

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

1

HOUSE BILL 944

Short Title: Opportunity Scholarship Act. (Public)

Sponsors: Representatives Bryan, B. Brown, Brandon, and Hanes (Primary Sponsors).  
*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Education, if favorable, Appropriations.

April 16, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE OPPORTUNITY SCHOLARSHIP GRANTS.

3 Whereas, the State has a constitutional obligation to fund the delivery of a sound  
4 basic education to children; and

5 Whereas, children of families with limited financial resources need expanded  
6 educational opportunities; and

7 Whereas, a solid educational foundation can help reduce the socioeconomic  
8 achievement gap; and

9 Whereas, by creating educational environments that enable each child to learn, the  
10 State can improve the quality of the education it funds; Now, therefore,  
11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** Article 39 of Chapter 115C of the General Statutes is amended by  
13 adding a new Part to read:

14 "Part 2A. Scholarship Grants.

15 **"§ 115C-562.1. Definitions.**

16 The following definitions apply in this Part:

17 (1) Authority. – The State Education Assistance Authority.

18 (2) Eligible students. – A student who has not yet received a high school  
19 diploma and who meets all of the following requirements:

20 a. Who meets one of the following criteria:

21 1. Was a full-time student assigned to and attending a public  
22 school pursuant to G.S. 115C-366 during the previous  
23 semester.

24 2. Received a scholarship grant during the previous school year.

25 3. Is entering either kindergarten or the first grade.

26 4. Is a child in foster care as defined in G.S. 131D-10.2(9).

27 5. Is a child in the household of an active duty member of the  
28 uniformed service of the United States. For purposes of this  
29 Part, an active duty member of the uniformed service of the  
30 United States is a member on full-time duty status of one of  
31 the following: the United States Air Force, Army, Coast  
32 Guard, Marine Corps and Navy, the North Carolina National  
33 Guard, and any reserve component of the foregoing.



1                   6.     Is a child whose adoption decree was entered not more than  
2                             one year prior to submission of the scholarship grant  
3                             application.

4                   b.     Resides in a household with an income level not in excess of three  
5                             hundred percent (300%) of the federal poverty level.

6                   (3)   Division. – The Division of Nonpublic Education, Department of  
7                             Administration.

8                   (4)   Local school administrative unit. – A local school administrative unit,  
9                             charter school, or regional school.

10                  (5)   Nonpublic school. – A school that meets the requirements of Part 1 or 2 of  
11                             this Article as identified by the Division.

12                  (6)   Scholarship grants. – Grants awarded annually by the Authority to eligible  
13                             students.

14    **"§ 115C-562.2. Scholarship grants.**

15                  (a)   The Authority shall make available no later than June 1 annually applications to  
16                             eligible students for the award of scholarship grants to attend any nonpublic school.  
17                             Information about scholarship grants and the application process shall be made available on the  
18                             Authority's Web site. Scholarship grants shall be awarded to eligible students in the order in  
19                             which the applications are received. Notwithstanding this requirement, the Authority may give  
20                             priority in awarding scholarship grants to eligible students who received a scholarship grant  
21                             during the previous school year.

22                  (b)   Scholarship grants awarded to eligible students shall be for amounts of not more  
23                             than ninety percent (90%) of the required tuition and fees for the nonpublic school the eligible  
24                             child will attend. Tuition and fees for a nonpublic school may include tuition and fees for  
25                             books, transportation, equipment, or other items required by the nonpublic school. No  
26                             scholarship grant shall exceed four thousand two hundred dollars (\$4,200) per year per eligible  
27                             student.

28                  (c)   The Authority shall permit an eligible student receiving a scholarship grant to enroll  
29                             in a different nonpublic school and remain eligible. An eligible student receiving a scholarship  
30                             grant who transfers to another nonpublic school during the year may be eligible to receive a pro  
31                             rata share of any unexpended portion of the scholarship grant for tuition and fees at the  
32                             nonpublic school to which the student transfers.

33                  (d)   The Authority shall establish rules and regulations for the administration and  
34                             awarding of scholarship grants.

35    **"§ 115C-562.3. Verification of eligibility.**

36                  (a)   The Authority may seek verification of information on any application for  
37                             scholarship grants from eligible students. The Authority shall select and verify a random  
38                             sample of no less than six percent (6%) of applications annually. The Authority shall establish  
39                             rules for the verification process and may use the federal verification requirements process for  
40                             free and reduced-price lunch applications as guidance for those rules. If a household fails to  
41                             cooperate with verification efforts, the Association shall revoke the award of the scholarship  
42                             grant to the eligible student.

43                  (b)   Household members of applicants for scholarship grants shall authorize the  
44                             Authority to access information needed for verification efforts held by other State agencies,  
45                             including the Department of Revenue, Department of Health and Human Services, and  
46                             Department of Public Instruction.

