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Bill Analysis

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BILL SUMMARY

- Creates the Parental Choice and Taxpayer Savings Scholarship (PACT) Program providing students with scholarships to attend nonpublic schools, for which eligibility and scholarship amounts are based on family income.
- Finances PACT scholarships by counting scholarship students in the enrollments of their resident school districts for state funding purposes, and then deducting amounts from the districts' state education aid.
- Permits students who currently receive Ed Choice or Cleveland scholarships to transfer to the PACT program.
- Phases in, over four school years according to grade bands, eligibility for PACT scholarships for other students who already attend Ohio nonpublic schools without a state scholarship, if they meet the family income requirement.
- Limits the number of PACT scholarships that may be awarded statewide each year to the difference between the total number of Ed Choice scholarships authorized for that year and the number of Ed Choice scholarships actually awarded.
- Limits the number of PACT scholarships that may be awarded to the students of a single school district each year to the number that can be financed by the aggregate amount of the district's "state education aid" for that year.

- Requires that the amount by which a student's PACT scholarship exceeds the tuition and fees at the eligible nonpublic school the student attends be credited to an education savings account for the student.
- Permits a student or parent to use money credited to the student's education savings account for specified future primary, secondary, and post-secondary education expenses.
- Creates the Parental Choice and Taxpayer Savings Scholarship Program Support Fund, made up of interest on and leftover money from individual student education savings accounts, to be used to administer the PACT scholarship program.
- Requires the Department of Education to increase by 25% the number of Ed Choice scholarships available (which is the basis for the number of PACT scholarships available), if the number of Ed Choice applicants for a school year exceeds 90% of the maximum number of scholarships permitted for that year.
- Permits students who received a scholarship under the Cleveland Scholarship Program for the 2010-2011 school year to receive an Ed Choice scholarship instead for subsequent school years, if the district building to which the student would have been assigned meets Ed Choice qualifications.

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CONTENT AND OPERATION

PACT scholarship

Introduction

The bill establishes a new program, entitled the Parental Choice and Taxpayer Savings Scholarship (PACT) Program, to award scholarships based on family income for students to attend private schools (chartered nonpublic schools or other "approved" nonpublic schools) instead of the schools of their resident school districts. Beginning with the 2012-2013 school year, the new program will operate on a statewide basis alongside the state's four existing scholarship programs. (See "**Background on current scholarship programs**" at the end of this analysis.) The number of PACT scholarships that may be offered each year is limited to the difference between the number of scholarships authorized for the existing Ed Choice scholarship program for that year and the number of Ed Choice scholarships actually awarded that year. Unlike the Ed Choice program, however, in accordance with a four-year phase-in schedule, the PACT program permits students already attending nonpublic schools to receive first-time scholarships.

The PACT program also provides an education savings account for each student whose scholarship exceeds the student's tuition and fees. Funds credited to that account may be used for the student's future educational expenses, including college tuition. Like the other scholarship programs, except the Cleveland program, each PACT scholarship is financed by a deduction of state funds from the student's resident school district.

Student eligibility

To qualify for a PACT scholarship, a student (1) must be entitled to attend school in an Ohio school district and (2) must have a family federal adjusted gross income for the preceding tax year less than or equal to the *smaller* of (a) \$95,000 or (b) 2.5 times the

income standard for a reduced-price school lunch under federal law (based on family size).¹

The income standard for a reduced-price lunch currently is 185% of poverty. The 2011 poverty level for a family of four is \$22,350. The poverty level is increased incrementally for each additional member of a family. Using that standard, to qualify for reduced-price lunch, a family of four currently must have an annual income less than or equal to \$41,348. 2.5 times that amount is \$103,370. (Here, the bill's cap of \$95,000 would apply.) It is uncertain what either the income standard for a reduced-price lunch or the recognized federal poverty level will be for the 2012-2013 school year, when the new PACT program would begin operating.

Students who already attend nonpublic schools

A student who received either an Ed Choice or a Cleveland scholarship in the previous school year may choose to switch to the PACT program, as long as the student's family meets the income requirements.²

In addition, according to a four-year phase-in schedule, other students who are already attending nonpublic schools, without state-funded scholarships, may receive first-time PACT scholarships, as long as they meet the program's income requirements.³ The phase-in is described in the following table.

