

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1001 be amended to read as follows:

1           Page 144, between lines 44 and 45, begin a new paragraph and  
2           insert:

3           "SECTION 80. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE  
4           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
5           JANUARY 1, 2011 (RETROACTIVE)]: **Sec. 22. (a) The following**  
6           **definitions apply throughout this section:**

7           **(1) "Dependent child" means an individual who:**  
8           **(A) is eligible to receive a free elementary or secondary**  
9           **school education in an Indiana school corporation;**  
10           **(B) qualifies as a dependent (as defined in Section 152 of**  
11           **the Internal Revenue Code) of the taxpayer; and**  
12           **(C) is the natural or adopted child of the taxpayer or, if**  
13           **custody of the child has been awarded in a court**  
14           **proceeding to someone other than the mother or father, the**  
15           **court appointed guardian or custodian of the child.**

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

19           **(2) "Education expenditure" refers to any expenditures made**  
20           **in connection with enrollment, attendance, or participation of**  
21           **the taxpayer's dependent child in a private elementary or**  
22           **secondary school education program. The term includes**  
23           **tuition, fees, computer software, textbooks, workbooks,**  
24           **curricula, school supplies (other than personal computers),**  
25           **and other written materials used primarily for academic**  
26           **instruction or for academic tutoring, or both.**

27           **(3) "Private elementary or secondary school education**  
28           **program" means:**

29           **(A) home schooling; or**  
30           **(B) attendance at a private school;**

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

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

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

12           **(d) The amount of the deduction is:**

13                   **(1) one thousand dollars (\$1,000); multiplied by**

14                   **(2) the number of the taxpayer's dependent children for whom**  
 15                   **the taxpayer made education expenditures in the taxable year.**

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

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

21           Page 145, between lines 14 and 15, begin a new paragraph and  
 22           insert:

23           "SECTION 82. IC 6-3.1-30.5-3, AS ADDED BY P.L.182-2009(ss),  
 24           SECTION 205, IS AMENDED TO READ AS FOLLOWS  
 25           [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this chapter,  
 26           "scholarship granting organization" refers to an organization that:

27                   (1) is exempt from federal income taxation under Section  
 28                   501(c)(3) of the Internal Revenue Code; and

29                   (2) conducts a school scholarship program **without limiting the**  
 30                   **availability of scholarships to students of only one (1)**  
 31                   **participating school (as defined in IC 20-51-1-6).**

32           SECTION 83. IC 6-3.1-30.5-12, AS ADDED BY P.L.182-2009(ss),  
 33           SECTION 205, IS AMENDED TO READ AS FOLLOWS  
 34           [EFFECTIVE JULY 1, 2011]: Sec. 12. A contribution **to a scholarship**  
 35           **granting organization** shall be treated as having been made for use in  
 36           a school scholarship program if:

37                   (1) the contribution is made directly to a scholarship granting  
 38                   organization; and

39                   (2) either:

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

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

1 SECTION 84. IC 6-3.1-30.5-13, AS ADDED BY P.L.182-2009(ss),  
 2 SECTION 205, IS AMENDED TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2011]: Sec. 13. The total amount of tax credits  
 4 awarded under this chapter may not exceed ~~two million five hundred~~  
 5 ~~thousand dollars (\$2,500,000)~~ **five million dollars (\$5,000,000)** in any  
 6 a state fiscal year."

7 Page 227, between lines 16 and 17, begin a new paragraph and  
 8 insert:

9 "SECTION 208. IC 20-51-1-4.5 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2011]: Sec. 4.5. "Eligible individual" refers  
 12 to an individual who:

- 13 (1) has legal settlement in Indiana;
- 14 (2) is at least five (5) years of age and less than twenty-two  
 15 (22) years of age on the date in the school year specified in  
 16 IC 20-33-2-7;
- 17 (3) either has been or is currently enrolled in an accredited  
 18 school;
- 19 (4) is a member of a household with an annual income of not  
 20 more than one hundred fifty percent (150%) of the amount  
 21 required for the individual to qualify for the federal free or  
 22 reduced price lunch program; and
- 23 (5) either:
  - 24 (A) was enrolled in grade 1 through 12 in a school  
 25 corporation that did not charge the individual transfer  
 26 tuition for at least two (2) semesters immediately preceding  
 27 the first semester for which the individual receives a choice  
 28 scholarship under IC 20-51-4; or
  - 29 (B) received a scholarship from a scholarship granting  
 30 organization under IC 20-51-3 or a choice scholarship  
 31 under IC 20-51-4 in a preceding school year, including a  
 32 school year that does not immediately precede a school  
 33 year in which the individual receives a scholarship from a  
 34 scholarship granting organization under IC 20-51-3 or a  
 35 choice scholarship under IC 20-51-4.