47    **"§ 115C-562.4. Identification of nonpublic schools and distribution of scholarship grant**  
48                             **information.**

49                  (a)   The Division shall provide annually by June 1 to the Authority a list of all nonpublic  
50                             schools operating in the State that meet the requirements of Part 1 or Part 2 of this Article. The

1 Division shall notify the Authority of any schools included in the list that the Division has  
2 determined to be ineligible within five business days of the determination of ineligibility.

3 (b) The Authority shall provide information about the scholarship grant program to the  
4 Division, including applications and the obligations of nonpublic schools accepting eligible  
5 students receiving scholarship grants. The Division shall ensure that information about the  
6 scholarship grant program is provided to all qualified nonpublic schools on an annual basis.

7 **"§ 115C-562.5. Obligations of nonpublic schools accepting eligible students receiving**  
8 **scholarship grants.**

9 (a) A nonpublic school that accepts eligible students receiving scholarship grants shall  
10 comply with the following:

11 (1) Provide to the Authority documentation for required tuition and fees charged  
12 to the student by the nonpublic school.

13 (2) Conduct a criminal background check for the staff member with the highest  
14 decision-making authority, as defined by the bylaws, articles of  
15 incorporation, or other governing document to ensure that person has not  
16 been convicted of any crime listed in G.S. 115C-239.29K.

17 (3) Provide to the parent or guardian of an eligible student whose tuition and  
18 fees are paid in whole or in part with a scholarship grant an annual written  
19 explanation of the student's progress, including the student's scores on any  
20 standardized achievement tests.

21 (4) Submit to the Authority by July 15 of each year the test scores of any  
22 nationally standardized achievement test administered to any student  
23 receiving a scholarship grant. Test performance data reported to the  
24 Authority is not a public record under Chapter 132 of the General Statutes.

25 (5) Provide to the Authority graduation rates of the students receiving  
26 scholarship grants in a manner consistent with nationally recognized  
27 standards.

28 (6) Contract with a certified public accountant to perform a financial review,  
29 consistent with generally accepted accounting principles, for each school  
30 year in which the school accepts students receiving more than three hundred  
31 thousand dollars (\$300,000) in scholarship grants awarded under this Part.

32 (b) A nonpublic school that accepts students receiving scholarship grants shall not  
33 require any additional fees based on the status of the student as a scholarship grant recipient.

34 (c) A nonpublic school enrolling more than 25 students whose tuition and fees are paid  
35 in whole or in part with a scholarship grant shall report to the Authority on the aggregate  
36 standardized test performance of eligible students. Test performance data reported to the  
37 Authority is not a public record under Chapter 132 of the General Statutes. Test performance  
38 data may be shared with public or private institutions of higher education located in North  
39 Carolina and shall be provided to an independent research organization selected by the  
40 Authority for research purposes as permitted by the Federal Education Rights and Privacy Act,  
41 20 U.S.C. § 1232g.

42 (d) A nonpublic school accepting students receiving scholarship grants that fails to  
43 comply with the requirements of this section shall be ineligible to receive future scholarship  
44 grants if the Authority determines that the nonpublic school is not in compliance with the  
45 requirements of this section. The nonpublic school shall notify the parent or guardian of any  
46 enrolled student receiving a scholarship grant that the nonpublic school is no longer eligible to  
47 receive future scholarship grants. A nonpublic school may appeal for reconsideration of  
48 eligibility after one year.

49 **"§ 115C-562.6. Scholarship endorsement.**

50 The Authority shall remit, at least two times each school year, scholarship grant funds  
51 awarded to eligible students to the nonpublic school for endorsement by at least one of the

1 student's parents or guardians. The parent or guardian shall restrictively endorse the scholarship  
2 grant funds awarded to the eligible student to the nonpublic school for deposit into the account  
3 of the nonpublic school. The parent or guardian shall not designate any entity or individual  
4 associated with the nonpublic school as the parent's attorney-in-fact to endorse the scholarship  
5 grant funds but shall endorse the scholarship grant funds in person at the site of the nonpublic  
6 school. A parent's or guardian's failure to comply with this section shall result in forfeit of the  
7 scholarship grant. A scholarship grant forfeited for failure to comply with this section shall be  
8 returned to the Authority to be awarded to another student.

9 **"§ 115C-562.7. Authority reporting requirements.**

10 (a) The Authority shall report to the Department of Public Instruction annually, no later  
11 than August 1, the number of students who have received scholarship grants for the current  
12 school year and who were enrolled the prior semester in a local school administrative unit or  
13 charter school by the previously attended local school administrative unit or charter school. The  
14 Department of Public Instruction shall adjust the allotments of local school administrative units  
15 and charter schools based on the number of students awarded a scholarship grant who attended  
16 a local school administrative unit or charter school during the prior semester. The amount of the  
17 adjustment shall equal the average per pupil allocation for average daily membership from the  
18 local school administrative unit or charter school.

