

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**HOUSE BILL 944
Committee Substitute Favorable 5/28/13**

Short Title: Opportunity Scholarship Act.

(Public)

Sponsors:

Referred to:

April 16, 2013

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

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

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

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

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

SECTION 1.(a) The State Education Assistance Authority (Authority) shall award scholarship grants to eligible students for the 2013-2014 school year to attend nonpublic schools that meet the requirements of Article 39 of Chapter 115C, as identified by the Division of Nonpublic Education, Department of Administration. The Authority shall make applications available no later than August 1, 2013, and shall begin awarding grants no later than August 15, 2013. Information about scholarship grants and the application process shall be made available on the Authority's Web site. The Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than August 1, 2013.

SECTION 1.(b) For the 2013-2014 school year, to be eligible to receive a scholarship grant, a student shall meet both of the following criteria:

- (1) Reside in a household with an income level not in excess of the amount required for the student to qualify for the federal free or reduced price lunch program.
- (2) Be a full-time student who has not yet received a high school diploma and was assigned to and attending a public school pursuant to G.S. 115C-366 during the 2013 spring semester.

SECTION 1.(c) Scholarship grants for 2013-2014 shall be for amounts of up to four thousand two hundred dollars (\$4,200) for required tuition and fees for the nonpublic school the eligible child will attend. Tuition and fees for a nonpublic school may include tuition and fees for books, transportation, equipment, or other items required by the nonpublic school. No scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend.



- 1 a. At least fifty percent (50%) of the remaining funds shall be used to
2 award scholarship grants to eligible students residing in households
3 with an income level not in excess of the amount required for the
4 student to qualify for the federal free or reduced price lunch program.
5 b. No more than thirty-five percent (35%) of the remaining funds shall
6 be used to award scholarship grants to eligible students entering
7 either kindergarten or first grade.
8 c. Any remaining funds shall be used to award scholarship grants to all
9 other eligible students.

10 **(b)** Scholarship grants awarded to eligible students residing in households with an
11 income level not in excess of the amount required for the student to qualify for the federal free
12 or reduced price lunch program shall be for amounts of up to four thousand two hundred dollars
13 (\$4,200) per year. Scholarship grants awarded to eligible students residing in households with
14 an income level in excess of the amount required for the student to qualify for the federal free
15 or reduced price lunch program shall be for amounts of not more than ninety percent (90%) of
16 the required tuition and fees for the nonpublic school the eligible child will attend. Tuition and
17 fees for a nonpublic school may include tuition and fees for books, transportation, equipment,
18 or other items required by the nonpublic school. No scholarship grant shall exceed four
19 thousand two hundred dollars (\$4,200) per year per eligible student, and no scholarship grant
20 shall exceed the required tuition and fees for the nonpublic school the eligible student will
21 attend.

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

27 **(d)** The Authority shall establish rules and regulations for the administration and
28 awarding of scholarship grants and may include in those rules a lottery process for selection of
29 scholarship grant recipients within the criteria established by this section.

30 **"§ 115C-562.3. Verification of eligibility.**

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

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

42 **"§ 115C-562.4. Identification of nonpublic schools and distribution of scholarship grant**
43 **information.**

44 **(a)** The Division shall provide annually by February 1 to the Authority a list of all
45 nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of this
46 Article. The Division shall notify the Authority of any schools included in the list that the
47 Division has determined to be ineligible within five business days of the determination of
48 ineligibility.

49 **(b)** The Authority shall provide information about the scholarship grant program to the
50 Division, including applications and the obligations of nonpublic schools accepting eligible

1 students receiving scholarship grants. The Division shall ensure that information about the
2 scholarship grant program is provided to all qualified nonpublic schools on an annual basis.

3 **"§ 115C-562.5. Obligations of nonpublic schools accepting eligible students receiving**
4 **scholarship grants.**

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

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

9 (2) Conduct a criminal background check for the staff member with the highest
10 decision-making authority, as defined by the bylaws, articles of
11 incorporation, or other governing document to ensure that person has not
12 been convicted of any crime listed in G.S. 115C-238.29K.

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

17 (4) Administer, at least once in each school year, a nationally standardized test
18 or other nationally standardized equivalent measurement selected by the
19 chief administrative officer of the nonpublic school, to all eligible students
20 whose tuition and fees are paid in whole or in part with a scholarship grant
21 enrolled in grades three and higher. The nationally standardized test or other
22 equivalent measurement selected must measure achievement in the areas of
23 English grammar, reading, spelling, and mathematics. Test performance data
24 shall be submitted to the Authority by July 15 of each year. Test
25 performance data reported to the Authority under this subdivision is not a
26 public record under Chapter 132 of the General Statutes.

