

SENATE BILL 2095

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 49,
relative to education.

WHEREAS, publicly supported educational freedom has a long history in Tennessee, with the Hope Scholarship providing funding that follows students to the public or private institution of their choice; and

WHEREAS, parents should be free to choose the school that best fits the educational needs of their specific child; and

WHEREAS, Tennessee has worked to expand choice through the successful ESA pilot program that is now helping primarily underserved, minority students in three of the State's largest school districts with 99% parent satisfaction with the program; and

WHEREAS, Tennessee recently invested a record \$1 billion in public education to fund students' unique needs while giving public school teachers the largest pay raise in State history; and

WHEREAS, the "Education Freedom Scholarship Act" will empower parents with the freedom to choose the right education for their child and provide parents a say in where their taxpayer dollars are spent; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding the following as a new part:

49-6-3501. Short title.

This part is known and may be cited as the "Education Freedom Scholarship Act."

49-6-3502. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Department" means the department of education;

(2) "Eligible student" means a resident of this state who:

(A) Is entitled to attend a public school; and

(B) Is not enrolled in a home school for which a parent is required to provide annual notice to the local director of schools prior to each school year of the parent's intent to conduct a home school, as described in § 49-6-3050(b);

(3) "Parent" means the parent, guardian, person who has custody of the child, or individual who has caregiving authority under § 49-6-3001;

(4) "Private school" means a school that is:

(A) Located in this state;

(B) A church-related school or a private school, as those terms are defined in § 49-6-3001(c)(3)(A); and

(C) A category I, II, III, IV, or V school as approved by the commissioner of education in accordance with rules promulgated by the state board of education;

(5) "Program" means the education freedom scholarship program created by this part;

(6) "Public school" means a public charter school, a school operated by an LEA, or a school operated by this state with public funds that serves students in any of the grades kindergarten through grade twelve (K-12);

(7) "Recipient" means an eligible student who enrolls in a private school and receives a scholarship for a given school year; and

(8) "Scholarship" means an education freedom scholarship provided pursuant to this part.

49-6-3503. Creation.

(a) There is created an education freedom scholarship program to be administered by the department.

(b) Subject to appropriations and other available funds, the program must provide a scholarship to an eligible student who applies in the 2024-2025 school year or any subsequent school year, subject to the limitations of this part.

(c) It is the intent of the general assembly that the number of scholarships provided pursuant to this part will increase in subsequent years until all eligible applicants who apply are provided a scholarship.

49-6-3504. Scholarship amounts – allowable uses.

(a) In order to receive a scholarship under this part, an eligible student, or the eligible student's parent, must:

(1) Submit a scholarship application to the department;

(2) Ensure the provision of an education for the eligible student that satisfies the compulsory school attendance requirement provided in § 49-6-3001(c)(1) through enrollment in a private school;

(3) Not enroll the eligible student in a kindergarten through grade twelve (K-12) public school in any school year for which the eligible student receives a scholarship; and

(4) Release the LEA in which the eligible student resides from all obligations to educate the eligible student in any school year for which the eligible student receives a scholarship. Although an eligible student participating in the program does not retain the right to receive special education and related

services through an individualized education program, the student may be eligible under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1414) to receive equitable services through an individualized service plan.

(b) A scholarship equals the base funding amount, as defined in § 49-3-104(2) and is solely state funded.

(c) Scholarship funds may be used, subject to department approval, for one (1) or more of the following expenses:

(1) Tuition, fees, and uniforms required by the private school in which the recipient is enrolled;

(2) Textbooks, curricula, and instructional materials required by the private school in which the recipient is enrolled;

(3) Tutoring services provided by a tutor or tutoring facility that meets the requirements established by the department;

(4) Fees for transportation to and from the private school in which the recipient is enrolled, paid to a fee-for-service transportation provider, that meet the requirements established by the department;

(5) Computer hardware, technological devices, and other technology fees that meet the requirements established by the department and that are used for the recipient's educational needs;

(6) Tuition, fees, textbooks, curricula, and instructional materials for summer academic programs and specialized afterschool academic programs that meet the requirements established by the department. This subdivision (c)(6) does not include afterschool childcare;

(7) Fees for early postsecondary opportunity courses or examinations, entrance examinations required for postsecondary admission, and industry credentials as approved by the department; and

(8) Educational therapy services provided by therapists that meet the requirements established by the department.

(d) A recipient's scholarship account must be closed, and all remaining scholarship funds returned to the state treasurer to be used to supplement future school years' scholarship allocations pursuant to this part, upon the earlier of:

(1) The recipient's graduation from high school or obtainment of a high school equivalency credential approved by the state board of education;

(2) The recipient's enrollment in a kindergarten through grade twelve (K-12) public school;

(3) The recipient's completion of thirteen (13) school years as a kindergarten through grade twelve (K-12) student;

(4) The recipient's voluntary withdrawal from the scholarship program; or

(5) The department disqualifying the recipient due to the recipient's noncompliance with the program requirements.

49-6-3505. Prioritization of awards.

(a) For the 2024-2025 school year, the department shall award a maximum of twenty thousand (20,000) scholarships, to be awarded as follows:

(1) Ten thousand (10,000) scholarships are available for eligible students who meet one (1) of the following criteria:

(A) The student's household income does not exceed three hundred percent (300%) of the federal poverty level as defined by the

most recently revised poverty income guidelines published by the United States department of health and human services; or

(B) The student is an eligible student as defined in § 49-6-2602 or § 49-10-1402; and

(2) Ten thousand (10,000) scholarships are available for eligible students, regardless of whether the eligible student meets one (1) of the criteria listed in subdivision (a)(1)(A) or (a)(1)(B).

(b) The department shall award scholarships in the order in which the department receives scholarship applications.

(c) Beginning with the 2025-2026 school year, if the number of eligible students applying for a scholarship exceeds the number of scholarships available for the respective school year, then the department shall award scholarships in the following order:

(1) A student who received a scholarship in the immediately preceding school year;

(2) A student whose household income does not exceed two hundred percent (200%) of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services or a student who is an eligible student, as defined in § 49-6-2602 or § 49-10-1402, in the order in which the department receives scholarship applications;

(3) A student whose household income does not exceed three hundred percent (300%) of the federal poverty level, in the order in which the department receives scholarship applications;

(4) A student who, at the time of application, is currently enrolled in a public school, or who is eligible for kindergarten enrollment in a public school in the upcoming school year, in the order in which the department receives scholarship applications; and

(5) An eligible student, in the order in which the department receives scholarship applications.

49-6-3506. Limitations on participation.

Notwithstanding another law to the contrary, a scholarship shall not be awarded to an eligible student for the same school year in which the student is participating in the Tennessee education savings account pilot program, established in part 26 of this chapter, or the individualized education account program, established in chapter 10, part 14 of this title.

49-6-3507. Promulgation of rules.

The department shall promulgate rules, including emergency rules, to effectuate this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-6-3508. Payment - state or local public benefit.

(a) A scholarship awarded under this part:

(1) Shall not be paid directly to an eligible student or to an eligible student's parent; and

(2) Is a state or local public benefit under § 4-58-102.

(b) Funds received pursuant to this part do not constitute income taxable to the parent of the participating student or to the student under title 67, chapter 2.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that

can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it, and applies to the 2024-2025 school year and subsequent school years.