CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1003

Citations Affected: IC 6-3.1-30.5; IC 20-51.

Synopsis: Nonpublic school scholarships. Conference committee report for EHB 1003. Provides that a taxpayer may carry forward a school scholarship income tax credit for a taxable year that begins after December 31, 2012. Specifies eligibility standards for choice scholarships. Makes various administrative changes to the choice scholarship program. Removes a provision that allows the department to make only a partial choice scholarship grant. Provides that an eligible choice scholarship student is eligible to receive as part of the choice scholarship any applicable amount that a school corporation (in which the student has legal settlement) would receive for a student as part of a special education grant. Provides that a public school is not required to make available special education and related services to an eligible choice scholarship student who receives special education funding as part of the choice scholarship. Provides that a school corporation may not include in its special education grant count an eligible choice scholarship student who receives an amount related to special education as part of a choice scholarship. Requires the state board to adopt rules, including emergency rules, for the provision of special education or related services to an eligible choice scholarship student who receives special education funds as part of the choice scholarship. Provides that the choice scholarship shall be distributed each semester during the school year. Amends the definition of "eligible student" for purposes of the statutes concerning scholarship granting organizations. Provides that the legislative council shall assign certain topics to the commission on education interim study committee. Makes conforming amendments. **(This conference committee report: (1) makes certain changes to the definition of an eligible choice scholarship student by: (A) clarifying that a student with an individual service plan may qualify for a choice scholarship; (B) removing the threshold amount of the scholarship from a scholarship granting organization that a student must receive to be eligible for a choice scholarship; (C) specifying that a student who would otherwise attend a school placed in the lowest category or designation of performance and who meets certain income requirements is eligible for a scholarship (instead of a school placed in either of the two lowest categories or designations); (D) removes language referencing academic growth established after June 30, 2013; and (E) removes language that provides that after June 30, 2014, a public school does not include a virtual charter school; (2) removes increases of the choice scholarship cap for students enrolled in grades 1 through 8; (3) makes changes to the topics that the legislative council must assign to the commission on education interim study committee;**

and (4) removes a provision that increases the total amount of school scholarship income tax credit amount that may be awarded each state fiscal year from $5,000,000 to $10,000,000.)

Effective: Upon passage; January 1, 2013 (retroactive); July 1, 2013.

Adopted	Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1003 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3.1-30.5-9, AS ADDED BY P.L.182-2009(ss), SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]: Sec. 9. **(a) This section applies to a taxpayer that is entitled to a tax credit under this chapter for a taxable year beginning before January 1, 2013.**

(b) A taxpayer is not entitled to a carryover, carryback, or refund of an unused credit.

(c) This section expires January 1, 2017.

SECTION 2. IC 6-3.1-30.5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]: **Sec. 9.5. (a) This section applies to a taxpayer that is entitled to a tax credit under this chapter for a taxable year beginning after December 31, 2012.**

(b) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time the credit is carried forward to a succeeding taxable year, the credit is reduced by the amount that was used as a credit during the immediately preceding taxable

year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for nine (9) taxable years following the unused credit year.

(c) A taxpayer is not entitled to a carryback or refund of any unused credit.

SECTION 4. IC 20-51-1-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.3. "Eligible choice scholarship 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; and

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

(A) The individual is:

(i) a child with a disability who requires special education and for whom an individualized education program has been developed under IC 20-35 or a service plan developed under 511 IAC 7-34; and

(ii) 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.

(B) The individual is:

(i) an individual who, because of the school corporation's residency requirement, would be required to attend a specific public school within a school corporation that has been placed in the lowest category or designation of school improvement under IC 20-31-8-4 (has been assigned an "F" grade); and

(ii) except as provided in IC 20-51-4-2.5, 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.

An individual to whom this clause applies is not required to attend the public school before becoming eligible for a choice scholarship, and may not be required to return to the public school if the public school is placed in a higher category or designation under IC 20-31-8-4.

(C) Except as provided in IC 20-51-4-2.5, the 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 and the individual was enrolled in kindergarten through grade 12, in a public school, including a charter school, in Indiana for at least two (2) semesters immediately preceding the first semester for which the individual receives a choice scholarship under IC 20-51-4.

(D) The individual or a sibling of the individual:

(i) 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; and

(ii) except as provided in IC 20-51-4-2.5, 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.

