

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
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As Engrossed: H3/20/13
A Bill

HOUSE BILL 1897

By: Representatives Alexander, Ballinger, D. Altes, Davis, Dotson, Fite, Harris, Hutchison, Lowery, Neal, Payton, Scott

For An Act To Be Entitled

AN ACT TO ESTABLISH THE PARENTAL CHOICE SCHOLARSHIP PROGRAM, TO CREATE A SCHOLARSHIP PROGRAM THAT PROVIDES ALL ARKANSAS CHILDREN THE OPTION TO ATTEND THE PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL OF THEIR PARENTS' CHOICE; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE PARENTAL CHOICE SCHOLARSHIP PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Findings. Not to be codified. The General Assembly finds that:

(1) According to Article 14, § 1, of the Constitution of the State of Arkansas, intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the state shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education;

(2) It is the inalienable right of parents to choose the best educational environment for their children from among existing options, including without limitation traditional public schools, charter schools, magnet schools, alternative schools, private schools and home schooling by the parent;

(3) The current state education system is not working for far



too many Arkansas citizens, as evidenced by the following:

(A) State spending on elementary and secondary education has increased more than sixty-three percent (63%) from more than two billion seven hundred million dollars (\$2,700,000) in 2002 to more than four billion four hundred million dollars (\$4,400,000) in 2012. In addition, the percentage of the education budget financed from federal dollars has grown from eight percent (8%) in 2002 to thirteen percent (13%) in 2012. Receipt of federal funding often requires compliance with federal laws and regulations that are not always advantageous to or complementary to the mission of the state or the educational programs it provides;

(B) Despite significantly increased spending on education, student performance, as measured by standard achievement tests, has remained relatively flat, and graduation rates remain unacceptably low as follows:

(i) Fewer than one (1) in three (3) Arkansas students are proficient in basic math and English literacy and about one (1) in four (4) freshmen will not graduate high school;

(ii) Arkansas has received a "D" in "K-12 Achievement" from Education Week for the past five (5) years; and

(iii) Only eighteen percent (18%) of high school seniors are ready for college-level work in English, math, reading, and science; and

(C) The poor overall performance of Arkansas schools compared with other states is not a reflection of the overall quality of our public school teachers, but rather an indication of systemic problems that will not be solved by simply spending more money on education;

(4) National research regarding school choice demonstrates the success and viability of the concept in improving student educational performance. Studies clearly show improvement across a wide variety of evaluation criteria including:

(A) Improved academic performance by students in both the new school options and the public schools located in areas where choice is offered;

(B) Significantly improved graduation rates;

(C) Better promotion of civic values;

(D) As a percentage of total enrollment, higher levels of inclusivity of low-income students and students with disabilities;

(E) Significantly improved parental satisfaction with their child's educational experience; and

(F) A reduction in the overall cost of education;

(5) A parent's right to direct education dollars to any public or private school he or she chooses has been declared constitutional by federal courts; and

(6) Since actions taken over the past decade have had little impact on improving elementary and secondary education in Arkansas relative to other states as measured by student performance and graduation rates, it is time for a new approach to strengthen educational opportunities for the children of this state.

SECTION 2. Arkansas Code Title 6, Chapter 20, is amended to add an additional subchapter to read as follows:

Subchapter 28 – Parental Choice Scholarship Program Act

6-20-2801. Title.

This subchapter is known and may be cited as the "Parental Choice Scholarship Program Act".

6-20-2802. Definitions.

As used in this subchapter:

(1) "Adequate funding amount" means the amount of funding a resident school district would have received from the following state and local sources to educate a scholarship student for the academic year that the scholarship is utilized:

(A) Foundation funding under § 6-20-2305(a); and

(B) Professional development funding under § 6-20-2305(b)(5);

(2) "Eligible student" means any elementary or secondary student who was eligible to attend a public school in Arkansas in the preceding semester or is starting school in Arkansas for the first time;

(3) "Parent" means a person with the authority to act on behalf of the child, including without limitation the child's:

(A) Biological or adoptive parent;

(B) Guardian; or

(C) Custodian;

(4) "Parental choice scholarship award" is the amount of money that follows the student to the school that the parent selects for the student's education;

(5) "Participating school" means a public school that is:

(A) Approved by the Department of Education to participate in the Parental Choice Scholarship Program; and

(B) Either a:

(i) Public school outside of the resident school district;

(ii) Charter school;

(iii) Magnet school outside of the resident school district;

(iv) Alternative school outside of the resident school district; or

(v) Private school that provides education to elementary or secondary students and has notified the Department of Education of its intention to participate in the program and comply with the program requirements; and

(6) "Resident school district" means the public school district in which the student resides.

6-20-2803. Parental Choice Scholarship Program.

(a) A parent of an eligible student may apply for a scholarship for his or her child to enroll in and attend a participating school.

(b) The scholarship is the entitlement of the eligible student under the supervision of the student's parent and not that of any school.