36 SECTION 209. IC 20-51-1-4.7 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2011]: Sec. 4.7. "Eligible school" refers to a  
 39 public or nonpublic elementary school or secondary school that:

- 40 (1) is located in Indiana;
- 41 (2) requires an eligible individual to pay tuition or transfer  
 42 tuition to attend;
- 43 (3) voluntarily agrees to enroll an eligible individual;
- 44 (4) is accredited by either the state board or a national or  
 45 regional accreditation agency that is recognized by the state  
 46 board;
- 47 (5) administers the Indiana statewide testing for educational

1           **progress (ISTEP) program under IC 20-32-5;**  
 2           **(6) is not a charter school or the school corporation in which**  
 3           **an eligible individual has legal settlement under IC 20-26-11;**  
 4           **and**  
 5           **(7) submits to the department data required for a category**  
 6           **designation under IC 20-31-8-3.**

7           SECTION 210. IC 20-51-1-7, AS ADDED BY P.L.182-2009(ss),  
 8           SECTION 364, IS AMENDED TO READ AS FOLLOWS  
 9           [EFFECTIVE JULY 1, 2011]: Sec. 7. "Scholarship granting  
 10          organization" refers to an organization that:

- 11           (1) is exempt from federal income taxation under Section  
 12           501(c)(3) of the Internal Revenue Code; and  
 13           (2) is organized at least in part to grant school scholarships  
 14           **without limiting the availability of scholarships to students of**  
 15           **only one (1) participating school.**

16          SECTION 211. IC 20-51-3-5, AS ADDED BY P.L.182-2009(ss),  
 17          SECTION 364, IS AMENDED TO READ AS FOLLOWS  
 18          [EFFECTIVE JULY 1, 2011]: Sec. 5. **(a)** An agreement entered into  
 19          under section 1 of this chapter must prohibit a scholarship granting  
 20          organization from distributing school scholarships for use by an  
 21          eligible student to:

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

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

36          SECTION 212. IC 20-51-4 IS ADDED TO THE INDIANA CODE  
 37          AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 38          JULY 1, 2011]:

39           **Chapter 4. Choice Scholarship**

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

- 45           (1) the department or any other state agency may not in any  
 46           way regulate the educational program of a nonpublic eligible

1 school that accepts a choice scholarship under this chapter,  
 2 including the regulation of curriculum content, religious  
 3 instruction or activities, classroom teaching, teacher and staff  
 4 hiring requirements, and other activities carried out by the  
 5 eligible school;

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

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

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

17 (1) The Constitution of the United States.

18 (2) The national motto.

19 (3) The national anthem.

20 (4) The Pledge of Allegiance.

21 (5) The Constitution of the State of Indiana.

22 (6) The Declaration of Independence.

23 (7) The Mayflower Compact.

24 (8) The Federalist Papers.

25 (9) "Common Sense" by Thomas Paine.

26 (10) The writings, speeches, documents, and proclamations of  
 27 the founding fathers and presidents of the United States.

28 (11) United States Supreme Court decisions.

29 (12) Executive orders of the presidents of the United States.

30 (13) Frederick Douglas' Speech at Rochester, New York, on  
 31 July 5, 1852, entitled "What to a Slave is the Fourth of July?".

32 (14) Appeal by David Walker.

33 (15) Chief Seattle's letter to the United States government in  
 34 1852 in response to the United States government's inquiry  
 35 regarding the purchase of tribal lands.

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

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

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

- 1           **(f) An eligible school shall do the following:**  
2           **(1) Allow a student to include a reference to a writing,**  
3           **document, or record listed in subsection (b) in a report or**  
4           **other work product.**  
5           **(2) May not punish the student in any way, including a**  
6           **reduction in grade, for using the reference.**  
7           **(3) Display the United States flag in each classroom.**  
8           **(4) Provide a daily opportunity for students to voluntarily**  
9           **recite the Pledge of Allegiance in each classroom or on school**  
10           **grounds. A student is exempt from participation in the Pledge**  
11           **of Allegiance and may not be required to participate in the**  
12           **Pledge of Allegiance if:**  
13               **(A) the student chooses to not participate; or**  
14               **(B) the student's parent chooses to have the student not**  
15               **participate.**  
16           **(5) Provide instruction on the constitutions of:**  
17               **(A) Indiana; and**  
18               **(B) the United States.**  
19           **(6) For an eligible school that enrolls students in grades 6**  
20           **through 12, provide within the two (2) weeks preceding a**  
21           **general election five (5) full recitation periods of class**  
22           **discussion concerning:**  
23               **(A) the system of government in Indiana and in the United**  
24               **States;**  
25               **(B) methods of voting;**  
26               **(C) party structures;**  
27               **(D) election laws; and**  
28               **(E) the responsibilities of citizen participation in**  
29               **government and in elections.**  
30           **(7) Require that each teacher employed by the eligible school**  
31           **present instruction with special emphasis on:**  
32               **(A) honesty;**  
33               **(B) morality;**  
34               **(C) courtesy;**  
35               **(D) obedience to law;**  
36               **(E) respect for the national flag and the Constitution of the**  
37               **State of Indiana and the Constitution of the United States;**  
38               **(F) respect for parents and the home;**  
39               **(G) the dignity and necessity of honest labor; and**  
40               **(H) other lessons of a steadying influence that tend to**  
41               **promote and develop an upright and desirable citizenry.**  
42           **(8) Provide good citizenship instruction that stresses the**  
43           **nature and importance of the following:**  
44               **(A) Being honest and truthful.**  
45               **(B) Respecting authority.**  
46               **(C) Respecting the property of others.**  
47               **(D) Always doing the student's personal best.**