School year for which student is applying for a first-time scholarship	Eligible grades
2012-2013	Kindergarten only
2013-2014	Kindergarten through 4th
2014-2015	Kindergarten through 8th
2015-2016 and thereafter	Kindergarten through 12th

The bill also states that a student who did not attend a nonpublic school in Ohio during the immediately preceding school year is eligible for a scholarship in any grade, K through 12, beginning in the 2012-2013 school year.⁴

¹ R.C. 3310.23(A)(1).

² R.C. 3310.23(A)(2).

³ R.C. 3310.23(B)(1) to (4).

⁴ R.C. 3310.23(B).

Limit on the number of scholarships statewide

The number of PACT scholarships that may be awarded each year depends on the number of Ed Choice scholarships authorized and actually awarded for that year. Except for returning PACT scholarship students, who must be awarded a scholarship if they apply and meet the income and other requirements (see below), the maximum number of PACT scholarships each year is the difference between (1) the number of Ed Choice scholarships authorized minus (2) the number actually awarded. In other words, the number of PACT scholarships will make up that gap so that the total number of scholarships awarded under both programs does not exceed the number authorized for Ed Choice, except for returning PACT scholarship students.⁵

Under current law, the maximum number of Ed Choice scholarships for the 2012-2013 school year, the first year of the PACT program, is 60,000. In addition, the bill requires further increasing the number of Ed Choice scholarships, if the number of Ed Choice applicants for a school year exceeds 90% of the maximum number of scholarships permitted for that year (see "**Ed Choice scholarship program changes**" below). Under that provision, the number of authorized Ed Choice and PACT scholarships can grow over time in proportion to the growth in demand for Ed Choice scholarships. Nevertheless, in a given school year, there might be more applications for PACT scholarships than are available.

Priority

In the event that more students apply for PACT scholarships than are available, the bill directs the Department of Education to give priority to applicants in the following order:

(1) First, to applicants renewing their PACT scholarships. All eligible students seeking to renew must be awarded scholarships, regardless of whether the number renewing their scholarships exceeds the statewide limit described above.

(2) Next, to applicants who attended schools of their resident school districts or community schools or STEM schools in the prior year;

(3) Third, to applicants who attended nonpublic schools in the prior year with Ed Choice or Cleveland scholarships; and

(4) Finally, to all other applicants. This category would include students entering kindergarten, students who did not reside in Ohio in the prior school year, and

⁵ R.C. 3310.22(B).

other students who are already attending nonpublic schools whose eligibility is phased in.

The bill also requires that if the number of applicants in any of categories (2), (3), or (4) exceeds the number of scholarships remaining, scholarships to those applicants must be awarded by lot.⁶

Limit on number of scholarship students from a single school district

Separate from the statewide limits, the bill restricts the number of PACT scholarships per year that may be awarded to students from any one school district. Under that provision, the maximum number of scholarships for students from a single district is the number that can be financed by the aggregate amount of that district's "state education aid."⁷ That amount is the total state operating funding computed for the district before making per-pupil deductions for scholarships, community schools, STEM schools, educational service centers, open enrollment, and career-tech compacts.⁸ It is not clear whether this limit applies regardless of whether all of a district's PACT students are renewing prior PACT scholarships. If it does, however, the bill also does not state how the Department of Education should prioritize applicants if more of a district's students apply for PACT scholarships than can be financed under this limit.

The bill also limits the amount that may be deducted to finance PACT scholarships for students from a single district to the total amount of the district's state aid payments.⁹ Thus, the Department cannot deduct PACT scholarships from a district's state property tax rollback reimbursements, as is authorized under current law for deductions for Ed Choice, community school, and STEM students.

Continuing eligibility

A student may continue to receive PACT scholarships in subsequent school years until the student completes the high school curriculum, as long as the student (1) remains entitled to attend school in an Ohio school district (which essentially means that the student and the student's parent remain Ohio residents), (2) the student's family continues to meet the income requirements, (3) the student takes each state achievement assessment prescribed for the student's grade level, and (4) the student is not absent for more than 20 days that the school is open for instruction, not including excused

⁶ R.C. 3310.22(C).

⁷ R.C. 3310.22(D).

⁸ R.C. 3310.21(M). See also R.C. 3317.02(T) and 5751.20, neither in the bill.

⁹ R.C. 3310.28(C)(1).

absences as defined by the State Board of Education.¹⁰ As noted above, it is not clear whether the district-wide limit on the number of PACT scholarships affects the continuing eligibility of students seeking to renew their scholarships.