(c) A participating school that has more eligible students applying than spaces available shall fill the available spaces by a random selection process, except that a participating school may give preference to the sibling of an enrolled student.

(d) If a student is denied admission to a participating school because it has too few available spaces, the parent of that eligible student may transfer his or her scholarship to a participating school that has spaces available.

(e) An eligible student may attend a participating school until the

date he or she first:

(1) Is awarded a high school diploma; or

(2) Attains twenty-one (21) years of age.

(f) An eligible student who enrolls in a participating school may, at the parent's discretion, participate in fine arts and sports programs available through the student's resident school district at no cost, if the participating school does not offer a similar program.

6-20-2804. Funding guidelines.

(a) An eligible student qualifies for a parental choice scholarship award in an amount equal to *ninety-two percent (92%) of the adequate funding amount.*

(b)(1) A participating student shall be counted in the enrollment figures for his or her resident school district for the purpose of calculating state funding to the resident school district.

(2) The funds needed for a scholarship shall be subtracted from the state funding to be distributed to the student's resident school district.

(c)(1) Annually by June 1, a participating school shall provide to the Department of Education the names of all participating students the school will enroll in the following school year.

(2) A participating school may not refund, rebate, or share a student's scholarship with a parent or the student in any manner.

(3) A student's scholarship may only be used for educational purposes, including without limitation:

(A) Books;

(B) Supplies;

(C) School uniforms;

(D) Application fees; and

(E) Athletic fees.

(d) Within sixty (60) days of receiving funds for a participating student, a participating school shall return to the department the amount of a scholarship award that exceeds the funds needed for the educational purposes under subdivision (c)(3) of this section.

(e) The cost of attendance at a participating school that exceeds the maximum parental choice scholarship award amount is the responsibility of the

parent.

6-20-2805. Accountability standards for private participating schools.

(a) A private participating school shall meet:

(1)(A) Administrative accountability standards to ensure that students are treated fairly and kept safe.

(B) A private participating school shall:

(i) Comply with all health and safety laws or codes that apply to private schools;

(ii) Hold a valid occupancy permit if required by its municipality;

(iii) Certify that it complies with the nondiscrimination policies under 42 U.S.C. § 1981, as it exists on January 1, 2013; and

(iv) Conduct criminal background checks on employees and exclude from employment any person who:

(a) Is not permitted by state law to work in a public or private school; or

(b) Might reasonably pose a threat to the safety of students;

(2)(A) Financial accountability standards to ensure that public funds are spent appropriately.

(B)(i) A private participating school shall demonstrate its financial accountability by submitting to the Department of Education an independent financial audit of the school conducted by a certified public accountant.

(ii) The audit shall be accompanied by the auditor's statement that the report is free of material misstatements and fairly presents the private participating school's maximum tuition or actual cost of educating a student pursuant to this chapter.

(iii)(a) The audit shall be limited in scope to those records necessary for the department to make scholarship payments to the private participating school.

(b) The department may submit the audit to the Division of Legislative Audit for review and investigation of any irregularities or audit findings.

(iv) The private participating school shall return to the state any funds that the division determines were expended in a manner inconsistent with state law or program regulations.

(v) The cost of the audit shall be paid by the private participating school; and

(3)(A) Academic accountability standards.

(B) To provide sufficient information about the academic impact parental choice scholarships have on participating students and allow parents and taxpayers to measure the achievements of the program, a private participating school shall:

(i) Annually administer either the state achievement tests, or other nationally recognized norm-referenced tests chosen by the private participating school that measure learning gains in math and language arts to all participating students in grades that require testing under the state's accountability testing laws for public schools;

(ii) Provide to one (1) or both parents of each student with a copy of the results of the tests on an annual basis, beginning with the first year of testing;

(iii) Provide the test results to the department on an annual basis, beginning with the first year of testing;

(iv) Report to the department student information that would allow the state to aggregate data by grade level, gender, family income level, and race; and

(v) Provide graduation rates of participating students to the department in a manner consistent with nationally recognized standards.

(C) A private participating school that provides education and training for students with special needs may substitute the state's testing with its own annual testing that is:

(i) Appropriate for the student based upon the student's individual needs and challenges; and

(ii) Based on best professional standards for the testing.

(D) The state or an organization chosen by the state shall:

(i) Ensure compliance with all student privacy laws;

(ii)(a) Collect all test results.

(b) As soon as is reasonably practical, the private participating school shall submit the aggregate test results to the department and make each individual scholarship student's results available to one (1) or both parents of that scholarship student; and

(iii)(a) After the third year of test and test-related data collection, provide the test results and associated learning gains to the public on a state-operated website.

(b) The results shall be aggregated by the student's grade level, gender, family income level, number of years participating in the program, and race.

(E) The department may remove any private participating school from the program if the school fails to administer the annual test, but may issue a waiver to any scholarship student if the failure to administer the test is a result of the school's actions and not that of the student.

