

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas  
86th General Assembly  
Regular Session, 2007

# A Bill

HOUSE BILL 2482

By: Representative Harris

## For An Act To Be Entitled

AN ACT TO ESTABLISH THE SPECIAL NEEDS SCHOLARSHIP  
PROGRAM; AND FOR OTHER PURPOSES.

## Subtitle

AN ACT TO ESTABLISH THE SPECIAL NEEDS  
SCHOLARSHIP PROGRAM.

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

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

### SUBCHAPTER 16 -- SPECIAL NEEDS SCHOLARSHIP PROGRAM

#### 6-18-1601. Title.

This subchapter shall be known and may be cited as the "Special Needs Scholarship Program".

#### 6-18-1602. Definitions.

As used in this subchapter:

(1) "Eligible student" means any elementary or secondary student attending public school in this state with an individual education plan written in accordance with the rules of the Department of Education, including without limitation a student who is mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, autistic, or hospitalized or homebound due to illness or disability;



(2) "Parent" includes any guardian, custodian, or other person with authority to act on behalf of the student;

(3) "Resident school district" means the public school district in which the student resides; and

(4) "Participating school" means either a public school outside of the resident school district or any nonpublic school that provides education to elementary or secondary students that has notified the Department of Education of its intent to participate in the Special Needs Scholarship Program and comply with its requirements.

6-18-1603. Eligibility - scholarship.

(a) Any parent of an eligible student who is dissatisfied with the student's progress qualifies for a scholarship from the state for the child to enroll in and attend a nonpublic school if:

(1) The eligible student has been accepted for admission at a participating school; and

(2) The parent has requested a scholarship from the state before the deadline established by the Department of Education.

(b)(1) The department shall inform the resident school district that an eligible student has requested a special needs scholarship.

(2) The resident school district shall within three (3) business days provide the department with a copy of the eligible student's most current individual education plan.

(c)(1) Upon receipt of an eligible student's request for a scholarship, the department shall review the individual education plan drafted by the eligible student's public school to determine the amount of the scholarship.

(2) The department shall provide the student's parent with a timely written explanation of its determination for the amount of the scholarship.

(d)(1) The maximum scholarship granted an eligible student shall be an amount equivalent to the cost of the educational program that would have been provided for the eligible student in the resident school district.

(2)(A) Although the scholarship amount is a function of an eligible student's individual education plan, the participating school is not required to abide by the individual education plan.

1                   (B) The parent and the participating school will mutually  
 2 determine the best services and education plan for the eligible student.

3                   (e)(1) The amount of the special needs scholarship shall be the lesser  
 4 of the amount calculated under subsection (c) of this section or the amount  
 5 of the participating school's estimated costs for serving the eligible  
 6 student.

7                   (2) The costs of any assessment by the participating school of  
 8 the eligible student's special needs may be included in the scholarship  
 9 amount.

10                  (f)(1) An eligible student receiving a special needs scholarship and  
 11 attending a participating school shall be counted in the enrollment of his or  
 12 her resident school district.

13                  (2) The funds needed to provide a scholarship shall be  
 14 subtracted from the state foundation funding aid payable to the eligible  
 15 student's resident school district.

16                  (g) The scholarship shall remain in force until the earlier of the  
 17 date an eligible student:

18                   (1) Returns to a public school;

19                   (2) Graduates from high school; or

20                   (3) Reaches twenty-one (21) years of age.

21                  (h) The eligible student's parent may remove the student from the  
 22 participating school at any time and place the eligible student in another  
 23 participating school or in a public school.

24  
 25                  6-18-1604. Responsibilities of a resident school district.

26                  (a) A resident school district shall annually notify the parents of an  
 27 eligible student of the Special Needs Scholarship Program and offer that  
 28 student's parent an opportunity to enroll the eligible student in a  
 29 participating school of his or her choice.

30                  (b) The resident school district shall provide a participating school  
 31 that has admitted an eligible student with a complete copy of the eligible  
 32 student's school records while complying with the Family Educational Rights  
 33 and Privacy Act of 1974, 20 U.S.C. § 1232g.

34                  (c)(1) The resident school district shall provide transportation for  
 35 an eligible student to and from the participating school under the same  
 36 conditions as the resident school district is required to provide

1 transportation for other resident students to nonpublic schools under current  
2 law.

3 (2) The resident school district will qualify for state  
4 transportation aid for each student so transported.

5 (d) If the parent of an eligible student participating in this program  
6 requests that the eligible student take the statewide assessments, the  
7 resident school district shall provide locations and times for the eligible  
8 student to take all statewide assessments if they are not offered at the  
9 eligible student's participating school.

10  
11 6-18-1605. Responsibilities of the Department of Education.

12 (a) The Department of Education shall adopt rules and procedures  
13 regarding:

14 (1) The eligibility and participation of nonpublic schools,  
15 including timelines that will maximize student and public and nonpublic  
16 school participation;

17 (2) The calculation and distribution of scholarships to eligible  
18 students and participating schools; and

19 (3) The application and approval procedures for eligible  
20 students and participating schools.

21 (b) No liability shall arise on the part of the department or the  
22 state based on the award or use of a special needs scholarship.

23 (c) The department may bar a school from participation in the Special  
24 Needs Scholarship Program if the department establishes that the  
25 participating school has:

26 (1) Intentionally and substantially misrepresented information  
27 required under § 6-18-1604; or

28 (2) Failed to refund to the state any scholarship overpayments  
29 in a timely manner.

