

INTERIM STUDY PROPOSAL 2013-139

State of Arkansas

As Engrossed: H3/20/13

89th General Assembly

A Bill

Regular Session, 2013

HOUSE BILL 1897

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

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

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,

1 magnet schools, alternative schools, private schools and home schooling by
2 the parent;

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

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

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

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

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

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

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

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

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

36 (B) Significantly improved graduation rates;

1 (C) Better promotion of civic values;

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

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

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

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

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

15
16 SECTION 2. Arkansas Code Title 6, Chapter 20, is amended to add an
17 additional subchapter to read as follows:

18 Subchapter 28 -- Parental Choice Scholarship Program Act

19
20 6-20-2801. Title.

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

23
24 6-20-2802. Definitions.

25 As used in this subchapter:

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

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

31 (B) Professional development funding under § 6-20-
32 2305(b)(5);

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

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

3 (A) Biological or adoptive parent;

4 (B) Guardian; or

5 (C) Custodian;

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

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

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

12 (B) Either a:

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

15 (ii) Charter school;

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

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

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

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

26
27 6-20-2803. Parental Choice Scholarship Program.

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

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

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

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

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

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

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

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

13
14 6-20-2804. Funding guidelines.

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

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

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

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

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

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

31 (A) Books;

32 (B) Supplies;

33 (C) School uniforms;

34 (D) Application fees; and

35 (E) Athletic fees.

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

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

8
9 6-20-2805. Accountability standards for private participating schools.

10 (a) A private participating school shall meet:

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

13 (B) A private participating school shall:

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

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

18 (iii) Certify that it complies with the
19 nondiscrimination policies under 42 U.S.C. § 1981, as it exists on January 1,
20 2013; and

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

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

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

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

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

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

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

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

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

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

12 (3)(A) Academic accountability standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32
33 6-20-2806. Private participating school autonomy.

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

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

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

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

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

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

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

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

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

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

27
28 6-20-2807. Responsibilities of the Department of Education - Rules.

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

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

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

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

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

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

8 (1) Intentionally and substantially misrepresented information
9 required under this subchapter;

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

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

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

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

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

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

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

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

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

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

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

35 (g) The General Assembly may transfer oversight of this program from
36 the department to another body chosen by the General Assembly if it

1 determines that program success would be better facilitated by the other
2 body.

3
4 6-20-2808. Responsibilities of a resident school district.

5 (a) A resident school district shall provide a participating school
6 that has admitted an eligible student under the Parental Choice Scholarship
7 Program with a complete copy of the student's school records while complying
8 with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §
9 1232g, as it exists on January 1, 2013.

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

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

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

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

22
23 6-20-2809. Applicability.

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

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

28 (2) For an eligible student who:

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

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

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

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

