

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1456

By: Dank

AS INTRODUCED

An Act relating to schools; creating the Opportunity Scholarship Act; stating purpose and legislative findings; providing definitions; establishing eligibility criteria for participation in the opportunity scholarship program; providing an exception for students in the custody of the Office of Juvenile Affairs; setting time period in which an opportunity scholarship is in force; allowing a parent of a student to withdraw from program; stating obligations of a school district; allowing students an alternative to transfer to another higher performing school district if certain conditions are met; requiring participating students to take all statewide tests; requiring the school district to provide opportunity to take the statewide tests; providing for reporting of results; requiring school district to continue providing related services to certain students in certain circumstances; allowing school districts to continue receiving certain funding; requiring school district to provide transportation to certain transferred students; establishing eligibility criteria for private schools participating in the program; requiring participating students to comply with certain attendance and discipline requirements; requiring parents of participating students to comply with parental involvement requirements and ensure statewide testing participation; providing for forfeiture of scholarship for noncompliance with the act; establishing maximum amount of an opportunity scholarship; providing for determination of scholarship amount for each student; allowing inclusion of certain fees; requiring school districts to make certain reports; providing for removal of a student from school district membership; providing for funding for students with an individualized education program; directing the State Department of Education to make scholarship calculations and adjustments in allocations; directing the Department to transfer scholarship funds to a separate account; providing for disbursement of scholarship funds; requiring certain verification prior to disbursement; providing for payments by warrants; limiting liability of the state; directing the State Board of Education to adopt rules; limiting regulatory authority over private school; amending 70 O.S. 2001, Section 3-132, which relates to charter schools; deleting prohibition for districtwide charter school; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-170 of Title 70, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Opportunity Scholarship Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-171 of Title 70, unless there is created a duplication in numbering, reads as follows:

The purpose of this act is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a career education, or the world of work. The Oklahoma Legislature finds that it is the goal of the state to provide a uniform, safe, secure, efficient, and high quality system of education which allows the opportunity for students to obtain a high quality education. The Legislature further finds that a student should not have to remain enrolled in a school found by the state to be failing. Beginning with the 2006-2007 school year, the Legislature shall make available scholarships in order to give parents the opportunity for their children to attend a public school that is performing satisfactorily or to attend an eligible private school when the parent chooses to apply the equivalent of the public education funds generated by the child to the cost of tuition in the eligible private school as provided for pursuant to the Opportunity Scholarship Act. Eligibility of a private school to participate in the opportunity scholarship program shall include the control and accountability requirements as delineated in Section 6 of this act that, coupled with the exercise of parental choice, are reasonably necessary to secure the public purpose of educational accountability.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-172 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the Opportunity Scholarship Act:

1. "Failing school" shall mean a public school which has failed to meet adequate yearly progress for four (4) years and is subject to corrective action as determined by the State Board of Education pursuant to the requirements of the Elementary and Secondary Education Act of 2001 (ESEA), PL. No. 187-110, also known as the "No Child Left Behind Act of 2001" or has an index rating in the bottom half of all public schools for any four of the seven indicators of the API; and

2. "High performing school" shall mean a public school which is not defined as a failing school pursuant to this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-173 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A parent of a student enrolled in a public school in the state may request and receive an opportunity scholarship to be used to enroll the student in and attend a private school in accordance with the provisions of the Opportunity Scholarship Act if the student:

1. a. has spent the prior school year in attendance at a public school, based on assigned school attendance area or by special assignment, that has been designated as failing as defined in Section 3 of this act and the attendance of the student occurred during a school year in which the designation of failing was in effect,
- b. has been in attendance elsewhere in the school district and has been assigned to attend a public

school that has been designated as failing for the next school year, or

- c. is entering kindergarten or first grade and has been notified by the school district that the student has been assigned to a school that has been designated as failing for the next school year;

2. Has been accepted for admission to a private school eligible for the opportunity scholarship program pursuant to Section 6 of this act; and

3. Has submitted a request to the State Department of Education and the resident school district for an opportunity scholarship no later than June 1 of the first year in which the student intends to use the scholarship.

B. The provisions of this section shall not apply to a student who is enrolled in a public school which is providing educational services to youth in the custody of the state and are in a group setting.

