

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 620

By: Senators B. Johnson, M. Johnson
By: Representatives Bragg, House, Lowery, Wing

For An Act To Be Entitled

AN ACT TO CREATE THE CAPITAL PROMISE SCHOLARSHIP
PILOT PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE CAPITAL PROMISE SCHOLARSHIP
PILOT PROGRAM.

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

SECTION 1. Arkansas Code Title 6, Chapter 18, is amended to add an additional subchapter to read as follows:

Subchapter 20 – Capital Promise Scholarship Pilot Program

6-18-2001. Title.

This subchapter shall be known and may be cited as the "Capital Promise Scholarship Pilot Program".

6-18-2002. Findings and intent.

The General Assembly finds that:

(1) Each child in this state should have an opportunity to receive an appropriate education that fits his or her needs regardless of his or her family income or the neighborhood in which he or she lives;

(2) A parent should be able to make educational decisions for his or her child;

(3) An appropriate educational setting that fits a child's individual needs is important to the civic and economic condition of the



state;

(4) The General Assembly is interested in creating a demonstration project to provide financial scholarships to eligible students from low income families that reside in Pulaski County, Arkansas, that enables children to attend nonpublic kindergarten through grade twelve (K-12) schools in Pulaski County, two-year or four-year institutions of higher education in Pulaski County, or both, that best fit each child's individual needs;

(5) The General Assembly intends for this demonstration project to promote student achievement and expand pathways for higher educational attainment for eligible students from low-income families;

(6) The General Assembly intends, through this demonstration project, to evaluate the effectiveness of this type of scholarship program, and if the demonstration project is effective, to consider whether it should be expanded beyond Pulaski County; and

(7) Pulaski County is selected for the demonstration project due to the concentration of eligible students, a competitive nonpublic school market, and the location of several two-year and four-year institutions of higher education.

6-18-2003. Definitions.

As used in this subchapter:

(1) "Eligible student" means a resident of Pulaski County, Arkansas, who:

(A) Either:

(i) Is receiving the Capital Promise Scholarship for the first time and is:

(a) Entering kindergarten in an approved nonpublic school in Pulaski County; or

(b) Transferring from a public school in Pulaski County at which the student was enrolled for at least one (1) semester immediately preceding the first semester for which the student receives a Capital Promise Scholarship under this subchapter to an approved kindergarten through grade twelve (K-12) nonpublic school in Pulaski County; or

(ii) Was receiving a Capital Promise Scholarship

under this subchapter at the time of graduation from an approved nonpublic high school with a minimum grade point average of 2.5 on a 4.0 scale and is attending, applying to attend, or about to attend:

- (a) Arkansas Baptist College;
- (b) Philander Smith College;
- (c) Pulaski Technical College;
- (d) Shorter College; or
- (e) The University of Arkansas at Little Rock;

or

(B) At the time a scholarship under this subchapter is awarded, has a family income that is no more than the amount that qualifies a student for a free or reduced-price meal under the National School Lunch Act, 42 U.S.C. § 1751 et seq., as in effect on January 1, 2019.

(2) "Eligible student support organization" means a charitable organization that:

(A) Is exempt from federal income tax under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2019;

(B) Is an Arkansas entity formed under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

(C) Is certified by the Department of Education under § 6-18-2005;

(D) Complies with the operational requirements under § 6-15-2007; and

(E) Receives contributions to fund and administer Capital Promise Scholarships according to the rules prescribed by this subchapter;

(3) "Institution of higher education" means a public or private institution that provides postsecondary education;

(4) "Operator" means a president, officer, or board member of an eligible student support organization or a person with equivalent decision-making authority over an eligible student support organization;

(5) "Parent" means:

(A) An individual who is the parent, legal guardian, or acting in loco parentis of an eligible student; or

(B) An eligible student who is eighteen (18) years of age or older; and

(6) "Student scholarship" means the funds established for an

eligible student under this subchapter that a parent of an eligible student may use to pay for tuition and other approved educational services on behalf of the eligible student.

6-18-2004. Capital Promise Scholarship Pilot Program – Creation.

(a) The Department of Education shall develop a Capital Promise Scholarship Pilot Program as provided under this subchapter to assess the effectiveness of providing scholarships to eligible students from low-income families on increasing student achievement and expanding pathways to higher education.