The bill does state that, if a student who has received a PACT scholarship becomes ineligible, the student may continue to use any money accumulated in the student's education savings account.¹¹

Application for scholarship

A parent, or student if 18 years old, who is seeking a PACT scholarship must notify the Department of Education of (1) the student's and parent's names and address, (2) the eligible nonpublic school that has accepted the student, and (3) the tuition and fees charged by the school.¹²

Scholarship amount

The amount of a PACT scholarship is based on the sum of the current "formula amount" plus the per pupil amount of base funding supplements, as calculated for fiscal year 2009 under the former Building Blocks model school funding system. The formula amount is a per pupil amount used in the school funding laws to compute transfer payments for students attending various alternative programs, such as community schools, STEM schools, other districts under open enrollment, or higher education institutions under the Post-Secondary Enrollment Options Program. For fiscal years 2012 and 2013 (the latter of which is the first year for the PACT program), the formula amount is \$5,653. The base funding supplement amount for fiscal year 2009 was \$50.90. Thus, the base amount for a PACT scholarship for the 2012-2013 school year is \$5,653 + \$50.90, or \$5,703.90.¹³ But students receive only a percentage of the base amount, depending on the family's federal adjusted gross income for the preceding tax year, as follows:¹⁴

¹⁰ R.C. 3310.23(C) and (E).

¹¹ R.C. 3310.23(D).

¹² R.C. 3310.27.

¹³ R.C. 3310.25. See R.C. 3317.012(C) and 3317.02, neither in the bill.

¹⁴ R.C. 3310.25.

Family income	Amount of scholarship	Dollar amount of scholarship
Less than or equal to 1.5 times the reduced-price lunch standard	80% of the base amount	\$4,563
Less than or equal to 2 times the reduced-price lunch standard	60% of the base amount	\$3,422
Less than or equal to 2.5 times the reduced-price lunch standard	40% of the base amount	\$2,282

Moreover, no scholarship may be awarded to a student whose family income for the preceding tax year exceeds \$95,000, regardless of family size.¹⁵

Financing and payment of scholarships

PACT scholarships are financed in a manner similar to Ed Choice scholarships. PACT students must be counted in the enrollments of their resident school districts for purposes of school funding, and then those students' scholarships must be deducted from their school districts' state payments.¹⁶ However, unlike Ed Choice, the full base amount for each PACT student is deducted from the student's resident district, rather than just the student's scholarship amount. The bill states that the extra amount, after paying the student's scholarship and education savings deposit, if any, is retained by the state. As noted above, the bill also limits the total amount that may be deducted from a single district's account to the amount of the district's state education aid (see "**Limit on number of scholarship students from a single school district**" above).¹⁷

The Department of Education must pay the scholarship amount to each student's parent or to the student, if the student is at least 18 years old. Payments must be made on a periodic basis over the course of the school year. The Department must proportionately reduce or terminate payments for any student who withdraws from an eligible nonpublic school before the end of the school year. If the student leaves the nonpublic school and enrolls in the student's resident district or in a community school or STEM school, the Department must partially restore the amount deducted from the school district's state funds.

If the scholarship amount exceeds the tuition and fees of the student's nonpublic school, and if the student remains enrolled in the school through the end of the school

¹⁵ R.C. 3310.23(A)(1).

¹⁶ R.C. 3310.28(C) and 3317.03(A), (B), and (F).

¹⁷ R.C. 3310.28(C).

year, the Department must credit the excess amount into the student's education savings account for future use.¹⁸

Disclosure to school districts

The bill requires the Department of Education to disclose, on each school district's state funding computation form, the total amount of state and local funding credited to the district for its PACT scholarship students minus the total amount deducted for those students. The bill specifies a formula for the Department to use in determining the amount to disclose. Essentially that formula means the following:

[(The district's total state operating aid per pupil + its local operating tax revenue per pupil) × the district's number of PACT scholarship students] – the total deducted from the district's account for PACT scholarship students

The result would be the amount of state and local funds remaining after the scholarships are deducted.¹⁹

Education savings accounts

If the amount of a PACT scholarship awarded to a student exceeds the tuition and fees charged by the student's eligible nonpublic school, the excess must be credited to an "education savings account" established for that student. Unlike the scholarship payments themselves, which are paid periodically throughout a school year, the excess, if there is any, may not be credited to the student's account until the end of the school year and, then, only if the student is still enrolled in a participating eligible nonpublic school.²⁰

The Department of Education must transfer to the Treasurer of State the excess amount that has been credited to each student's account. The Treasurer of State must deposit the aggregate amount transferred for all PACT students into a fund or account the Treasurer determines is suitable. The bill specifies that moneys credited to a student's education savings account are in the custody of the Treasurer of State, "but shall not be in the state treasury." The bill further states that moneys credited to each student's account must be held in trust for the benefit of the student. The Department of Education must maintain the record of each student's account. And the Treasurer of State and the State Board of Education must adopt joint rules under the Administrative

¹⁸ R.C. 3310.28(A), (B), and (C).

