entered into under section 1 of this chapter must prohibit a scholarship granting organization from distributing school scholarships for use by an eligible student to:

- (1) enroll in a school that has:
 - (A) paid staff or board members; or
 - (B) relatives of paid staff or board members; in common with the scholarship granting support organization;
- (2) enroll in a school that the scholarship granting organization knows does not qualify as a participating school; or
- (3) pay for the cost of education for a public school where the eligible student is entitled to enroll without the payment of tuition.

(b) An agreement entered into under section 1 of this chapter must prohibit a scholarship granting organization from limiting the availability of scholarships to students of only one (1) participating school. An agreement entered into under section 1 of this chapter before July 1, 2011, must be amended to include the requirement specified in this subsection.

SECTION 10. IC 20-51-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 4. Choice Scholarship

Sec. 1. (a) Except as provided under subsections (b) through (h), it is the intent of the general assembly to honor the autonomy of nonpublic schools that choose to become eligible schools under this chapter. A nonpublic eligible school is not an agent of the state or federal government, and therefore:

- (1) the department or any other state agency may not in any way regulate the educational program of a nonpublic eligible school that accepts a choice scholarship under this chapter, including the regulation of curriculum content, religious instruction or activities, classroom teaching, teacher and staff hiring requirements, and other activities carried out by the eligible school;**

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(2) the creation of the choice scholarship program does not expand the regulatory authority of the state, the state's officers, or a school corporation to impose additional regulation of nonpublic schools beyond those necessary to enforce the requirements of the choice scholarship program in place on July 1, 2011; and

(3) a nonpublic eligible school shall be given the freedom to provide for the educational needs of students without governmental control.

(b) This section applies to the following writings, documents, and records:

- (1) The Constitution of the United States.
- (2) The national motto.
- (3) The national anthem.
- (4) The Pledge of Allegiance.
- (5) The Constitution of the State of Indiana.
- (6) The Declaration of Independence.
- (7) The Mayflower Compact.
- (8) The Federalist Papers.
- (9) "Common Sense" by Thomas Paine.
- (10) The writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States.
- (11) United States Supreme Court decisions.
- (12) Executive orders of the presidents of the United States.
- (13) Frederick Douglas' Speech at Rochester, New York, on July 5, 1852, entitled "What to a Slave is the Fourth of July?".
- (14) Appeal by David Walker.
- (15) Chief Seattle's letter to the United States government in 1852 in response to the United States government's inquiry regarding the purchase of tribal lands.

(c) An eligible school may allow a principal or teacher in the eligible school to read or post in the school building or classroom or at a school event any excerpt or part of a writing, document, or record listed in subsection (b).

(d) An eligible school may not permit the content based censorship of American history or heritage based on religious references in a writing, document, or record listed in subsection (b).

(e) A library, a media center, or an equivalent facility that an eligible school maintains for student use must contain in the facility's permanent collection at least one (1) copy of each writing or document listed in subsection (b)(1) through (b)(9).

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- (f) An eligible school shall do the following:**
- (1) Allow a student to include a reference to a writing, document, or record listed in subsection (b) in a report or other work product.**
 - (2) May not punish the student in any way, including a reduction in grade, for using the reference.**
 - (3) Display the United States flag in each classroom.**
 - (4) Provide a daily opportunity for students to voluntarily recite the Pledge of Allegiance in each classroom or on school grounds. A student is exempt from participation in the Pledge of Allegiance and may not be required to participate in the Pledge of Allegiance if:**
 - (A) the student chooses to not participate; or**
 - (B) the student's parent chooses to have the student not participate.**
 - (5) Provide instruction on the constitutions of:**
 - (A) Indiana; and**
 - (B) the United States.**
 - (6) For an eligible school that enrolls students in grades 6 through 12, provide within the two (2) weeks preceding a general election five (5) full recitation periods of class discussion concerning:**
 - (A) the system of government in Indiana and in the United States;**
 - (B) methods of voting;**
 - (C) party structures;**
 - (D) election laws; and**
 - (E) the responsibilities of citizen participation in government and in elections.**
 - (7) Require that each teacher employed by the eligible school present instruction with special emphasis on:**
 - (A) honesty;**
 - (B) morality;**
 - (C) courtesy;**
 - (D) obedience to law;**
 - (E) respect for the national flag and the Constitution of the State of Indiana and the Constitution of the United States;**
 - (F) respect for parents and the home;**
 - (G) the dignity and necessity of honest labor; and**
 - (H) other lessons of a steadying influence that tend to promote and develop an upright and desirable citizenry.**
 - (8) Provide good citizenship instruction that stresses the**