(b) The total scholarship funds awarded annually under this subchapter shall not exceed three million five hundred thousand dollars (\$3,500,000).

(c) The department shall report annually to the Governor, the Chair of the House Committee on Education, and the Chair of the Senate Committee on Education information regarding the Capital Promise Scholarship Pilot Program under this subchapter.

(d) The pilot program established under this subchapter shall begin no later than the 2020-2021 school year and terminate on June 30, 2025.

(e) A public school district under full state authority shall not have its funding reduced as a result of any loss of public school students to the Capital Promise Scholarship Pilot Program under this subchapter.

6-18-2005. Application to become an eligible student support organization.

(a)(1) An organization that seeks to become an eligible student support organization under this subchapter shall apply to the Department of Education for initial certification or renewal of certification as an eligible student support organization by May 1 of the year before the school year for which the organization intends to fund scholarships under this subchapter.

(2) However, for the 2020-2021 school year, an organization that seeks to become an eligible student support organization under this subchapter shall apply to the department for initial certification as an eligible student support organization by January 1, 2020.

(b)(1) An application for initial certification under subsection (a) of this section shall include:

(A) A copy of the organization's incorporation documents under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

(B) A copy of the organization's Internal Revenue Service determination letter as a nonprofit organization under 26 U.S.C. § 501(c)(3);

(C) A description of the organization's:

(i) Financial plan that demonstrates sufficient funds to operate throughout the academic year; and

(ii) Organizational chart; and

(D) A description of the:

(i) Methodology the organization will use to verify whether a student is eligible to receive a student scholarship;

(ii) Application process the organization will use;

(iii) Methodology the organization will use to establish and fund student scholarships; and

(iv) Plans to comply with the operational requirements for an eligible student support organization under § 6-18-2006.

(2) In addition to the information required when applying for initial certification under subdivision (b)(1) of this section, an application for renewal of certification shall include:

(A) The eligible student support organization's completed Internal Revenue Service Form 990, to be submitted to the department no later than November 30 of the year before the academic year for which the eligible student support organization is applying to fund student scholarships;

(B) A copy of the annual financial audit required under § 6-18-2011;

(C) An annual report that includes the number of:

(i) Applications the eligible student support organization received and by grade;

(ii) the number of applications the eligible student support organization received and approved by student eligibility category; and

(iii) Student scholarships the eligible student support organization approved on behalf of eligible students;

(D) The amount of funds that the eligible student support organization:

(i) Received for the purposes of this subchapter;

and

(ii) Distributed as student scholarships under this act;

(E) An accounting of any remaining funds after the distribution of student scholarships and administrative expenses; and

(F) A description of how the eligible student support organization has complied with the operational requirements under § 6-18-2006.

(c)(1) Only one (1) eligible student support organization shall be certified by the department to administer the Capital Promise Scholarship Pilot Program under this subchapter at any one (1) time.

(2) If more than one (1) organization seeks certification under this section for the same time period, the department shall determine which organization to certify based upon the organizations' qualifications.

6-18-2006. Operation of eligible student support organization.

(a) An eligible student support organization:

(1) May expend up to three percent (3%) of scholarship funds received from the Capital Promise Scholarship Fund for administrative expenses.

(2) Shall not:

(A) Discriminate among applications for a student scholarship on the basis of gender, national origin, race, ethnicity, religion, or disability;

(B) Provide a student scholarship under this subchapter for the child of an operator or employee of the eligible student support organization;

(C) Restrict the parent of an eligible student from selecting any approved nonpublic school; or

(D) Charge an application fee; and

(3) Shall:

(A) Maintain separate accounts for student scholarship funds and operating funds;

(B) Submit in a timely manner information requested by the department that relates to a student scholarship that is established by the eligible student support organization under this subchapter, including

without limitation information that is requested in support of an evaluation of the Capital Promise Scholarship Pilot Program established by this subchapter that is authorized by the state;

(C)(i) Establish a process by which an individual may notify the eligible student support organization and file a written complaint alleging a violation of this subchapter.

(ii) The eligible student support organization shall:

(a) Conduct an inquiry into a written complaint under subdivision (a)(4)(C)(i) of this section; or

(b) Make a referral to the appropriate agency for an investigation into a complaint under subdivision (a)(4)(C)(i) of this section; and

(D) Allocate all interest accrued from eligible contributions to the funding of student scholarships.