¹⁹ R.C. 3310.28(D).

²⁰ R.C. 3310.28(A).

Procedure Act for the establishment and administration of student education savings accounts.²¹

Once an account is established for a student, money credited to it can be used by the student or student's parents for any of the following:

- Tuition and fees at an eligible nonpublic school under the PACT scholarship program for future school years;
- Textbooks required by an eligible nonpublic school or an institution of higher education in Ohio;
- Tuition and fees for enrollment in any institution of higher education in Ohio; and
- Fees for national norm-referenced examinations, advanced placement exams, and any exams for admission to an institution of higher education in Ohio.²²

(Ohio higher education institutions where the money in the accounts can be spent include state and private colleges and universities and for-profit proprietary colleges and schools.²³)

A student's account must be maintained as long as there is money in it, until either (1) the student reaches 25 years of age or (2) dies before reaching that age. Any money left in the account at that time must be paid into the Parental Choice and Taxpayer Savings Scholarship Program Support Fund, which is created by the bill. Similarly, all investment earnings attributed to each student's account must be paid into that separate support fund.²⁴

Support Fund

The bill creates in the state treasury the Parental Choice and Taxpayer Savings Scholarship Program Support Fund. That fund is made up of interest earned on individual student education savings accounts and any unused money left in a student's account when the student reaches the age of 25 or dies before reaching that

²¹ R.C. 3310.30(A).

²² R.C. 3310.30(B).

²³ R.C. 3310.21(B). See R.C. 3365.01(A), not in the bill.

²⁴ R.C. 3310.30(A) and (C).

age. Money in the fund must be used by the Department of Education to support administration of the PACT program.²⁵

Report

The Treasurer of State must issue an annual report to the Governor and the General Assembly on the total amount paid into the Support Fund from interest and leftover moneys in individual student education savings accounts.²⁶

Eligible nonpublic schools

A PACT scholarship may be used to pay tuition and fees at an "eligible nonpublic school." An eligible nonpublic school is (1) a *chartered* nonpublic school or (2) an *approved* nonpublic school, either of which has registered with the Superintendent of Public Instruction its intent to accept scholarship students and its agreement to comply with the requirements of the program. A chartered nonpublic school is a private school that has received a state charter from the State Board of Education because it meets the State Board's minimum operating standards for schools.²⁷ An approved nonpublic school, under the bill, is a private school that:

(1) Is in the process of becoming a chartered nonpublic school and has received a preliminary approval to operate from the State Board within the past three years; and

(2) Files with the state Superintendent prior to the start of the school year either:

(a) A surety bond payable to the state, or a letter of credit with the state as beneficiary, in an amount equal to one-half of the PACT scholarship funds expected to be received during the school year, as determined by the Superintendent; or

(b) A guarantee in the amount of \$1 million from a person or organization with a net worth of at least \$5 million, demonstrated to the satisfaction of the Superintendent.²⁸

Duties of nonpublic schools

The bill requires nonpublic schools to do all of the following to remain eligible for the program:

²⁵ R.C. 3310.38.

²⁶ R.C. 3310.30(D).

²⁷ See R.C. 3301.16, not in the bill.

²⁸ R.C. 3310.29(A).

(1) Communicate to the Department of Education the tuition structure for the school, including all discounts and other tuition adjustments to which a student may be entitled;

(2) Present to the parent of each student awarded a scholarship, or the student if at least 18 years of age, a statement detailing the tuition and required student fees that will be subject to payment from the student's scholarship amount;

(3) Administer the state achievement assessments (see below);

(4) Withdraw from the school any scholarship student as soon as it determines that the student will no longer attend the school. The student's withdrawal date is the last date that the student attended classes.