SECTION 5. IC 20-51-1-4.5 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~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, AS ADDED BY P.L.92-2011, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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~~ **choice scholarship student** to pay tuition or transfer tuition to attend;

(3) voluntarily agrees to enroll an eligible ~~individual;~~ **choice scholarship student;**

(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~~ **choice scholarship student** has legal

settlement under IC 20-26-11; and

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

SECTION 7. IC 20-51-1-5, AS AMENDED BY P.L.129-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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; **and**

(4) 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. ~~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 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 from a scholarship granting organization in a preceding 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.~~

SECTION 8. IC 20-51-3-3, AS ADDED BY P.L.182-2009(ss), SECTION 364, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. An agreement entered into under section 1 of this chapter between the department and a scholarship granting organization must require the scholarship granting organization to do the following:

(1) Provide a receipt to taxpayers for contributions made to the scholarship granting organization that will be used in a school scholarship program. The department of state revenue shall prescribe a standardized form for the receipt issued under this subdivision. The receipt must indicate the value of the contribution and part of the contribution being designated for use in a school scholarship program.

(2) Allow a taxpayer to designate a participating school for which the taxpayer's contribution must be used as scholarships.

~~(2) Distribute at least ninety percent (90%) of the total amount of contributions as school scholarships to eligible students.~~

(3) Use not more than ten percent (10%) of the total amount of contributions for administrative costs.

~~(3)~~ **(4)** Distribute one hundred percent (100%) of any income earned on contributions as school scholarships to eligible students.

~~(4)~~ **(5)** Conduct criminal background checks on all the scholarship granting organization's employees and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds.

~~(5)~~ **(6)** Make the reports required by this chapter.

SECTION 9. IC 20-51-4-2, AS ADDED BY P.L.92-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Subject to subsection (b), an eligible ~~individual~~ **choice scholarship student** is entitled to a choice scholarship under this chapter for each school year beginning after June 30, 2011, that the eligible **choice scholarship** 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 **choice scholarship** students.

SECTION 10. IC 20-51-4-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 2.5. Notwithstanding IC 20-51-1-4.3(3)(B), IC 20-51-1-4.3(3)(C), or IC 20-51-1-4.3(3)(D)(ii), an individual who initially meets the income requirements under IC 20-51-1-4.3(3)(B), IC 20-51-1-4.3(3)(C), or IC 20-51-1-4.3(3)(D)(ii) and is a member of a household whose income subsequently increases is considered to meet the income requirements for as long as the individual is enrolled in a participating school and 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.**

SECTION 11. IC 20-51-4-4, AS ADDED BY P.L.92-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. The ~~maximum~~ amount ~~to which~~ an eligible ~~individual~~ **choice scholarship student** is entitled **to receive** under this chapter for a school year is equal to **the following:**

(1) The least of the following:

~~(1)~~ **(A)** The sum of the tuition, transfer tuition, and fees required for enrollment or attendance of the eligible **choice scholarship** student at the eligible school selected by the eligible ~~individual~~ **choice scholarship student** for a school year that the eligible ~~individual (or the parent of the eligible individual)~~ **choice scholarship student (or the parent of the eligible choice scholarship student)** would otherwise be

obligated to pay to the eligible school.

~~(2)~~ **(B)** An amount equal to:

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

~~(B)~~ **(ii)** fifty percent (50%) of the state tuition support amount determined under section 5 of this chapter if the eligible ~~individual~~ **choice scholarship student** is a member of a household with an annual income of, **in the case of an individual not described in section 2.5 of this chapter,** not more than one hundred fifty percent (150%) of the amount required for the ~~individual~~ **eligible choice scholarship student** to qualify for the federal free or reduced price lunch program **or, in the case of an individual described in section 2.5 of this chapter, not more than two hundred percent (200%) of the amount required for the eligible choice scholarship student to qualify for the federal free or reduced price lunch program.**

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

(2) In addition, if applicable, any amount that a school corporation would receive under IC 20-43-7 for the student if the student attended the school corporation.

SECTION 12. IC 20-51-4-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.5. (a) Notwithstanding 511 IAC 7-34-1(d)(4), a public school is not required to make available special education and related services to an eligible choice scholarship student who receives funds under section 4(2) of this chapter.**

(b) A school corporation may not include an eligible choice scholarship student who receives an amount under section 4(2) of this chapter in the school corporation's count under IC 20-43-7.