(b)(1) The department shall send written notice to an eligible student support organization if the department determines that the eligible student support organization has violated this subchapter.

(2)(A) An eligible student support organization that receives a notice under subdivision (b)(1) of this section has fifteen (15) days to correct a violation identified in the notice by the department.

(B)(i) If an eligible student support organization fails or refuses to correct a violation identified under subdivision (b)(1) of this section, then the department may:

(a) Revoke the certification of the eligible student support organization; and

(b) Make a referral to the appropriate authorities.

(ii) An eligible student support organization may appeal department findings under subdivision (b)(2) of this section to the State Board of Education.

(c)(1) If an eligible student support organization determines that it cannot continue to operate, then it shall:

(A) Immediately notify the department; and

(B) Transfer all of its remaining funds received from the Capital Promise Scholarship Fund, less administrative costs expended, to the

department.

(2) The department shall administer the Capital Promise Scholarship Pilot Program under this subchapter until it certifies a replacement eligible student support organization.

6-18-2007. Establishment of Capital Promise Scholarships – Payments.

(a) An eligible student support organization may contract with institutions that are qualified to manage Capital Promise Scholarships under this subchapter.

(b) An eligible student support organization shall:

(1) For each academic year in which eligible students participate in the Capital Promise Scholarship Pilot Program under this subchapter, establish student scholarships not to exceed:

(A) Eighty percent (80%) of the foundation funding amount under § 6-20-2305 for eligible students in kindergarten through grade eight (K-8);

(B) One hundred percent (100%) of the foundation funding amount under § 6-20-2305 for eligible students in grades nine through twelve (9-12); and

(C)(i) Five thousand dollars (\$5,000) for attendance at an eligible two-year or four-year institution of higher education under § 6-18-2003.

(ii) The amount received for attendance at an approved two-year or four-year institution of higher education under subdivision (b)(1)(C)(i) of this section shall be in addition to any scholarship the eligible student receives under the Arkansas Academic Challenge Scholarship Program, § 6-85-201 et seq.;

(2) Disburse student scholarships established under subsection (b) of this section in quarterly installments throughout the academic year to parents of eligible students or to the eligible students if the eligible students are over the age of eighteen (18); and

(3) Establish a system for parents to direct student scholarship funds received under subdivision (b)(2) of this section to nonpublic schools and educational service providers by:

(A) Electronic funds transfer;

(B) Automated clearing house transfer; or

(C) Another system that the eligible student support organization determines is commercially viable, cost-effective, and efficient for parents to use.

(c) Funds received under this subchapter are not taxable income of a parent or an eligible student under state law.

6-18-2008. Application for Capital Promise Scholarships.

(a) A parent may apply to an eligible student support organization to establish a Capital Promise Scholarship for his or her eligible student.

(b) Before approving an application for a scholarship under this section, an eligible student support organization shall:

(1) Verify that the student on whose behalf the parent is applying is eligible; and

(2) Enter into an agreement with a parent under subdivision (d)(1) of this section.

(c) The eligible student support organization:

(1) Shall approve applications by order of receipt;

(2) Shall approve an application only if funds are available;

and

(3) May approve applications throughout the calendar year.

(d) As part of the application process under this section, a parent shall:

(1) Enter into an agreement with an eligible student support organization to:

(A) Use student scholarship funds for only the allowed expenses under § 6-18-2009; and

(B) Not apply for or accept a Succeed Scholarship under the Succeed Scholarship Program, § 6-41-901, et seq.;

(2) Sign a form verifying that he or she has reviewed information developed by the Department of Education that explains without limitation:

(A) The allowable uses of student scholarship funds;

(B) The responsibilities of:

(i) A parent;

(ii) An eligible student support organization; and

(iii) The department;

(C) That a parent may choose to enroll his or her child in a public school at any time; and

(D) The legal rights of a child enrolled in a private school under the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10)(A), as it existed on January 1, 2019.

(e)(1) An eligible student support organization shall renew annually an eligible student's student scholarship if funds are available and if the parent of the eligible student applies for re-enrollment.