(5) Obtain criminal records checks of its employees and contractors, and deny employment to those who committed disqualifying offenses, in the same manner required by current law for chartered nonpublic schools.²⁹

Tuition and fees

Eligible nonpublic schools may not charge a PACT scholarship student tuition and fees that exceed the cost of providing education to the student. In determining tuition for a scholarship student, an eligible nonpublic school must apply any tuition discounts or rates for which the student qualifies, including but not limited to, sibling discounts or child of employee discounts. Further, pursuant to the school's policy, if one exists, the bill permits an eligible nonpublic school to treat the amount of the PACT scholarship as a parental resource that may be considered as a factor in awarding institutional financial aid.³⁰

The bill also authorizes eligible nonpublic schools to file PACT scholarship applications on behalf of eligible students and their parents if so designated in writing by a parent or student, if 18 or older. However, the school may not charge a fee for doing so.³¹

²⁹ R.C. 109.57, 109.572, and 3310.29(B) and (C). See also R.C. 3319.39, 3319.391, and 3319.392, none in the bill.

³⁰ R.C. 3310.33(B) and (C).

³¹ R.C. 3310.33(A).

Assessments and data

As is the case under current law for most existing state scholarship programs, the bill requires (1) eligible nonpublic schools that enroll students with PACT scholarships to administer the state achievement assessments to the scholarship students and to report their scores to the Department of Education, and (2) the Department to report performance data derived from the achievement assessments taken by the PACT students. The Department must post the performance data on its web site and distribute it to the parent of each student eligible to participate in the scholarship program.³²

The Department must group the data by school district (including all participants in the program from that district), by eligible nonpublic school (including all participants enrolled in that school), and by state (including all participants statewide). The data also must be disaggregated within each group by (1) age, (2) race and ethnicity, (3) gender, (4) students who have participated in the scholarship program for three or more years, (5) students who have participated between one and three years, (6) students who have participated for one year or less, and (7) economically disadvantaged students.³³

In reporting performance data for scholarship students, the Department may not report data that is statistically unreliable or that could result in the identification of individual students. The bill prohibits the Department from reporting data for any group that contains less than ten scholarship students. Therefore, for example, if a nonpublic school enrolls 20 scholarship students across several grade levels, the Department could report the school-wide assessment results, but there may be too few students in a particular grade or racial group to report the results by grade level without endangering a student's privacy.³⁴

The Department must provide the parent of each scholarship student with a comparison of the student's achievement assessment scores with the average scores of similar students enrolled in the school district-operated building the scholarship student would otherwise attend. For this purpose, the scholarship student must be compared to students of similar age, grade, race or ethnicity, gender, and socioeconomic status.³⁵

³² R.C. 3310.34 and 3310.35(A) and (D).

³³ R.C. 3310.35(A) and (B).

³⁴ R.C. 3310.35(D).

³⁵ R.C. 3310.35(E).

Additional data requirements for the PACT program

Besides the assessment and data provisions that are similar to those required for existing scholarship programs, the bill imposes some data reporting requirements that are unique to the PACT program. First, the bill requires the Department of Education, when computing student performance data for PACT students, "to the greatest extent possible," to include student performance growth using the value-added progress dimension.³⁶ (The value-added progress dimension is a statistical measure of academic gain for a student or group of students over a specific period of time. It is also one of the four performance measures, all based on state assessment scores, used in ranking districts and schools for the annual report cards.³⁷)

Second, the bill requires the Department, to the extent permitted under federal law, to release student assessment scores and performance data relating to the PACT scholarship program to independent research organizations that are part of, or formally affiliated with, accredited public or private universities. The data release must be for the purpose of conducting longitudinal analysis of PACT student performance. The released data may not be used to disclose the academic level of individual students.³⁸

Normally, under the federal Family Educational Rights and Privacy Act (and under the implementing state law), the Department and public and private schools are not permitted to release personally identifiable student data without a student's or parent's consent. However, the law provides a number of specific exceptions. One exception permits the release of data to organizations to conduct studies "for, or on behalf of," the educational agency to "develop, validate, or administer predictive tests; administer student aid programs; or improve instruction." In applying this exception, the state or a school must ensure that the information (1) is used only by the organization requesting the data and (2) is destroyed when no longer needed by the organization.³⁹ It is this exception that the Department likely would invoke in order to lawfully release student data to outside researchers.

³⁶ R.C. 3310.35(C).

³⁷ See R.C. 3302.01 and 3302.021, neither in the bill.

³⁸ R.C. 3310.35(F).

³⁹ 20 United States Code 1232g(b)(1)(F) and 34 Code of Federal Regulations 99.31(a)(6).