C. For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or until the student completes the highest grade offered by a private school and the student returns to the public school to which the student is assigned, which school has been designated as high performing as defined in Section 3 of this act. Nothing in this act shall prohibit the parent of a student who is receiving an opportunity scholarship from removing the student from a private school and enrolling in a public school.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-174 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A school district shall, for each student enrolled in or assigned to a public school that has been designated as failing as defined in Section 3 of this act:

1. Timely notify the parents as soon as such designation is made of all options available pursuant to the Opportunity Scholarship Act; and

2. Offer the student an opportunity to enroll in a public school within the school district that has been designated as high performing as defined in Section 3 of this act. The student shall not be required to accept an offer to transfer to another public school if the parent chooses to request an opportunity scholarship. If the student accepts an offer to transfer to a high performing public school in the school district, the right to transfer shall remain in effect until the student graduates from high school.

B. The parent of a student enrolled in or assigned to a school that has been designated as failing may choose as an alternative to enroll the student in and transport the student to a higher performing public school district that has available space. The receiving school district shall accept any transfer submitted pursuant to this subsection, unless the district does not have available programs, staff, or space. A student transferring pursuant to this subsection shall not be required to meet the application deadlines as set forth in the Education Open Transfer Act.

C. Students participating in the opportunity scholarship program shall be required to participate in all statewide testing as provided for in Section 1210.508 of Title 70 of the Oklahoma Statutes. The resident school district of the student shall provide locations and times for the students to take the assessments. The assessment results of students participating in the opportunity scholarship program shall be reported separately and shall not be included in the resident school district results.

D. Students who have individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA) and who are eligible to receive related services from the resident school

district pursuant to state and federal law and who participate in the opportunity scholarship program shall continue to be eligible to receive related services from the resident school district if the private school does not offer the services. The resident school district may continue to count the student for federal and state funding purposes.

E. If for any reason a qualified private school is not available for the student to utilize the opportunity scholarship and the student chooses to request a transfer to a higher performing school within the school district, the school district shall provide transportation to the higher performing school.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-175 of Title 70, unless there is created a duplication in numbering, reads as follows:

To be eligible to participate in the opportunity scholarship program, a private school shall be located in Oklahoma. The private school may be sectarian or nonsectarian. In addition, the private school shall:

1. Demonstrate fiscal soundness by being in operation for not less than one (1) year or by providing the State Department of Education with a statement by a certified public accountant confirming that the private school is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the Department;

2. Notify the Department and the school district in whose boundaries the private school is located of its intent to participate in the opportunity scholarship program by May 1 of the school year preceding the school year in which it intends to

participate. The notice shall specify the grade levels and services that the private school will make available to students in the program;

3. Comply with the antidiscrimination provisions in 42 U.S.C., Section 2000d and any other state or federal antidiscrimination law;

4. Meet all state and local health and safety laws and codes;

5. Accept opportunity scholarship students on a random and religious-neutral basis and without regard to the past academic performance of the student. The private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis;

6. Be subject to the instruction, curriculum, and attendance criteria by an appropriated nonpublic school accrediting body and be academically accountable to the parents of students for meeting the educational needs of the student. The private school shall provide a school profile, which shall include student performance results, to parents of students interested in enrolling in the school;

7. Employ or contract with teachers who hold a baccalaureate or higher degree, have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;

8. Comply with all state laws relating to private schools;

9. Accept as full tuition and fees the amount provided by the state for each opportunity scholarship;

10. Agree not to compel any student attending the private school on an opportunity scholarship to profess a specific ideological belief, to pray, or to worship; and

11. Adhere to the published disciplinary procedures of the private school when proposing to expel or suspend an opportunity scholarship student.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-176 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Any student participating in the opportunity scholarship program shall comply with the attendance requirements as set forth in Section 10-106 of Title 70 of the Oklahoma Statutes unless excused for illness or other good causes as defined by the private school and shall comply with the code of conduct or control and discipline policy of the private school.

B. The parent of a student participating in the opportunity scholarship program shall comply fully with the parental involvement requirements of the private school unless excused by the school for illness or other good cause.

C. The parent of a student participating in the opportunity scholarship program shall ensure that the student takes all required statewide assessments.

D. A participating student that fails to comply with the requirements of the Opportunity Scholarship Act shall be subject to forfeiture of the scholarship. A private school shall notify the State Department of Education of the failure of a student to comply with the requirements of the Act. Upon notification, the Department shall cease payment of the scholarship to the parent.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-177 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The maximum amount of an opportunity scholarship for eligible student shall be the amount equivalent to ninety percent (90%) of the resident school district's average local and county revenue which is chargeable in the State Aid formula, state dedicated revenue, and state-appropriated funds per average daily membership generated by its students for the applicable year.