(2) As part of the re-enrollment process under subdivision (e)(1) of this section, the eligible student support organization or an organization chosen by the eligible student support organization shall conduct a parental survey that asks parents of participating eligible students to detail:

(A) Satisfaction with the student scholarship program administered by the eligible student support organization;

(B) Opinions regarding other topics and issues that concern the effectiveness of the student scholarship program administered by the eligible student support organization; and

(C) The number of years an eligible student has participated in the student scholarship program administered by the eligible student support organization.

6-18-2009. Capital Promise Scholarships.

(a)(1) The Capital Promise Scholarship is established under this subchapter.

(2) An eligible student support organization shall, based on the availability of funds, grant scholarships under this subchapter and disburse scholarship funds under this subchapter for students who meet the eligibility requirements under this subchapter.

(b)(1) A parent shall use scholarship funds received from an eligible student support organization on behalf of an eligible student to remit payments to a nonpublic school or an educational service provider for the following before using scholarship funds for any other approved expenses:

(A) Tuition, fees, or required uniforms; and

(B) Required textbooks.

(2) Once scholarship funds received from an eligible student

support organization have been used for expenses under subdivision (b)(1) of this section, the scholarship funds may be used for only the following expenses of the eligible student:

(A) Tutoring services provided by a:

(i) Teacher who is licensed by the State Board of Education;

(ii) Person qualified under § 6-15-1004 and state board rules as a substitute teacher;

(iii) Person who has experience teaching at an institution of higher education; or

(iv) Tutoring facility with a business license to operate in this state;

(B) Fees for:

(i) Nationally standardized assessments, including without limitation assessments required by the state board of all public school students and national norm-referenced exams;

(ii) Advanced Placement exams;

(iii) College placement examinations, including without limitation the ACT and the SAT;

(iv) Industry certification examinations; and

(v) Other assessments necessary to complete an eligible student's course of study;

(C) Fees for specialized after-school or summer education programs whose primary purpose is to provide academic instruction;

(D) Tuition and fees at an approved institution of higher education if the eligible student is enrolled in the approved institution of higher education;

(E) Tuition and fees at an institution of higher education if the eligible student is enrolled in high school and also enrolled in an academic course at an institution of higher education;

(F) Textbooks and materials related to coursework at an institution of higher education;

(G) Specialized services that are necessary to facilitate an eligible student's education, including without limitation:

(i) Applied behavior analysis services as defined in § 23-99-418;

(ii) Speech-language pathology services as defined in § 17-100-103;

(iii) Occupational therapy services as defined in § 17-88-102;

(iv) Physical therapy services as defined in § 17-93-102;

(v) Audiology services as defined in § 17-100-103;

(vi) Dyslexia support services; and

(vii) Other services approved by the Department of Education;

(H)(i) Transportation required for travel to and from an educational service provider.

(ii) Student scholarship funds used for expenses related to transportation under subdivision (b)(2)(H)(i) of this section shall not exceed ten percent (10%) of the student scholarship funds provided under § 6-18-2007 for that academic year; and

(I) Other educational expenses approved by the department.

(c) A nonpublic school or educational service provider that receives payments under this section shall not share with, refund, or rebate payments under this section to a parent or eligible student other than to credit a refund directly into the account that contains the eligible student's student scholarship funds.

6-18-2010. Duration of the program – Return of funds.

(a) If funds are available, an eligible student support organization shall continue to provide student scholarship funds to an eligible student under § 6-18-2007 until:

(1) The parent does not apply under § 6-18-2008 to renew the Capital Promise Scholarship;

(2) The eligible student support organization determines that the student no longer qualifies as an eligible student;

(3) The parent fails to comply with the agreement made under § 6-18-2008(d);

(4)(A) The eligible student enrolls in a public school.

(B) The parent of the eligible student shall immediately notify the eligible student support organization if the eligible student

enrolls in a course of study at a public school.

(5) The Department of Education:

(A) Suspends or revokes the student scholarship; or

(B)(i) Deems a parent of a participating eligible student ineligible for the student scholarship program under this act upon a finding of fraud or abuse of student scholarship funds, including without limitation accepting a refund or rebate in violation of § 6-18-2009(c).

(ii) The department shall establish procedures to ensure a fair process to determine whether intentional or substantial misuse of funds has occurred under this subchapter.

(iii) A parent may appeal the department's decision to the State Board of Education.

(iv) The department may refer cases of misuse of scholarship funds under this subchapter to law enforcement agencies for investigation.

