

**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.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House 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:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-3.1-30.5-9, AS ADDED BY P.L.182-2009(ss),
- 3 SECTION 205, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]; Sec. 9. **(a) This**
- 5 **section applies to a taxpayer that is entitled to a tax credit under**
- 6 **this chapter for a taxable year beginning before January 1, 2013.**
- 7 **(b) A taxpayer is not entitled to a carryover, carryback, or refund of**
- 8 **an unused credit.**
- 9 **(c) This section expires January 1, 2017.**
- 10 SECTION 2. IC 6-3.1-30.5-9.5 IS ADDED TO THE INDIANA
- 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 12 [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]; **Sec. 9.5. (a)**
- 13 **This section applies to a taxpayer that is entitled to a tax credit**
- 14 **under this chapter for a taxable year beginning after December 31,**
- 15 **2012.**
- 16 **(b) If the credit provided by this chapter exceeds the taxpayer's**
- 17 **state tax liability for the taxable year for which the credit is first**
- 18 **claimed, the excess may be carried forward to succeeding taxable**
- 19 **years and used as a credit against the taxpayer's state tax liability**
- 20 **during those taxable years. Each time the credit is carried forward**
- 21 **to a succeeding taxable year, the credit is reduced by the amount**
- 22 **that was used as a credit during the immediately preceding taxable**

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

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

6 SECTION 4. IC 20-51-1-4.3 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2013]: Sec. 4.3. "Eligible choice scholarship student" refers to an
 9 individual who:

10 (1) has legal settlement in Indiana;

11 (2) is at least five (5) years of age and less than twenty-two
 12 (22) years of age on the date in the school year specified in
 13 IC 20-33-2-7; and

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

15 (A) The individual is:

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

20 (ii) a member of a household with an annual income of
 21 not more than two hundred percent (200%) of the
 22 amount required for the individual to qualify for the
 23 federal free or reduced price lunch program.

24 (B) The individual is:

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

31 (ii) except as provided in IC 20-51-4-2.5, is a member of
 32 a household with an annual income of not more than one
 33 hundred fifty percent (150%) of the amount required for
 34 the individual to qualify for the federal free or reduced
 35 price lunch program.

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

41 (C) Except as provided in IC 20-51-4-2.5, the individual is
 42 a member of a household with an annual income of not
 43 more than one hundred fifty percent (150%) of the amount
 44 required for the individual to qualify for the federal free or
 45 reduced price lunch program and the individual was
 46 enrolled in kindergarten through grade 12, in a public
 47 school, including a charter school, in Indiana for at least
 48 two (2) semesters immediately preceding the first semester
 49 for which the individual receives a choice scholarship
 50 under IC 20-51-4.

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

1 (i) received a scholarship from a scholarship granting
 2 organization under IC 20-51-3 or a choice scholarship
 3 under IC 20-51-4 in a preceding school year, including a
 4 school year that does not immediately precede a school
 5 year in which the individual receives a scholarship from
 6 a scholarship granting organization under IC 20-51-3 or
 7 a choice scholarship under IC 20-51-4; and
 8 (ii) except as provided in IC 20-51-4-2.5, is a member of
 9 a household with an annual income of not more than one
 10 hundred fifty percent (150%) of the amount required for
 11 the individual to qualify for the federal free or reduced
 12 price lunch program.

13 SECTION 5. IC 20-51-1-4.5 IS REPEALED [EFFECTIVE JULY
 14 1, 2013]. Sec. 4.5: "Eligible individual" refers to an individual who:

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

- 25 (A) was enrolled in grade 1 through 12 in a school corporation
 26 that did not charge the individual transfer tuition for at least
 27 two (2) semesters immediately preceding the first semester for
 28 which the individual receives a choice scholarship under
 29 IC 20-51-4; or
 30 (B) received a scholarship from a scholarship granting
 31 organization under IC 20-51-3 or a choice scholarship under
 32 IC 20-51-4 in a preceding school year, including a school year
 33 that does not immediately precede a school year in which the
 34 individual receives a scholarship from a scholarship granting
 35 organization under IC 20-51-3 or a choice scholarship under
 36 IC 20-51-4.

37 SECTION 6. IC 20-51-1-4.7, AS ADDED BY P.L.92-2011,
 38 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2013]: Sec. 4.7. "Eligible school" refers to a public or
 40 nonpublic elementary school or high school that:

- 41 (1) is located in Indiana;
 42 (2) requires an eligible ~~individual~~ **choice scholarship student** to
 43 pay tuition or transfer tuition to attend;
 44 (3) voluntarily agrees to enroll an eligible ~~individual~~; **choice**
 45 **scholarship student**;
 46 (4) is accredited by either the state board or a national or regional
 47 accreditation agency that is recognized by the state board;
 48 (5) administers the Indiana statewide testing for educational
 49 progress (ISTEP) program under IC 20-32-5;
 50 (6) is not a charter school or the school corporation in which an
 51 eligible ~~individual~~ **choice scholarship student** has legal

1 settlement under IC 20-26-11; and

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

4 SECTION 7. IC 20-51-1-5, AS AMENDED BY P.L.129-2012,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2013]: Sec. 5. "Eligible student" refers to an individual who:

7 (1) has legal settlement in Indiana;

8 (2) is at least five (5) years of age and less than twenty-two (22)
9 years of age on the date in the school year specified in
10 IC 20-33-2-7;