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

33  
34 6-18-1606. Accountability standards for participating schools.

35 (a) To ensure that eligible students are treated fairly and kept safe,  
36 all participating schools shall:

1           (1) Comply with all health and safety laws or codes that apply  
2 to nonpublic schools;

3           (2) Hold a valid occupancy permit if required by their  
4 municipality;

5           (3) Certify that they will not discriminate in admissions on the  
6 basis of race, color, national origin, religion or disability; and

7           (4) Comply with all state laws that apply to nonpublic schools  
8 regarding criminal background checks for employees and exclude from  
9 employment any people not permitted by state law to work in a nonpublic  
10 school.

11          (b) To ensure that public funds are spent appropriately, all  
12 participating nonpublic schools shall:

13           (1) Demonstrate their financial accountability by:

14           (A) Submitting a financial information report for the  
15 school that complies with uniform financial accounting standards established  
16 by the Department of Education and conducted by an auditor who is a certified  
17 public accountant; and

18           (B)(i) Having the auditor certify that the report is free  
19 of material misstatements and fairly represents the costs per student under §  
20 6-18-1603(c)(1).

21           (ii) The auditor's report shall be limited in scope  
22 to those records that are necessary for the department to make payments to  
23 participating schools on behalf of parents for scholarships; and

24           (2) Demonstrate their financial viability by showing they can  
25 repay any funds that might be owed the state if they are to receive fifty  
26 thousand dollars (\$50,000) or more during the school year by:

27           (A) Filing with the department prior to the start of the  
28 school year a surety bond payable to the state in an amount equal to the  
29 aggregate amount of the special needs scholarships expected to be paid during  
30 the school year to eligible students admitted at the participating school; or

31           (B) Filing with the department prior to the start of the  
32 school year financial information that demonstrates the school has the  
33 ability to pay an aggregate amount equal to the amount of the special needs  
34 scholarships expected to be paid during the school year to eligible students  
35 admitted at the participating school.

36          (c) To ensure that schools provide academic accountability to parents

1 of eligible students in the program, all participating schools shall  
2 regularly report to the parent on the eligible student's progress.

3 (d)(1) A participating school is autonomous and not an agent of the  
4 state or federal government.

5 (2) The department or any other state agency may not in any way  
6 regulate the educational program of a participating school that accepts a  
7 special needs scholarship.

8 (3) The creation of the Special Needs Scholarship Program does  
9 not expand the regulatory authority of the state, its officers, or any school  
10 district to impose any additional regulation of nonpublic schools beyond  
11 those necessary to enforce the requirements of the program.

12 (4) Participating schools shall be given the maximum freedom to  
13 provide for the educational needs of their students without governmental  
14 control.

15  
16 6-18-1607. Responsibilities of the eligible students and their  
17 parents.

18 (a) It shall be the responsibility of a parent to select his or her  
19 child's school, apply for admission, and apply for a special needs  
20 scholarship.

21 (b)(1) An eligible student participating in the Special Needs  
22 Scholarship Program must comply fully with a participating school's written  
23 code of conduct and shall remain in attendance throughout the school year,  
24 unless excused by the school for illness or other good cause.

25 (2) A parent may transfer an eligible student to another  
26 participating school at any time.

27 (3) The scholarship amount shall be prorated between  
28 participating schools according to the period of attendance at each school.

29 (c) A parent's decision for his or her eligible student to participate  
30 in the program constitutes a nonpublic placement for purposes of the  
31 Individuals with Disabilities Education Act.

32  
33 6-18-1608. Evaluation of Special Needs Scholarship Program.

34 (a) The Bureau of Legislative Research may contract with one (1) or  
35 more qualified researchers who have previous experience evaluating school  
36 choice programs to conduct a study of the Special Needs Scholarship Program

1 with funds other than state funds.

2 (b) The study shall assess:

3 (1) The level of satisfaction with the Special Needs Scholarship  
4 Program of an eligible student receive a special needs scholarship;

5 (2) The level satisfaction with the Special Needs Scholarship  
6 Program of parents;

7 (3) The percentage of eligible students receiving a special  
8 needs scholarship who were victimized because of their special needs status  
9 at their resident school district compared to the percentage so victimized at  
10 their participating school;

11 (4) The percentage of eligible students receiving a special  
12 needs scholarship who exhibited behavioral problems at their resident school  
13 district compared to the percentage exhibiting behavioral problems at their  
14 participating school;

15 (5) The class size experienced by eligible students receiving a  
16 special needs scholarship at their resident school district and at their  
17 participating school; and

18 (6) The fiscal impact to the state and resident school districts  
19 of the program.

20 (c) The researchers who conduct the study shall:

21 (1) Apply appropriate analytical and behavioral sciences  
22 methodologies to ensure public confidence in the study; and

23 (2) Provide the General Assembly with a final copy of the  
24 evaluation of the program.

25 (d) The public and nonpublic participating schools from which eligible  
26 students transfer to participate in the program shall cooperate with the  
27 research effort by providing student assessment instrument scores and any  
28 other data necessary to complete this study.

29 (e) The Bureau of Legislative Research may accept grants to assist in  
30 funding this study.

31 (f)(1) The General Assembly may require periodic reports from the  
32 researchers.

33 (2) The researchers must make their data and methodology  
34 available for public review while complying with the requirements of the  
35 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g.

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