SECTION 13. IC 20-51-4-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.6. (a) The state board shall adopt rules under IC 4-22-2, including emergency rules adopted in the manner provided under IC 4-22-2-37.1, for the provision of special education or related services to an eligible choice scholarship student who receives an amount under section 4(2) of this chapter. The rules adopted under this section shall include annual reporting requirements, monitoring, and consequences for noncompliance by an eligible school.**

(b) An emergency rule adopted by the state board under this section expires on the earliest of the following dates:

(1) The expiration date stated in the emergency rule.

(2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-22.5 through IC 4-22-2-36 or under IC 4-22-2-37.1.

(3) One (1) year after the date the emergency rule is adopted.

SECTION 14. IC 20-51-4-5, AS AMENDED BY P.L.6-2012, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. The state tuition support amount to be used in section ~~4(2)~~ **4(1)(B)** of this chapter for an eligible ~~individual~~ **choice scholarship student** is the amount determined under the last STEP of the following formula:

STEP ONE: Determine the school corporation in which the eligible ~~individual~~ **choice scholarship student** 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~~ **state fiscal** 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~~ **state fiscal** year used in STEP TWO.

SECTION 15. IC 20-51-4-6, AS ADDED BY P.L.92-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) If an eligible ~~individual~~ **choice scholarship student** 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) An eligible ~~individual~~ **choice scholarship student** is entitled to only one (1) choice scholarship for each school year. If the eligible ~~individual~~ **choice scholarship student** leaves the eligible school for which the eligible ~~individual~~ **choice scholarship student** was awarded a choice scholarship and enrolls in another eligible school, the eligible ~~individual~~ **choice scholarship student** is responsible for the payment of any tuition required for the remainder of that school year.

SECTION 16. IC 20-51-4-7, AS ADDED BY P.L.92-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The department shall administer this chapter.

(b) The department shall approve an application for an eligible school within fifteen (15) days after the date the school requests to participate in the choice scholarship program.

(c) The department shall approve an application for a choice scholarship student within fifteen (15) days after the date the student requests to participate in the choice scholarship program.

(d) Each year, at a minimum, the department shall accept applications from March 1 through September 1 for:

(1) choice scholarship students; or

(2) eligible schools;

for the upcoming school year.

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

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

SECTION 17. IC 20-51-4-10, AS ADDED BY P.L.92-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. **The department shall distribute choice scholarships at least once each semester, or at equivalent intervals.** The department may distribute ~~any part of a~~ **the** choice scholarship to the eligible ~~individual (or the parent of the eligible individual)~~ **choice scholarship student (or the parent of the eligible choice scholarship student)** for the purpose of paying the educational costs described in section ~~4(1)~~ **4(1)(A)** 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)~~ **choice scholarship student (or the parent of the eligible choice scholarship student)** and the eligible school providing educational services to the eligible ~~individual.~~ **choice scholarship student.**

SECTION 18. IC 20-51-4-11, AS ADDED BY P.L.92-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. The amount of a choice scholarship provided to an eligible ~~individual~~ **choice scholarship student** 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 19. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall assign to the commission on education established in SEA 409-2013, for study during the 2013 legislative interim, the following topics concerning choice scholarships under IC 20-51-4:**

(1) The academic performance of choice scholarship schools in comparison to public schools.

(2) The graduation rates for choice scholarship schools as compared to public schools.

(3) Student growth and achievement for students enrolled in choice scholarship schools over time.

(4) Various student demographics, including income, race, and special needs, for choice scholarship students as compared to students enrolled in public schools.

(5) Why parents choose to enroll a child in a choice scholarship school.

(b) The interim study committee or statutory study committee to which the topics are assigned shall issue a final report to the legislative council containing the committee's findings and any recommendations, including any recommended legislation concerning the topics, not later than November 1, 2013.

(c) This SECTION expires December 31, 2013.

1 SECTION 20. **An emergency is declared for this act.**
(Reference is to EHB 1003 as reprinted April 10, 2013.)

Conference Committee Report
on
Engrossed House Bill 1003

Signed by:

Representative Behning Chairperson	Senator Eckerty
Representative Huston	Senator Yoder
House Conferees	**Senate Conferees**