11 (3) either has been or is currently enrolled in a participating
12 school; **and**

13 (4) is a member of a household with an annual income of not
14 more than two hundred percent (200%) of the amount required for
15 the individual to qualify for the federal free or reduced price
16 lunch program. **and**

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

18 (A) ~~The individual is enrolling in kindergarten.~~

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

23 (C) ~~The individual received a scholarship in the previous year~~
24 ~~from a nonprofit scholarship granting organization that~~
25 ~~qualifies for certification as a school scholarship program.~~

26 (D) ~~The individual received a school scholarship from a~~
27 ~~scholarship granting organization in a preceding year,~~
28 ~~including a school year that does not immediately precede a~~
29 ~~school year in which the individual receives a scholarship~~
30 ~~from a scholarship granting organization.~~

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

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

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

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

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

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

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

9 (⊖) **(6)** Make the reports required by this chapter.

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

17 (b) The department may not award more than:

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

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

23 The department shall establish the standards used to allocate choice
24 scholarships among eligible **choice scholarship** students.

25 SECTION 10. IC 20-51-4-2.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2013]: **Sec. 2.5. Notwithstanding**
28 **IC 20-51-1-4.3(3)(B), IC 20-51-1-4.3(3)(C), or**
29 **IC 20-51-1-4.3(3)(D)(ii), an individual who initially meets the**
30 **income requirements under IC 20-51-1-4.3(3)(B),**
31 **IC 20-51-1-4.3(3)(C), or IC 20-51-1-4.3(3)(D)(ii) and is a member**
32 **of a household whose income subsequently increases is considered**
33 **to meet the income requirements for as long as the individual is**
34 **enrolled in a participating school and is a member of a household**
35 **with an annual income of not more than two hundred percent**
36 **(200%) of the amount required for the individual to qualify for the**
37 **federal free or reduced price lunch program.**

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

43 **(1)** The least of the following:

44 (⊖) **(A)** The sum of the tuition, transfer tuition, and fees
45 required for enrollment or attendance of the eligible **choice**
46 **scholarship** student at the eligible school selected by the
47 eligible ~~individual~~ **choice scholarship student** for a school
48 year that the eligible ~~individual~~ (or the parent of the eligible
49 ~~individual~~) **choice scholarship student (or the parent of the**
50 **eligible choice scholarship student)** would otherwise be

1 obligated to pay to the eligible school.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 STEP ONE: Determine the school corporation in which the
 15 eligible ~~individual~~ **choice scholarship student** has legal
 16 settlement.

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

23 STEP THREE: Determine the result of:

24 (A) the STEP TWO amount; divided by

25 (B) the current ADM (as defined in IC 20-43-1-10) for the
 26 school corporation identified under STEP ONE for the
 27 ~~calendar~~ **state fiscal** year used in STEP TWO.

28 SECTION 15. IC 20-51-4-6, AS ADDED BY P.L.92-2011,
 29 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2013]: Sec. 6. (a) If an eligible ~~individual~~ **choice scholarship**
 31 **student** enrolls in an eligible school for less than an entire school year,
 32 the choice scholarship provided under this chapter for that school year
 33 shall be reduced on a prorated basis to reflect the shorter school term.

34 (b) An eligible ~~individual~~ **choice scholarship student** is entitled to
 35 only one (1) choice scholarship for each school year. If the eligible
 36 ~~individual~~ **choice scholarship student** leaves the eligible school for
 37 which the eligible ~~individual~~ **choice scholarship student** was awarded
 38 a choice scholarship and enrolls in another eligible school, the eligible
 39 ~~individual~~ **choice scholarship student** is responsible for the payment
 40 of any tuition required for the remainder of that school year.

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

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

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

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

3 (1) choice scholarship students; or

4 (2) eligible schools;

5 for the upcoming school year.

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

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

10 SECTION 17. IC 20-51-4-10, AS ADDED BY P.L.92-2011,
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 10. **The department shall distribute choice
13 scholarships at least once each semester, or at equivalent intervals.**

14 The department may distribute ~~any part of a~~ **the** choice scholarship to
15 the eligible ~~individual (or the parent of the eligible individual)~~ **choice
16 scholarship student (or the parent of the eligible choice scholarship
17 student)** for the purpose of paying the educational costs described in
18 section ~~4(1)~~ **4(1)(A)** of this chapter. For the distribution to be valid, the
19 distribution must be endorsed by both the eligible ~~individual (or the
20 parent of the eligible individual)~~ **choice scholarship student (or the
21 parent of the eligible choice scholarship student)** and the eligible
22 school providing educational services to the eligible ~~individual~~. **choice
23 scholarship student.**

24 SECTION 18. IC 20-51-4-11, AS ADDED BY P.L.92-2011,
25 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2013]: Sec. 11. The amount of a choice scholarship provided
27 to an eligible ~~individual~~ **choice scholarship student** shall not be
28 treated as income or a resource for the purposes of qualifying for any
29 other federal or state grant or program administered by the state or a
30 political subdivision.

31 SECTION 19. [EFFECTIVE UPON PASSAGE] **(a) The legislative
32 council shall assign to the commission on education established in
33 SEA 409-2013, for study during the 2013 legislative interim, the
34 following topics concerning choice scholarships under IC 20-51-4:**

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

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

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

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

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

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

51 **(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