- 1 (E) Not stealing.  
 2 (F) Possessing the skills (including methods of conflict  
 3 resolution) necessary to live peaceably in society and not  
 4 resorting to violence to settle disputes.  
 5 (G) Taking personal responsibility for obligations to family  
 6 and community.  
 7 (H) Taking personal responsibility for earning a livelihood.  
 8 (I) Treating others the way the student would want to be  
 9 treated.  
 10 (J) Respecting the national flag, the Constitution of the  
 11 United States, and the Constitution of the State of Indiana.  
 12 (K) Respecting the student's parents and home.  
 13 (L) Respecting the student's self.  
 14 (M) Respecting the rights of others to have their own views  
 15 and religious beliefs.  
 16 (9) Provide instruction in the following studies:  
 17 (A) Language arts, including:  
 18 (i) English;  
 19 (ii) grammar;  
 20 (iii) composition;  
 21 (iv) speech; and  
 22 (v) second languages.  
 23 (B) Mathematics.  
 24 (C) Social studies and citizenship, including the:  
 25 (i) constitutions;  
 26 (ii) governmental systems; and  
 27 (iii) histories;  
 28 of Indiana and the United States, including a study of the  
 29 Holocaust and the role religious extremism played in the  
 30 events of September 11, 2001, in each high school United  
 31 States history course.  
 32 (D) Sciences.  
 33 (E) Fine arts, including music and art.  
 34 (F) Health education, physical fitness, safety, and the  
 35 effects of alcohol, tobacco, drugs, and other substances on  
 36 the human body.  
 37 (g) An eligible school, charter school, or public school shall not  
 38 teach the violent overthrow of the government of the United States.  
 39 (h) This section may not be construed to limit the requirements  
 40 of IC 20-30-5.  
 41 Sec. 2. (a) Subject to subsection (b), an eligible individual is  
 42 entitled to a choice scholarship under this chapter for each school  
 43 year beginning after June 30, 2011, that the eligible student enrolls  
 44 in an eligible school.  
 45 (b) The department may not award more than:  
 46 (1) seven thousand five hundred (7,500) choice scholarships  
 47 for the school year beginning July 1, 2011, and ending June

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

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

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

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

11           **(1) apply for; or**

12           **(2) are awarded;**

13          **scholarships under this chapter.**

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

20          **(d) The department shall, at a minimum, annually visit each**  
 21          **eligible school and charter school to verify that the eligible school**  
 22          **or charter school complies with the provisions of IC 20-51-4, the**  
 23          **Constitution of the State of Indiana and the Constitution of the**  
 24          **United States.**

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

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

33           **(1) The sum of the tuition, transfer tuition, and fees required**  
 34           **for enrollment or attendance of the eligible student at the**  
 35           **eligible school selected by the eligible individual for a school**  
 36           **year that the eligible individual (or the parent of the eligible**  
 37           **individual) would otherwise be obligated to pay to the eligible**  
 38           **school.**

39           **(2) An amount equal to:**

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

46           **(B) fifty percent (50%) of the state tuition support amount**  
 47           **determined under section 5 of this chapter if the eligible**

1 individual is a member of a household with an annual  
 2 income of not more than one hundred fifty percent (150%)  
 3 of the amount required for the individual to qualify for the  
 4 federal free or reduced price lunch program.

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

9 Sec. 5. The state tuition support amount to be used in section  
 10 4(2) of this chapter for an eligible individual is the amount  
 11 determined under the last STEP of the following formula:

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

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

20 STEP THREE: Determine the result of:

21 (A) the STEP TWO amount; divided by

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

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

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

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

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

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

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

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

45 (1) If the school is placed in either of the lowest two (2)  
 46 categories or designations under IC 20-31-8-3 for two (2)  
 47 consecutive years, the department shall suspend choice

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

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

17 (4) Students who:  
 18 (A) are currently enrolled at a school described in  
 19 subdivision (1), (2), or (3); and  
 20 (B) qualify for a choice scholarship for the upcoming  
 21 school year;  
 22 may continue to receive a choice scholarship at the school.

23 (b) This section may not be construed to prevent a student  
 24 enrolled in a school subject to this section from applying for a  
 25 choice scholarship in the future at another participating school.

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

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

37 Page 263, between lines 29 and 30, begin a new paragraph and  
 38 insert:

39 "SECTION 283. [EFFECTIVE UPON PASSAGE] The provisions  
 40 of this act are severable in the manner provided in IC 1-1-1-8(b).  
 41 If any phrase, clause, sentence, or provision of IC 6-3.1-30.5 or  
 42 IC 20-51, as added and amended by this act, is held invalid, the  
 43 invalidity does not affect other provisions that can be given effect  
 44 without the invalid provision or application."

45 Renumber all SECTIONS consecutively.  
 (Reference is to EHB 1001 as printed April 19, 2011.)

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Senator KRUSE