B. The amount of the opportunity scholarship for each student shall be either the amount calculated pursuant to subsection A of this section or the amount of tuition and fees for the private school, whichever amount is less. Private school fees eligible to be paid with a scholarship are transportation fees and textbook fees, laboratory fees, and other fees related to instruction.

C. The resident school district shall report to the State Department of Education all students who are attending a private school under the opportunity scholarship program. After a student enrolls in a private school the resident school district shall remove the student from the attendance rolls and the student membership shall not be included in the average daily membership of the school district.

D. If the private school provides educational and related services to a student participating in the opportunity scholarship program who has an individualized education program pursuant to the Individuals with Disabilities Education Act (IDEA), the school shall receive an amount equal to ninety percent (90%) of the weighted funding generated by the student in the State Aid formula.

E. After June 1 of each year, the State Department of Education shall calculate, based upon the number of requests received from students pursuant to Section 4 of this act, the amount necessary to fund all of the opportunity scholarships for the upcoming school year. The Department shall make adjustments in the allocations to each school district with students participating in the opportunity scholarship program. The Department shall transfer the funds to a separate account for the opportunity scholarship program for quarterly disbursement to the parents of participating students.

F. Upon filing proper documentation as approved by the State Department of Education, the Department shall make opportunity scholarship payments to the parents of participating students in four equal payments no later than September 1, November 1, February

1, and April 1 of each school year in which the student is eligible. The initial payment shall be made only after verification of admission to a participating eligible private school, and subsequent payments shall be made upon verification of continued enrollment and compliance with the requirements of the Opportunity Scholarship Act. Payment shall be made by individual warrants made payable to the parent of the student and mailed by the Department to the private school at which the student is enrolled. The parent shall restrictively endorse the warrant to the private school.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-178 of Title 70, unless there is created a duplication in numbering, reads as follows:

No liability shall arise on the part of the State of Oklahoma based on any grant or use of an opportunity scholarship.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-179 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Education shall adopt rules necessary to implement the provisions of the Opportunity Scholarship Act beginning with the 2006-2007 school year. The rules shall include, but not be limited to, penalties for noncompliance with Sections 5 and 7 of this act.

B. The provisions of the Opportunity Scholarship Act providing public school students the option of enrolling in eligible private schools shall not be construed to expand the regulatory authority of the State of Oklahoma, its officers, or any school district over private schools or impose any additional regulations on private schools beyond those reasonably necessary to enforce the requirements expressly set forth in this act.

SECTION 11. AMENDATORY 70 O.S. 2001, Section 3-132, is amended to read as follows:

Section 3-132. A. The Oklahoma Charter Schools Act shall apply only to charter schools formed and operated under the provisions of the act. Charter schools shall be sponsored only as follows:

1. By a local school district with an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest federal Decennial Census; or

2. By a technology center school district only when the charter school is located in a local school district served by the technology center school district and only if the local school district has an average daily membership of five thousand (5,000) or more and which all or part of the local school district is located in a county having more than five hundred thousand (500,000) population according to the latest federal Decennial Census.

Additional charter schools may be sponsored as provided for in Section 3-133 of this title.

Charter schools formed pursuant to the act shall serve as a pilot program to demonstrate the potential of expanding charter schools to other parts of the state. Any charter or enterprise school operating in the state pursuant to an agreement with the board of education of a school district on July 1, 1999, may continue to operate pursuant to that agreement or may contract with the board of education of the school district pursuant to the Oklahoma Charter Schools Act. Nothing in the Oklahoma Charter Schools Act shall prohibit a school district from applying for exemptions from certain education-related statutory requirements as provided for in the Education Deregulation Act.

B. For purposes of the Oklahoma Charter Schools Act, "charter school" means a public school established by contract with a board of education of a school district or an area vocational-technical school district pursuant to the Oklahoma Charter Schools Act to

provide learning that will improve student achievement and as defined in the Elementary and Secondary Education Act of 1965, 20 U.S.C. 8065.

C. A charter school may consist of a new school site, new school sites or all or any portion of an existing school site. ~~An entire school district may not become a charter school site.~~

SECTION 11. This act shall become effective November 1, 2005.

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