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

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

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

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

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

51 **"§ 115C-562.6. Scholarship endorsement.**

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

11 **"§ 115C-562.7. Authority reporting requirements.**

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

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

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

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

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

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

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

32 (c) The Authority shall report annually, no later than December 1, to the Department of
33 Public Instruction and the Joint Legislative Education Oversight Committee on the learning
34 gains or losses of students receiving scholarship grants. This report shall be conducted by an
35 independent research organization to be selected by the Authority, which may be a public or
36 private entity or university. The independent research organization shall report to the Authority
37 on the learning gains of participating students on a statewide basis and shall compare, to the
38 extent possible, the learning gains or losses of eligible students by nonpublic school to the
39 statewide learning gains or losses of public school students with similar socioeconomic
40 backgrounds, using aggregate standardized test performance data provided to the Authority by
41 nonpublic schools and by the Department of Public Instruction. The Joint Legislative Education
42 Oversight Committee shall review reports from the Authority and shall make ongoing
43 recommendations to the General Assembly as needed regarding improving administration and
44 accountability for nonpublic schools accepting students receiving scholarship grants."

45 **SECTION 3.** G.S. 110-86(2) reads as rewritten:

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

1 ...
2 f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C
3 of the General Statutes that are accredited by national or regional
4 accrediting agencies with early childhood standards ~~the Southern~~
5 ~~Association of Colleges and Schools~~ and that operate a child care
6 facility as defined in subdivision (3) of this section for less than six
7 and one-half hours per day either on or off the school site;

8"

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

10 **"§ 115C-555. Qualification of nonpublic schools.**

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

- 13 (1) It is accredited by the State Board of Education.
- 14 (2) It is accredited by ~~the Southern Association of Colleges and Schools~~ a
15 national or regional accrediting agency.
- 16 (3) It is an active member of the North Carolina Association of Independent
17 Schools.
- 18 (4) It receives no funding from the State of North Carolina. For the purposes of
19 this Article, scholarship grant funds awarded pursuant to Part 2A of this
20 Article to eligible students attending a nonpublic school shall not be
21 considered funding from the State of North Carolina."

22 **SECTION 5.** G.S. 116-204 reads as rewritten:

23 **"§ 116-204. Powers of Authority.**

24 The Authority is hereby authorized and empowered:

25 ...

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

29 **SECTION 6.(a)** There is appropriated from the General Fund to the State
30 Education Assistance Authority the sum of ten million dollars (\$10,000,000) for the 2013-2014
31 fiscal year and the sum of forty million dollars (\$40,000,000) for the 2014-2015 fiscal year in
32 recurring funds to be awarded to eligible students as scholarship grants. It is the intent of the
33 General Assembly to appropriate fifty million dollars (\$50,000,000) in recurring funds
34 beginning in the 2015-2016 fiscal year to be awarded to eligible students as scholarship grants.
35 The State Education Assistance Authority may retain up to one percent (1%) annually for
36 administrative costs associated with the scholarship grant program. It is the intent of the
37 General Assembly to appropriate funds to public schools for assistance to at-risk students and
38 to community organizations serving the educational needs of at-risk students still enrolled in
39 public schools beginning in the 2014-2015 fiscal year in an amount equal to the cost savings
40 created by the award of opportunity scholarship grants.

41 **SECTION 6.(b)** This section becomes effective only if authorized by the General
42 Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013.

43 **SECTION 7.** The State Education Assistance Authority shall select an independent
44 research organization, as required by G.S. 115C-562.7, as enacted by this act, beginning with
45 the 2016-2017 school year. The first learning gains report required by G.S. 115C-562.7, as
46 enacted by this act, shall not be due until December 1, 2017. The first financial review for a
47 nonpublic school that accepts scholarship grant funds, as required by G.S. 115C-562.5(a)(6), as
48 enacted by this act, shall not be required until the 2014-2015 school year.

49 **SECTION 8.** This act is effective when it becomes law and applies beginning with
50 the 2013-2014 school year. For the 2013-2014 school year, scholarship grants shall be awarded
51 as provided in Section 1. For the 2014-2015 school year and thereafter, scholarship grants shall

1 be awarded as provided in Section 2. Nothing in this act shall require the General Assembly to
2 appropriate funds to implement it.