19 (b) The Authority shall report annually, no later than March 1, to the Joint Legislative  
20 Education Oversight Committee on the following:

21 (1) Total number, grade level, race, ethnicity, and sex of eligible students  
22 receiving scholarship grants.

23 (2) Total amount of scholarship grant funding awarded.

24 (3) Number of students previously enrolled in local school administrative units  
25 or charter schools in the prior semester, by the previously attended local  
26 school administrative unit or charter school.

27 (4) Nonpublic schools in which scholarship grant recipients are enrolled,  
28 including numbers of scholarship grant students at each nonpublic school.

29 (5) Nonpublic schools deemed ineligible to receive scholarships.

30 (c) The Authority shall report annually, no later than December 1, to the Department of  
31 Public Instruction and the Joint Legislative Education Oversight Committee on the learning  
32 gains of students receiving scholarship grants. This report shall be conducted by an independent  
33 research organization to be selected by the Authority, which may be a public or private entity  
34 or university. The independent research organization shall report to the Authority on the  
35 learning gains of participating students on a statewide basis and shall compare, to the extent  
36 possible, the learning gains of eligible students by nonpublic school to the statewide learning  
37 gains of public school students with similar socioeconomic backgrounds, using aggregate  
38 standardized test performance data provided to the Authority by nonpublic schools and by the  
39 Department of Public Instruction."

40 **SECTION 2.** G.S. 110-86(2) reads as rewritten:

41 "(2) Child care. – A program or arrangement where three or more children less  
42 than 13 years old, who do not reside where the care is provided, receive care  
43 on a regular basis of at least once per week for more than four hours but less  
44 than 24 hours per day from persons other than their guardians or full-time  
45 custodians, or from persons not related to them by birth, marriage, or  
46 adoption. Child care does not include the following:

47 ...

48 f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C  
49 of the General Statutes that are accredited by national or regional  
50 accrediting agencies with early childhood standards ~~the Southern~~  
51 ~~Association of Colleges and Schools~~ and that operate a child care

1 facility as defined in subdivision (3) of this section for less than six  
2 and one-half hours per day either on or off the school site;

3 ...."

4 **SECTION 3.** G.S. 115C-555 reads as rewritten:

5 **"§ 115C-555. Qualification of nonpublic schools.**

6 The provisions of this Part shall apply to any nonpublic school which has one or more of  
7 the following characteristics:

8 (1) It is accredited by the State Board of Education.

9 (2) It is accredited by ~~the Southern Association of Colleges and Schools,~~  
10 a national or regional accrediting agency.

11 (3) It is an active member of the North Carolina Association of Independent  
12 Schools.

13 (4) It receives no funding from the State of North Carolina. For the purposes of  
14 this Article, scholarship grant funds awarded pursuant to Part 2A of this  
15 Article to eligible students attending a nonpublic school shall not be  
16 considered funding from the State of North Carolina."

17 **SECTION 4.** G.S. 116-204 reads as rewritten:

18 **"§ 116-204. Powers of Authority.**

19 The Authority is hereby authorized and empowered:

20 ...

21 (11) To administer the awarding of scholarship grants to students attending  
22 nonpublic schools as provided in Part 2A of Article 39 of Chapter 115 of the  
23 General Statutes."

24 **SECTION 5.(a)** There is appropriated from the General Fund to the State  
25 Education Assistance Authority the sum of forty million dollars (\$40,000,000) for the  
26 2013-2014 fiscal year and the sum of fifty million dollars (\$50,000,000) for the 2014-2015  
27 fiscal year in recurring funds to be awarded to eligible students as scholarship grants. The State  
28 Education Assistance Authority may retain up to one percent (1%) annually for administrative  
29 costs associated with the scholarship grant program.

30 **SECTION 5.(b)** This section becomes effective only if authorized by the General  
31 Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013.

32 **SECTION 6.** Notwithstanding the requirements of G.S. 115C-562.1(2)b., as  
33 enacted by this act, for the 2013-2014 school year, a student must reside in a household with an  
34 income level not in excess of two hundred twenty-five percent (225%) of the federal poverty  
35 level to qualify as an eligible student. Notwithstanding the requirement to make applications  
36 available by June 1 in G.S. 115C-562.2, as enacted by this act, applications for the 2013-2014  
37 school year shall be made available no later than August 1, 2013. The State Education  
38 Assistance Authority shall select an independent research organization, as required by  
39 G.S. 115C-562.5, as enacted by this act, beginning with the 2016-2017 school year. The first  
40 financial review for a nonpublic school that accepts scholarship grant funds, as required by  
41 G.S. 115C-562.3, as enacted by this act, shall not be required until the 2014-2015 school year.  
42 The first learning gains report required by G.S. 115C-562.7, as enacted by this act, shall not be  
43 due until December 1, 2017.

44 **SECTION 7.** This act is effective when it becomes law and applies beginning with  
45 the 2013-2014 school year. Nothing in this act shall require the General Assembly to  
46 appropriate funds to implement it.