Transportation

As under the existing state scholarship programs, PACT scholarship students are entitled to transportation to and from the nonpublic schools they attend in the manner prescribed under continuing law.⁴⁰

Background on student transportation

Under continuing law, each city, exempted village, and local school district must transport all students in grades K to 8 residing in the district to and from their assigned school, or to and from the nonpublic or community school they attend, if that school is more than two miles from their home. A district also may transport high school students; but if a district transports high school students to its own schools it must transport nonpublic and community high school students on the same basis. However, a district is not required to transport a nonpublic or community school student, regardless of grade level, if the direct travel time between the district school to which the student otherwise would be assigned and the student's nonpublic or community school exceeds 30 minutes. A district may offer a payment in lieu of transportation to the parent of a particular student if the district determines that it is impractical to transport that student.⁴¹

Districts generally are entitled to a payment for students transported to school more than one mile from their homes. But the current school funding bridge formula, enacted for fiscal years 2012 and 2013 in H.B. 153 of the 129th General Assembly, computes an aggregate amount for each school district based on a wealth-adjusted portion of the total of its state operating funds paid for fiscal year 2011, including the transportation payment the district may have received.⁴² Thus, for the current biennium, districts do not receive any additional funding for transporting additional students.

Access to data verification codes; privacy of records

As under the existing state scholarship programs, the bill permits the Department of Education to request the data verification codes of students applying for PACT scholarships from (1) those students' resident school districts, (2) a community school in which a student is enrolled, or (3) the independent contractor hired by the Department to create and maintain the codes. This authority, which is an exception to the general prohibition against the Department's having access to data verification

⁴⁰ R.C. 3310.24.

⁴¹ R.C. 3327.01, not in the bill.

⁴² Section 267.30.50 of H.B. 153.

codes when they could be matched with personally identifiable student data,⁴³ is limited solely to administering the scholarship programs. School districts and community schools must provide a student's data verification code to the Department or the student's parent, upon request, in a manner specified by the Department. If a student will be entering kindergarten and has not yet been assigned a data verification code, the resident school district must assign a code to the student prior to submission. If the district does not assign the code by a date specified by the Department, the Department must assign the code. Each year, the Department must provide school districts with the name and data verification code of each scholarship student living in the district who has been assigned a code by the Department.

The bill also requires the Department to provide each PACT scholarship student's data verification code to the eligible nonpublic school in which the student enrolls.⁴⁴

Neither the Department nor an eligible nonpublic school may release a student's data verification code to any person, unless such release is otherwise authorized by law. The bill specifies that materials containing both a student's name or other personally identifiable data and the student's data verification code are not public records. Other documents relative to the scholarship program that are held by the Department are public records, but may be released only in accordance with state and federal privacy laws.⁴⁵

Prohibition on using more than one scholarship program at a time

The bill specifically prohibits a student from using more than one state scholarship at a time. In other words, in any particular school year, a student and the student's parents must choose to use only one of the state scholarship programs, but from one year to the next they would be free to choose a different program, assuming they were eligible for it.⁴⁶

Purpose statement

Similar to a statement in current law for the Ed Choice program, the bill states that it is the policy adopted by the General Assembly that the PACT scholarship program is one of several options available for eligible students. It states that those

⁴³ R.C. 3301.0714(D).

⁴⁴ R.C. 3310.31(A) to (C).

⁴⁵ R.C. 3310.31(D) and 3310.32.

⁴⁶ R.C. 3310.03(C), 3310.06, 3310.22(A), and 3310.51.

students may choose to enroll in the schools of the student's resident district, in community schools, in the schools of another school district pursuant to an open enrollment policy, in nonpublic schools with or without a state-funded scholarship, or in other schools as the law may provide.⁴⁷

Rule-making

The bill requires the State Board of Education to adopt rules that prescribe procedures for the administration of the PACT scholarship program. As stated in current law for Ed Choice, the bill also states that the State Board and the Department may not require eligible nonpublic schools to comply with any education laws, rules, or other requirements that are not specified under the bill's provisions, if they otherwise would not apply to eligible nonpublic schools.⁴⁸

Ed Choice scholarship program changes

The Ed Choice scholarship program operates statewide in every district except Cleveland to provide scholarships for students who are assigned or would be assigned to district schools that have persistently low academic achievement. The bill makes a few changes to the Ed Choice program.