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nature and importance of the following:

- (A) Being honest and truthful.
 - (B) Respecting authority.
 - (C) Respecting the property of others.
 - (D) Always doing the student's personal best.
 - (E) Not stealing.
 - (F) Possessing the skills (including methods of conflict resolution) necessary to live peaceably in society and not resorting to violence to settle disputes.
 - (G) Taking personal responsibility for obligations to family and community.
 - (H) Taking personal responsibility for earning a livelihood.
 - (I) Treating others the way the student would want to be treated.
 - (J) Respecting the national flag, the Constitution of the United States, and the Constitution of the State of Indiana.
 - (K) Respecting the student's parents and home.
 - (L) Respecting the student's self.
 - (M) Respecting the rights of others to have their own views and religious beliefs.
- (9) Provide instruction in the following studies:
- (A) Language arts, including:
 - (i) English;
 - (ii) grammar;
 - (iii) composition;
 - (iv) speech; and
 - (v) second languages.
 - (B) Mathematics.
 - (C) Social studies and citizenship, including the:
 - (i) constitutions;
 - (ii) governmental systems; and
 - (iii) histories;
 of Indiana and the United States, including a study of the Holocaust and the role religious extremism played in the events of September 11, 2001, in each high school United States history course.
 - (D) Sciences.
 - (E) Fine arts, including music and art.
 - (F) Health education, physical fitness, safety, and the effects of alcohol, tobacco, drugs, and other substances on the human body.
- (g) An eligible school, charter school, or public school shall not

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teach the violent overthrow of the government of the United States.

(h) Nothing in this section shall be construed to limit the requirements of IC 20-30-5.

Sec. 2. (a) Subject to subsection (b), an eligible individual is entitled to a choice scholarship under this chapter for each school year beginning after June 30, 2011, that the eligible student enrolls in an eligible school.

(b) The department may not award more than:

(1) seven thousand five hundred (7,500) choice scholarships for the school year beginning July 1, 2011, and ending June 30, 2012; and

(2) fifteen thousand (15,000) choice scholarships for the school year beginning July 1, 2012, and ending June 30, 2013.

The department shall establish the standards used to allocate choice scholarships among eligible students.

Sec. 3. (a) An eligible school may not discriminate on the basis of race, color, or national origin.

(b) An eligible school shall abide by the school's written admission policy fairly and without discrimination with regard to students who:

(1) apply for; or

(2) are awarded;

scholarships under this chapter.

(c) If the number of applicants for enrollment in an eligible school under a choice scholarship exceeds the number of choice scholarships available to the eligible school, the eligible school must draw at random in a public meeting the applications of applicants who are entitled to a choice scholarship from among the applicants who meet the requirements for admission to the eligible school.

(d) The department shall, at a minimum, annually visit each eligible school and charter school to verify that the eligible school or charter school complies with the provisions of IC 20-51-4, the Constitutions of the state of Indiana and the United States.

(e) Each eligible school, public school, and charter school shall grant the department full access to its premises, including access to any points of ingress to and egress from the school's grounds, buildings, and property for observing classroom instruction and reviewing any instructional materials and curriculum.

