

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1897

5 By: Representative Alexander
6

For An Act To Be Entitled

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

Subtitle

15 TO ESTABLISH THE PARENTAL CHOICE
16 SCHOLARSHIP PROGRAM.
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

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

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

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



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

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

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

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

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

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

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

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

32 (B) Significantly improved graduation rates;

33 (C) Better promotion of civic values;

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

36 (E) Significantly improved parental satisfaction with

1 their child's educational experience; and

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

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

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

11
 12 SECTION 2. Arkansas Code Title 6, Chapter 20, is amended to add an
 13 additional subchapter to read as follows:

14 Subchapter 28 – Parental Choice Scholarship Program Act

15
 16 6-20-2801. Title.

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

19
 20 6-20-2802. Definitions.

21 As used in this subchapter:

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

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

27 (B) Professional development funding under § 6-20-
 28 2305(b)(5);

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

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

34 (A) Biological or adoptive parent;

35 (B) Guardian; or

36 (C) Custodian;

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

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

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

7 (B) Either a:

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

10 (ii) Charter school;

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

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

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

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

21
 22 6-20-2803. Parental Choice Scholarship Program.

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

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

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

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

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

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

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

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

7
8 6-20-2804. Funding guidelines.

9 (a) An eligible student qualifies for a parental choice scholarship
10 award in an amount equal to the adequate funding amount.

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

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

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

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

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

24 (A) Books;

25 (B) Supplies;

26 (C) School uniforms;

27 (D) Application fees; and

28 (E) Athletic fees.

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

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

36

1 6-20-2805. Accountability standards for private participating schools.

2 (a) A private participating school shall meet:

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

5 (B) A private participating school shall:

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

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

10 (iii) Certify that it complies with the
11 nondiscrimination policies under 42 U.S.C. § 1981, as it exists on January 1,
12 2013; and

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

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

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

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

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

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

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

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

35 (iv) The private participating school shall return
36 to the state any funds that the division determines were expended in a manner

1 inconsistent with state law or program regulations.

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

4 (3)(A) Academic accountability standards.

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

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

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

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

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

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

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

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

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

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

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

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

36 (b) As soon as is reasonably practical, the

1 private participating school shall submit the aggregate test results to the
2 department and make each individual scholarship student's results available
3 to one (1) or both parents of that scholarship student; and

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

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

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

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

23
24 6-20-2806. Private participating school autonomy.

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

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

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

35 (d) The creation of the Parental Choice Scholarship Program does not
36 expand the regulatory authority of the state, its officers, or any school

1 district to impose any additional regulation of private schools beyond those
2 necessary to enforce the requirements of the program.

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

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

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

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

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

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

17
18 6-20-2807. Responsibilities of the Department of Education - Rules.

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

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

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

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

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

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

34 (1) Intentionally and substantially misrepresented information
35 required under this subchapter;

36 (2) Routinely failed to comply with the accountability standards

1 established;

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

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

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

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

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

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

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

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

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

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

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

29
30 6-20-2808. Responsibilities of a resident school district.

31 (a) A resident school district shall provide a participating school
32 that has admitted an eligible student under the Parental Choice Scholarship
33 Program with a complete copy of the student's school records while complying
34 with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §
35 1232g, as it exists on January 1, 2013.

36 (b) The resident school district shall provide transportation for an

1 eligible student to and from the participating school if:

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

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

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

12
 13 6-20-2809. Applicability.

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

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

18 (2) For an eligible student who:

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

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

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

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

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

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

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

34 (2) Beginning with the 2016-2017 school year, a school district
 35 under this subsection (c) shall add two (2) additional grades per year until
 36 all students enrolled in kindergarten through grade twelve (K-12) are

1 included, as provided under subdivision (b)(1)-(2) of this section.

2
3 6-20-2810. Evaluation of the Parental Choice Scholarship Program.

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