

INTERIM STUDY PROPOSAL 2013-139

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

As Engrossed: H3/20/13

A Bill

HOUSE BILL 1897

4
5
6 By: Representatives Alexander, Ballinger, D. Altes, Davis, Dotson, Fite, Harris, Hutchison, Lowery,
7 Neal, Payton, Scott

8 Filed with: Interim House Committee on Education
9 pursuant to A.C.A. §10-3-217.

10 **For An Act To Be Entitled**

11 AN ACT TO ESTABLISH THE PARENTAL CHOICE SCHOLARSHIP
12 PROGRAM, TO CREATE A SCHOLARSHIP PROGRAM THAT
13 PROVIDES ALL ARKANSAS CHILDREN THE OPTION TO ATTEND
14 THE PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL
15 OF THEIR PARENTS' CHOICE; AND FOR OTHER PURPOSES.
16

17
18 **Subtitle**

19 TO ESTABLISH THE PARENTAL CHOICE
20 SCHOLARSHIP PROGRAM.
21

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

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

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

33 (3) The current state education system is not working for far too many Arkansas citizens,
34 as evidenced by the following:

35 (A) State spending on elementary and secondary education has increased more
36 than sixty-three percent (63%) from more than two billion seven hundred million dollars (\$2,700.000) in

1 2002 to more than four billion four hundred million dollars (\$4,400,000) in 2012. In addition, the
 2 percentage of the education budget financed from federal dollars has grown from eight percent (8%) in
 3 2002 to thirteen percent (13%) in 2012. Receipt of federal funding often requires compliance with federal
 4 laws and regulations that are not always advantageous to or complementary to the mission of the state or
 5 the educational programs it provides;

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

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

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

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

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

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

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

23 (B) Significantly improved graduation rates;

24 (C) Better promotion of civic values;

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

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

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

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

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

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

3 Subchapter 28 — Parental Choice Scholarship Program Act

4
5 6-20-2801. Title.

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

7
8 6-20-2802. Definitions.

9 As used in this subchapter:

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

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

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

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

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

20 (A) Biological or adoptive parent;

21 (B) Guardian; or

22 (C) Custodian;

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

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

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

28 (B) Either a:

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

30 (ii) Charter school;

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

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

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

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

3
4 6-20-2803. Parental Choice Scholarship Program.

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

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

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

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

15 (e) An eligible student may attend a participating school until the date he or she first:

16 (1) Is awarded a high school diploma; or

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

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

21
22 6-20-2804. Funding guidelines.

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

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

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

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

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

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

35 (A) Books;

36 (B) Supplies;

1 (C) School uniforms;

2 (D) Application fees; and

3 (E) Athletic fees.

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

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

9
10 6-20-2805. Accountability standards for private participating schools.

11 (a) A private participating school shall meet:

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

14 (B) A private participating school shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (3)(A) Academic accountability standards.

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

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

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

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

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

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

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

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

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

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

28 (i) Ensure compliance with all student privacy laws;

29 (ii)(a) Collect all test results.

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

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

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

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

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

10
 11 6-20-2806. Private participating school autonomy.

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

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

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

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

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

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

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

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

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

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

33
 34 6-20-2807. Responsibilities of the Department of Education – Rules.

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

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

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

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

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

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

11 (1) Intentionally and substantially misrepresented information required under this
12 subchapter;

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

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

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

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

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

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

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

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

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

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

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

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

1
2 6-20-2808. Responsibilities of a resident school district.

3 (a) A resident school district shall provide a participating school that has admitted an eligible
4 student under the Parental Choice Scholarship Program with a complete copy of the student's school
5 records while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g,
6 as it exists on January 1, 2013.

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

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

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

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

17
18 6-20-2809. Applicability.

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

20 (1) To a resident school district with an average daily membership of one thousand
21 (1,000) or greater; and

22 (2) For an eligible student who:

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

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

25 (C) Has a sibling enrolled in a participating school, regardless of the student's
26 age.

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

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

32 (2) One (1) additional grade to be added each school year for grades higher grade eight
33 (8).

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