Sec. 4. The maximum amount to which an eligible individual is entitled under this chapter for a school year is equal to the least of the following:

(1) The sum of the tuition, transfer tuition, and fees required

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for enrollment or attendance of the eligible student at the eligible school selected by the eligible individual for a school year that the eligible individual (or the parent of the eligible individual) would otherwise be obligated to pay to the eligible school.

(2) An amount equal to:

(A) ninety percent (90%) of the state tuition support amount determined under section 5 of this chapter if the eligible individual is a member of a household with an annual income of not more than the amount required for the individual to qualify for the federal free or reduced price lunch program; and

(B) fifty percent (50%) of the state tuition support amount determined under section 5 of this chapter if the eligible individual is a member of a household with an annual income of not more than one hundred fifty percent (150%) of the amount required for the individual to qualify for the federal free or reduced price lunch program.

(3) If the eligible individual is enrolled in grade 1 through 8, the maximum choice scholarship that the eligible individual may receive for a school year is four thousand five hundred dollars (\$4,500).

Sec. 5. The state tuition support amount to be used in section 3(2) of this chapter for an eligible individual is the amount determined under the last STEP of the following formula:

STEP ONE: Determine the school corporation in which the eligible individual has legal settlement.

STEP TWO: Determine the amount of state tuition support that the school corporation identified under STEP ONE is eligible to receive under IC 20-43 for the calendar year in which the current school year begins, excluding amounts provided for special education grants under IC 20-43-7 and career and technical education grants under IC 20-43-8.

STEP THREE: Determine the result of:

(A) the STEP TWO amount; divided by

(B) the current ADM (as defined in IC 20-43-1-10) for the school corporation identified under STEP ONE for the calendar year used in STEP TWO.

Sec. 6. (a) If an eligible individual enrolls in an eligible school for less than an entire school year, the choice scholarship provided under this chapter for that school year shall be reduced on a prorated basis to reflect the shorter school term.

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(b) An eligible individual is entitled to only one (1) choice scholarship for each school year. If the eligible individual leaves the eligible school for which the eligible individual was awarded a choice scholarship and enrolls in another eligible school, the eligible individual is responsible for the payment of any tuition required for the remainder of that school year.

Sec. 7. (a) The department shall administer this chapter.

(b) The department shall adopt rules under IC 4-22-2 to implement this chapter.

(c) The department may adopt emergency rules under IC 4-22-2-37.1 to implement this chapter.

Sec. 8. The department may prescribe forms and methods for demonstrating eligibility for a choice scholarship under this chapter.

Sec. 9. (a) The department shall enforce the following consequences for an eligible school that is nonpublic:

(1) If the school is placed in either of the lowest two (2) categories or designations under IC 20-31-8-3 for two (2) consecutive years, the department shall suspend choice scholarship payments for one (1) year for new students who would otherwise use a choice scholarship to attend the school.

(2) If the school is placed in either of the lowest two (2) categories or designations under IC 20-31-8-3 for three (3) consecutive years, the department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for two (2) consecutive years.

(3) If the school is placed in the lowest category or designation under IC 20-31-8-3 for three (3) consecutive years, the department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for three (3) consecutive years.

(4) Students who:

(A) are currently enrolled at a school described in subdivision (1), (2), or (3); and

(B) qualify for a choice scholarship for the upcoming school year;

may continue to receive a choice scholarship at the school.

(b) This section may not be construed to prevent a student

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enrolled in a school subject to this section from applying for a choice scholarship in the future at another participating school.

Sec. 10. The department may distribute any part of a choice scholarship to the eligible individual (or the parent of the eligible individual) for the purpose of paying the educational costs described in section 4(1) of this chapter. For the distribution to be valid, the distribution must be endorsed by both the eligible individual (or the parent of the eligible individual) and the eligible school providing educational services to the eligible individual.

Sec. 11. The amount of a choice scholarship provided to an eligible individual shall not be treated as income or a resource for the purposes of qualifying for any other federal or state grant or program administered by the state or a political subdivision.

SECTION 11. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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