(b) If a student's remaining student scholarship funds are no longer eligible for expenditure under this subchapter, any remaining student scholarship funds shall be returned to the Capital Promise Scholarship Fund.

6-18-2011. Audit.

(a) By October 1 of each year, an eligible student support organization shall have an annual financial audit of the eligible student support organization's accounts and records of the previous fiscal year conducted:

(1) In accordance with generally accepted auditing standards;

(2) By an independent certified public accountant who is licensed in this state and approved by the Department of Education; and

(3) Based on an audit plan approved by the department.

(b) An eligible student support organization shall provide to the department a copy of the audit required under subsection (a) of this section within thirty (30) days of receiving the audit.

6-18-2012. Nonpublic school eligibility.

(a) A nonpublic school shall notify the Department of Education of its intent to participate in the Capital Promise Scholarship Pilot Program under this subchapter.

(b) The department shall approve a nonpublic school as eligible to participate in the Capital Promise Scholarship Pilot Program under this subchapter if the nonpublic school:

(1) Meets the accreditation requirements established by the Arkansas Nonpublic School Accrediting Association, Inc. or its successor, or another accrediting association that is recognized by the state board;

(2)(A) Demonstrates fiscal soundness by:

(i) Having been in operation for one (1) school year; or

(ii) Providing the department with a statement by an independent certified public accountant confirming that the nonpublic school is insured and has sufficient capital or credit to operate in the upcoming school year;

(3) Meets state and local health and safety requirements; and

(4) Complies with all state laws and rules that govern nonpublic schools.

(c) The department shall maintain a list of nonpublic schools that are eligible to participate in the Capital Promise Scholarship Pilot Program under this subchapter and make the list available on the department's website.

(d)(1) An eligible nonpublic school under this section shall administer annually or make provisions for a participating eligible student to take a nationally recognized norm-referenced test as established by the state board.

(2) A student with an individualized service program that provides for an exemption to standardized testing is not required to take a test administered under subdivision (d)(1) of this section.

(e) An eligible nonpublic school under this section shall submit to the department data concerning various student success measures, including without limitation:

(1) Student grade point average;

(2) Student growth and achievement as evidenced by nationally norm-referenced assessments.

6-18-2013. Annual report.

(a)(1) In compliance with student privacy laws, an eligible student

support organization or an organization appointed by an eligible student support organization shall produce an annual report.

(2) Annual report findings shall be aggregated according to a student's grade level or year of attendance at an approved institution of higher education, gender, family income level, race, and number of years of participation in the Capital Promise Scholarship Pilot Program under this subchapter.

(b) The annual report required under subdivision (a)(1) of this section shall:

(1) Assess:

(A) Student performance on state achievement tests or nationally norm-referenced tests, including without limitation learning gains;

(B) High school graduation rates;

(C) Parental satisfaction according to the survey conducted under § 6-18-2008; and

(D) The percentage of funds used for each expense type identified in § 6-18-2009(b);

(2) Protect the identity of participating eligible students consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232(g), as it existed on January 1, 2019; and

(3) Be posted on the Department of Education website.

§ 6-18-2014. Autonomy of nonpublic schools and educational service providers.

(a) A nonpublic school or educational service provider that receives payment from student scholarships under this subchapter is not an agent or an instrumentality of the state or of a public school district.

(b) The curriculum and educational plan for an eligible student who attends a nonpublic school or who receives educational services from an educational service provider under this subchapter are not subject to the regulatory authority of the State Board of Education.

(c) As a condition of continued receipt of student scholarship funds, the state board may require a nonpublic school or educational service provider that receives payments from student scholarship funds to certify on a semiannual basis under oath that a participating eligible student is

enrolled in and has been attending the nonpublic school, except for excused absences.

§ 6-18-2015. Rules.

The Department of Education shall promulgate rules to implement this subchapter.

SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1264. Capital Promise Scholarship Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Capital Promise Scholarship Fund".

(b) The Capital Promise Scholarship Fund shall consist of:

(1) Funds transferred from the Rainy Day Fund created under § 19-5-1262;

(2) Any revenues provided by law; and

(3) Any other funds and fund transfers provided for by law.

(c) The Capital Promise Scholarship Fund shall be used to fund scholarships granted to eligible students residing in Pulaski County, Arkansas, under the Capital Promise Scholarship Pilot Program, § 6-18-2001 et seq.