Maximum number of scholarships

H.B. 153 of the 129th General Assembly (the general operating budget act for the 2011-2013 biennium) increased the number of Ed Choice scholarships that may be awarded in a school year from 14,000 to 30,000 for the 2011-2012 school year and to 60,000 for every year thereafter. This bill requires the Department of Education to further increase the number of Ed Choice scholarships (which is used to determine the number of the PACT scholarships available (see above)), if the number of timely applicants for a school year exceeds 90% of the maximum number of Ed Choice scholarships permitted for that year. In that case, the Department must increase the maximum number of Ed Choice scholarships for a school year by 25%. For example, if the maximum number is 60,000, and the Department receives more than 54,000 Ed Choice applications (90% of 60,000), the Department must raise the maximum to 75,000 (125% of 60,000). This new maximum remains in place unless and until a year for which the 90% application threshold is exceeded again, in which case the maximum once more is increased by 25%.⁴⁹

⁴⁷ R.C. 3310.26.

⁴⁸ R.C. 3310.37.

⁴⁹ R.C. 3310.02.

Eligibility of Cleveland students

Currently, Ed Choice scholarships are not available to students who reside in the Cleveland school district. That is because a separate scholarship program operates in Cleveland and is available to every student in the district regardless of the district building to which a student is assigned. The bill permits Cleveland students who received a scholarship under that program for the 2010-2011 school year to receive an Ed Choice scholarship instead for subsequent school years, if the district building to which the student would be assigned meets the Ed Choice qualifications based on performance rating.⁵⁰

Under continuing law, a student is eligible for Ed Choice if, in two of the three most recent school building rankings published prior to the school year for which the student first seeks a scholarship, the building to which the student is or would be assigned either (1) has been declared to be in academic watch or academic emergency, or (2) is ranked in the lowest 10% of all public school buildings according to performance index score, *and* in either case was not rated excellent or effective in the most recent ranking.⁵¹

Background on current scholarship programs

Cleveland Scholarship and Tutoring Program

The Pilot Project Scholarship Program (also known as the Cleveland Scholarship and Tutoring Program) provides scholarships to attend alternative schools, including private schools, and tutorial assistance grants to certain students who reside in any school district that is or has been under a federal court order requiring supervision and operational management of the district by the state Superintendent. Currently, only the Cleveland Municipal School District meets this criterion. The program has been authorized since 1995. It is financed partially with state funds and partially with an earmark of Cleveland's state payments.⁵²

Any student living in Cleveland may receive a scholarship under the program regardless of the student's family income or the performance of the district building to which the student would be assigned. The number of scholarships available is determined based on the amount appropriated for the program. The scholarship amount for any student attending an alternative school is based on the lesser of (1) the actual tuition charges of the school or (2) an amount established by the state

⁵⁰ R.C. 3310.03(A)(6) and (B)(5) and repealed R.C. 3310.05.

⁵¹ R.C. 3310.03(A)(1) and (B)(1).

⁵² R.C. 3313.974 to 3313.979, none in the bill.

Superintendent. This amount may not exceed \$4,250, for grades K to 8, and \$5,000, for grades 9 to 12. But the state actually pays only 75% or 90%, according to the student's family income, of the base scholarship amount. The remainder is statutorily required to be paid by a third party. The following table compares the program's base amounts with the actual maximum scholarship amounts after applying the 90% and 75% standards:⁵³

Grades	Base Amount	90% Amount	75% Amount
K to 8	\$4,250	\$3,825	\$3,188
9 to 12	\$5,000	\$4,500	\$3,750

While there are no income standards to participate, the law requires that preference be given to students from low-income families. The "low-income" threshold is not established in statute; instead, the state Superintendent has established this threshold as 200% of the federal poverty guideline. The Superintendent must also determine whether each selected student qualifies for 75% or 90% of the scholarship amount. Students whose family income is at or above 200% of the federal poverty guideline qualify for 75% of the scholarship amount, and students whose family income is below that 200% threshold qualify for 90%.⁵⁴

The tutoring component of the program allows the parent of a student enrolled in the district's schools to obtain tutoring from an approved provider. It authorizes grants to cover the tutorial provider's charges, up to \$400 per year.⁵⁵

Ed Choice scholarship program

The law authorizing the Educational Choice Scholarship Pilot Program was enacted in 2005, and the first scholarships were awarded for the 2006-2007 school year. Students may use the scholarships to pay tuition at chartered nonpublic schools. As noted above, under former law, the number of Ed Choice scholarships per year was limited to 14,000, but recently that number has been increased to 30,000 for the 2011-2012 school year and to 60,000 for every school year thereafter. There are no income limits to participate, but priority must be given to prior recipients and to new applicants whose family incomes are at or below 200% of the federal poverty guideline.⁵⁶

⁵³ R.C. 3313.978.

