February 18, 2011

HOUSE BILL No. 1003

DIGEST OF HB 1003 (Updated February 16, 2011 6:41 pm - DI 109)

Citations Affected: IC 6-3.1; IC 20-51.

Synopsis: School scholarships. Increases the school scholarship tax credits that may be awarded for donations to a scholarship granting organization. Allows scholarship granting organizations to grant scholarships to families with income that is not more than 200% of the amount required for the individual to qualify for the federal free or reduced price lunch program. Provides scholarships to low income students to pay the costs of tuition and fees at a public or private elementary school or high school that charges tuition. Prohibits a scholarship granting organization from limiting the availability of scholarships to students of only one participating school. Provides for a supplemental distribution to public schools equal to the difference between the amount distributed as choice scholarships and the amount that would have been distributed to public schools to educate the children receiving choice scholarships. Requires fair admissions policies for schools eligible for choice scholarships. Limits the choice scholarship granted to a student in grade 1 through 8 to $4,500 per school year. Provides consequences for nonpublic schools who receive: (1) consecutive low category designations for school performance and improvement; and (2) a distribution of choice scholarships. Provides for any savings from the choice scholarships to be used for tuition support for schools. Makes conforming changes.

Effective: July 1, 2011.

Behning, Bosma

January 20, 2011, read first time and referred to Committee on Education.
February 17, 2011, amended, reported — Do Pass.

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February 18, 2011

First Regular Session 117th General Assembly (2011)

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.

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HOUSE BILL No. 1003

A BILL FOR AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 6-3.1-30.5-3, 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 2. IC 6-3.1-30.5-8, AS ADDED BY P.L.182-2009(ss), SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. The amount of a taxpayer's credit is equal to ~~fifty percent (50%)~~ **the following percentage** of the amount of the contribution made to the scholarship granting organization for a school scholarship program:

(1) Fifty percent (50%) for a taxpayer's taxable year beginning in 2010 or 2011.

(2) Sixty percent (60%) for a taxpayer's taxable year beginning in 2012.

(3) Seventy percent (70%) for a taxpayer's taxable year beginning in 2013.

(4) Eighty percent (80%) for a taxpayer's taxable year beginning in 2014 or a subsequent year.

SECTION 3. 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) in ~~any~~ **a** state fiscal year **that begins after June 30, 2009, and ends before July 1, 2012. The total amount of tax credits that may be awarded under this chapter in a state fiscal year beginning after June 30, 2012:**

(1) increases by an additional ten million dollars ($10,000,000) in each state fiscal year that the total amount of tax credits awarded in the immediately preceding state fiscal year equaled at least ninety percent (90%) of the maximum amount permitted to be awarded under this section in the immediately preceding state fiscal year; and

(2) is equal to the maximum permissible amount of tax credits that were permitted to be awarded under this section in the immediately preceding state fiscal year, if subdivision (1) does not apply.

SECTION 4. 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 two hundred fifty percent (250%) 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 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

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IC 20-51-4; or

(B) received 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 choice scholarship under IC 20-51-4.

SECTION 5. IC 20-51-1-4.7 IS ADDED TO THE INDIANA CODE 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; and

(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 6. IC 20-51-1-5, AS ADDED BY P.L.182-2009(ss), SECTION 364, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. "Eligible student" 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 a participating school;

(4) either:

(A) is a member of a household with an annual income of not more than two hundred **fifty** percent ~~(200%)~~ **(250%)** of the amount required for the individual to qualify for the federal free or reduced price lunch program; or

(B) received a scholarship under ~~this article~~ **IC 20-51-3** in the immediately preceding school year or the immediately preceding term of the current school year and qualified under clause (A) in the first year that the individual received a

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scholarship under ~~this article,~~ **IC 20-51-3;** and

(5) meets at least one (1) of the following conditions:

(A) The individual is enrolling in kindergarten.

(B) The individual was enrolled in a public school during the school year preceding the first school year for which a scholarship granting organization provides a scholarship to the individual.

(C) The individual received a scholarship **(that did not qualify as a school scholarship under IC 20-51-3)** in the previous year from a nonprofit scholarship granting organization that qualifies for certification as a school scholarship program.

(D) The individual received a school scholarship **under IC 20-51-3** for the previous school year.

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 20-51-3-5, 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

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requirement specified in this subsection.

SECTION 9. 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. 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.

Sec. 2. 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.

Sec. 3. 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 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 4 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 4 of this chapter if the eligible individual is a member of a household with an annual income of not more than two hundred percent (200%) 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. 4. The state tuition support amount to be used in section 3(2) of this chapter for an eligible individual is the amount

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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. 5. (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.