(b) The sole purpose of requiring testing is to provide private participating schools and parents a benchmark by which to evaluate the progress of their students. The state does not have the authority, based on the student's test performance, to require a student enrolled in a private participating school to transfer from one educational environment to another, or to mandate changes of any kind to the educational curriculum provided by the private participating school. Selection of an educational environment for the student is the exclusive right and sole responsibility of the parent.

6-20-2806. Private participating school autonomy.

(a) A private participating school is autonomous and not an agent of the state or federal government.

(b) The Department of Education or any other state agency shall not in any way regulate the educational program or admissions requirements of a private participating school that accepts students who utilize a parental choice scholarship award.

(c) This subchapter does not require a private participating school to accommodate different religious views of students or parents through modification of their educational program or admissions requirements in any way.

(d) The creation of the Parental Choice Scholarship Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those necessary to enforce the requirements of the program.

(e) A private participating school has maximum freedom to provide for the educational needs of its students without government control.

(f) This subchapter does not allow any interference with the right of private schools to hire only staff whose beliefs are consistent with their religious values and practice.

(g)(1) A private participating school may withdraw from the program by providing written notice to the department and to the parents of students enrolled in the school.

(2) The written notice of intention to withdraw from the program shall be:

(A) Delivered to the department no later than ninety (90) days before the end of the spring semester; and

(B) Effective at the end of the spring semester following the notification.

6-20-2807. Responsibilities of the Department of Education - Rules.

(a)(1) The Department of Education shall ensure that eligible students and their parents are informed annually of the schools participating in the Parental Choice Scholarship Program.

(2) The department shall pay special attention to ensuring that lower-income families are made aware of the program and their options.

(b)(1)(A) The department shall create a standard application that students interested in the program can use to submit to participating schools to establish their eligibility and apply for admissions.

(B) A participating school may require supplemental information from an applicant.

(2) The department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(c) The department may bar a participating school from the program if the department establishes that the participating school has:

(1) Intentionally and substantially misrepresented information

required under this subchapter;

(2) Routinely failed to comply with the accountability standards established;

(3) Failed to comply with § 6-20-2804(c); or

(4) Failed to refund to the state in a timely manner any scholarship overpayments under this subchapter.

(d)(1) If the department decides to bar a participating school from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

(2) Participating students attending a school barred by the department shall retain scholarship eligibility to attend another participating school.

(e) The State Board of Education shall promulgate the rules and procedures necessary for the administration of the Parental Choice Scholarship Program, including without limitation:

(1) Notification methods and timelines that will maximize student and public and private school participation;

(2) Simple and straightforward scholarship application procedures for eligible students and participating schools; and

(3)(A) Calculating and distributing scholarship funds to participating schools for eligible students.

(B) The department shall distribute scholarship funds not later than September 1 of a current school year for the fall semester and February 1 of a current school year for the spring semester.

(f) The House Committee on Education and the Senate Committee on Education shall review the guidelines before implementation.

(g) The General Assembly may transfer oversight of this program from the department to another body chosen by the General Assembly if it determines that program success would be better facilitated by the other body.

6-20-2808. Responsibilities of a resident school district.

(a) A resident school district shall provide a participating school that has admitted an eligible student under the Parental Choice Scholarship Program with a complete copy of the student's school records while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §

1232g, as it exists on January 1, 2013.

(b) The resident school district shall provide transportation for an eligible student to and from the participating school if:

(1) The resident school district would be required by law to provide transportation for the student if the student were enrolled in the resident school district; or

(2) The participating school is not more than two (2) miles outside the resident school district's boundary.

(c) If desired by the parent, the resident school district shall allow a student who lives in the resident school district but is enrolled in another participating school or is home-schooled to participate in the resident school district's fine arts and athletic programs, if the participating school does not provide a similar program.

6-20-2809. Applicability.

(a) Beginning with the 2014-2015 school year this subchapter shall apply:

(1) To a resident school district with an average daily membership of one thousand (1,000) or greater; and

(2) For an eligible student who:

(A) Is enrolled in grade four through grade eight (4-8);

(B) Is a special education student regardless of age; or

(C) Has a sibling enrolled in a participating school,

regardless of the student's age.

(b) Beginning with the 2015-2016 school year, a school district under subsection (a) of this section shall add two (2) additional grades per year until all students enrolled in kindergarten through grade twelve (K-12) are included, as follows:

(1) One (1) additional grade to be added each school year for the grades earlier than grade four (4); and

(2) One (1) additional grade to be added each school year for grades higher grade eight (8).

(c)(1) Beginning with the 2015-2016, this subchapter shall apply to all remaining school districts regardless of average daily membership for the students identified in subsection (a)(2).

(2) Beginning with the 2016-2017 school year, a school district

under this subsection (c) shall add two (2) additional grades per year until all students enrolled in kindergarten through grade twelve (K-12) are included, as provided under subdivision (b)(1)-(2) of this section.

6-20-2810. Evaluation of the Parental Choice Scholarship Program.

The Legislative Council may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

/s/Alexander