⁵⁴ R.C. 3313.978(A).

⁵⁵ R.C. 3313.975, 3313.976(D), 3313.978, and 3313.979.

⁵⁶ R.C. 3310.02.

The program provides scholarships for primary and secondary students of under-performing schools in districts other than Cleveland. Generally, a student is eligible to apply for an Ed Choice scholarship if the student is attending, or otherwise would be assigned to, a school building operated by the student's resident district that, in two of three report card rankings, either (1) has been declared to be in academic watch or academic emergency, or (2) is ranked in the lowest 10% of all public school buildings according to performance index score, and, in either case, was not rated excellent or effective in the most recent ranking. A student who receives an Ed Choice scholarship may receive scholarships until the student completes grade 12, so long as (1) the student's resident district stays the same or the student transfers to a new district and would be assigned in that new district to a qualifying building, (2) the student takes each state achievement assessment prescribed for the student's grade level while enrolled in a chartered nonpublic school, and (3) the student is not absent from that school for more than 20 days (not including excused absences).⁵⁷

The amount of each annual Ed Choice scholarship is the *lesser* of (1) the tuition charged by the chartered nonpublic school in which the student is enrolled or (2) a "maximum" amount, which is:

- (a) \$4,250 for grades K through 8; and
- (b) \$5,000 for grades 9 through 12.

The scholarships are financed through a "deduct and transfer" method. Each student awarded an Ed Choice scholarship is counted in the enrollment of the student's resident school district for school funding purposes. The Department of Education then deducts the amount of each student's scholarship from the district's state aid account.⁵⁸

Autism Scholarship Program

A third program, the Autism Scholarship Program, pays scholarships to the parents of identified autistic children in grades *pre-kindergarten* to 12.⁵⁹ It began as a temporary pilot project, first authorized in 2003⁶⁰ and reauthorized in 2005,⁶¹ and was

⁵⁷ R.C. 3310.03.

⁵⁸ R.C. 3310.08 and 3310.09, neither in the bill.

⁵⁹ R.C. 3310.41, not in the bill.

⁶⁰ Section 41.33 of Am. Sub. H.B. 95 of the 125th General Assembly, as subsequently amended.

⁶¹ Section 206.09.84 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended.

codified and made permanent in legislation that passed in 2006.⁶² The scholarship is to be used solely to pay all or part of the cost of sending the child to a public or an approved nonpublic special education program instead of the one provided by the child's resident school district. The amount of the scholarship is the lesser of the amount charged by the special education program or \$20,000. The scholarship is to be used to pay for only those services specified in the child's "individualized education program" prepared by the child's resident school district. Like the Ed Choice program, Autism scholarships are financed through the deduct and transfer method.

Jon Peterson Special Needs Scholarship Program

The Jon Peterson Special Needs Scholarship Program was enacted by H.B. 153 of the 129th General Assembly to begin operating in the 2012-2013 school year. It is similar to, but larger in scale than, the Autism Scholarship Program (see above). Under the new program, children with any category of disability in grades K through 12 may receive scholarships to attend public or private special education programs other than those offered by their school districts. In other words, the scholarships will not be limited to just children with autism. However, unlike the Autism Scholarship Program, the new program will not apply to preschool children with disabilities. Also, the number of scholarships that may be awarded each year is limited to 5% of the number of all students with disabilities identified statewide for the previous fiscal year.⁶³

Each Special Needs scholarship is worth the *smallest* of:

- (1) \$20,000;
- (2) The total fees charged by the provider; or
- (3) A maximum amount, based on the per pupil amount for (a) base cost and (b) weighted special education costs (according to disability category) that would have been computed for payment to a school district for the student under the former Building Blocks Model school funding system.⁶⁴

Like Ed Choice and the Autism scholarship programs, each Special Needs scholarship is financed through the deduct and transfer method.⁶⁵

⁶² R.C. 3310.41, as codified by Am. Sub. H.B. 699 of the 126th General Assembly.

⁶³ R.C. 3310.51, amended by the bill, and R.C. 3310.52 to 3310.64, none in the bill.

⁶⁴ R.C. 3310.56.

⁶⁵ R.C. 3310.55.

HISTORY

ACTION

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