(b) The amount by which a choice scholarship is reduced under this section shall be distributed to public schools using the same formula applicable to the distribution of basic tuition support (as defined in IC 20-43-1-8).

Sec. 6. (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. 7. The department may prescribe forms and methods for demonstrating eligibility for a choice scholarship under this chapter.

Sec. 8. (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

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

Sec. 9. 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 3(1) of this chapter or make a direct distribution to the eligible school providing educational services to the eligible individual.

Sec. 10. 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.

Sec. 11. (a) Each school year, the department shall make a supplemental distribution to school corporations and charter schools (other than virtual charter schools) in the amount determined under this section.

(b) The amount of the distribution is equal to the result determined under STEP TWO of the following formula:

STEP ONE: Determine the result of:

(A) the state tuition support amount that applies to the school year under section 4 of this chapter; multiplied by

(B) the total number of eligible individuals receiving a choice scholarship in the school year, including eligible individuals that received a prorated choice scholarship under section 5 of this chapter.

STEP TWO: Determine the result of:

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(A) the STEP ONE amount; minus

(B) the amount distributed as choice scholarships for the school year.

(c) The department shall distribute the amount determined under subsection (b) to school corporations and charter schools (other than virtual charter schools) under the same formula used in that year to distribute basic tuition support (as defined in IC 20-43-1-8).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1003, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. 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).**".

Page 3, line 8, delete "tests under the Indiana statewide testing" and insert "**Indiana statewide testing for educational progress (ISTEP) program under IC 20-32-5; and**".

Page 3, delete lines 9 through 11.

Page 3, line 13, delete "." and insert "**; and**".

Page 3, between lines 13 and 14, begin a new line block indented and insert:

"**(7) submits to the department data required for a category designation under IC 20-31-8-3.**".

Page 4, between lines 4 and 5, begin a new paragraph and insert:

"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 20-51-3-5, 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:

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(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.".

Page 4, line 11, delete "2012," and insert "**2011,**".

Page 4, between lines 11 and 12, begin a new paragraph and insert:

"**Sec. 2. 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.".

Page 4, line 12, delete "2." and insert "**3.**".

Page 4, line 13, delete "lesser" and insert "**least**".

Page 4, line 23, delete "3" and insert "**4**".

Page 4, line 27, after "program;" insert "**and**".

Page 4, line 29, delete "3" and insert "**4**".

Page 4, line 33, delete "; and" and insert "**.**".

Page 4, delete lines 34 through 40, begin a new line block indented and insert:

"**(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).**".

Page 4, line 41, delete "3." and insert "**4.**".

Page 4, line 42, delete "2(2)" and insert "**3(2)**".

Page 5, line 7, delete "begins." and insert "**begins, excluding amounts provided for special education grants under IC 20-43-7 and career and technical education grants under IC 20-43-8.**".

Page 5, line 13, delete "4." and insert "**5. (a)**".

Page 5, line 16, delete "per diem".

Page 5, between lines 16 and 17, begin a new paragraph and insert:

"**(b) The amount by which a choice scholarship is reduced under**

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this section shall be distributed to public schools using the same formula applicable to the distribution of basic tuition support (as defined in IC 20-43-1-8).".

Page 5, line 17, delete "5." and insert "**6. (a)**".

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"**(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.".

Page 5, line 18, delete "6." and insert "**7.**".

Page 5, between lines 20 and 21, begin a new paragraph and insert:

"**Sec. 8. (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 enrolled in a school subject to this section from applying for a choice scholarship in the future at another participating school.".

Page 5, line 21, delete "7." and insert "**9.**".

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Page 5, line 24, delete "2(1)" and insert "**3(1)**".

Page 5, line 27, delete "8." and insert "**10.**".

Page 5, after line 30, begin a new paragraph and insert:

"**Sec. 11. (a) Each school year, the department shall make a supplemental distribution to school corporations and charter schools (other than virtual charter schools) in the amount determined under this section.**

(b) The amount of the distribution is equal to the result determined under STEP TWO of the following formula:

STEP ONE: Determine the result of:

(A) the state tuition support amount that applies to the school year under section 4 of this chapter; multiplied by

(B) the total number of eligible individuals receiving a choice scholarship in the school year, including eligible individuals that received a prorated choice scholarship under section 5 of this chapter.

STEP TWO: Determine the result of:

(A) the STEP ONE amount; minus

(B) the amount distributed as choice scholarships for the school year.

(c) The department shall distribute the amount determined under subsection (b) to school corporations and charter schools (other than virtual charter schools) under the same formula used in that year to distribute basic tuition support (as defined in IC 20-43-1-8).".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1003 as introduced.)

BEHNING, Chair

Committee Vote: yeas 8, nays 5.

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