

2016 -- S 2398

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO EDUCATION - THE BRIGHT TODAY SCHOLARSHIP AND OPEN
ENROLLMENT EDUCATION ACT

Introduced By: Senators Cote, Kettle, Lombardi, E O'Neill, and Gee

Date Introduced: February 11, 2016

Referred To: Senate Education

It is enacted by the General Assembly as follows:

1 SECTION 1. TITLE 16 of the General Laws entitled "EDUCATION" is hereby amended
2 by adding thereto the following chapter:

3 CHAPTER 106

4 THE BRIGHT TODAY SCHOLARSHIP AND OPEN ENROLLMENT EDUCATION ACT

5 **16-106-1. Short title.** -- This act shall be known and may be cited as "The Bright Today
6 Scholarship and Open Enrollment Education Act."

7 **16-106-2. Purpose.** -- (a) The purpose of this chapter is to provide parents of K-12
8 students in Rhode Island with an opportunity to enroll their child in an educational program of
9 their choosing, either via open enrollment in a traditional public school in their own district or in
10 any other public school district, or by receiving a scholarship, with designated public monies to
11 follow the student to the private school or private curriculum program selected by the parent.

12 (b) National research demonstrates that with scholarships, similar to those provided for in
13 this chapter, public school districts can actually save money and in most instances also see
14 improved academic outcomes because of the new "parental" accountability standards they will be
15 held to.

16 (c) Further, this chapter has been crafted to ensure that more money per pupil remains in
17 public school districts, even after scholarships have been awarded from the state portion of
18 educational funding to districts.

1 **16-106-3. Definitions.** -- As used in this chapter, the following terms shall have the
2 following meanings, unless the context clearly indicates otherwise:

3 (1) "Base funding" means and refers to a resident district's funding from state and local
4 sources to serve and educate students on a per pupil basis. Federal funds are not included.

5 (2) "Bright today scholarships" (scholarships), sometimes referred to in this chapter as
6 "Educations savings accounts (ESAs)," means and will be offered to all students that are, or will
7 become, enrolled in any public, private, or home school system in the state of Rhode Island. The
8 scholarships allow parents to utilize certain funds that would normally be allocated to their child
9 at their resident school district for an educational program as determined by the parents or
10 guardian of the child.

11 (3) "Curriculum" means a complete course of study for a particular content area or grade
12 level, including any supplemental materials required by the curriculum.

13 (4) "Department" means the Rhode Island department of elementary and secondary
14 education (RIDE) or any other organization designated by RIDE to administer the bright today
15 scholarship program.

16 (5) "Open enrollment" means a policy adopted and implemented by a school district
17 governing board to allow resident transfer pupils to enroll in any school within the school district,
18 to allow resident pupils to enroll in any school located within other school districts in this state, or
19 to allow nonresident pupils to enroll in any school within the district.

20 (6) "Eligible student" means any K through twelve (12) student who meets any of the
21 following requirements:

22 (i) Attended a public school as a full-time student in Rhode Island in the preceding
23 semester;

24 (ii) Is beginning school in Rhode Island for the first time; or

25 (iii) Attended a private school or received at-home instruction in conformance with §16-
26 19-1 in the preceding semester.

27 (7) "Resident school district" means the public school district in which the student
28 resides.

29 (8) "Participating school" means any private school that provides education to students in
30 fulfillment of any grades, K through twelve (12), and has notified the department of its intention
31 to participate in the bright today scholarship program and to comply with the requirements of the
32 program as defined by this chapter or subsequently regulated by the department for the
33 implementation thereof.

34 (9) "Participating student" means any eligible student or qualified student who is

1 accepted into the bright today scholarship program.

2 (10) "Parent" means a resident of Rhode Island who is the parent or legal guardian of an
3 eligible student.

4 (11) "Qualified school" means a nongovernmental primary or secondary school or a
5 preschool for handicapped students that is located in this state and that conforms with the
6 requirements for such schools within Rhode Island.

7 (12) "Qualified student" means a resident of this state who is an "eligible student", and
8 who is any of the following:

9 (i) Identified as having a disability under section 504 of the Rehabilitation Act of 1973
10 (29 U.S.C. 794); or

11 (ii) A child with a disability who is eligible to receive services from a school district
12 under chapter 24 of title 16.

13 (13) "Qualified funding" refers to the additional funds allocated by the state for students
14 having a disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or chapter
15 24 of title 16.

16 (14) "Treasurer" means the office of the Rhode Island general treasurer.

17 **16-106-4. Core components and requirements of the bright today scholarship**
18 **program. -- (a) Scholarships. Scholarships are established to provide options for the education of**
19 **students in Rhode Island.**

20 (b) Enrollment. Any parent of a participating student may enroll the student for a
21 scholarship by signing an agreement whereby the parent promises:

22 (1) To provide an education for the participating student in at least the subjects of
23 reading, grammar, mathematics, social studies and science;

24 (2) Not to enroll the participating student in a school district or charter school and release
25 the school district from all obligations to educate the qualified student;

26 (3) To use the money deposited in the participating student's bright today scholarship
27 account only for the following expenses of the participating student:

28 (i) Tuition or fees at a participating school or a qualified school;

29 (ii) Textbooks required by a participating school, qualified school, or private tutoring
30 curriculum;

31 (iii) Tutoring services provided by a tutor accredited by a state, regional or national
32 accrediting organization;

33 (iv) Curriculum;

34 (v) Tuition or fees for a non-public online learning program;

1 (vi) Fees for a nationally standardized norm-referenced achievement test, advanced
2 placement examinations or any exams related to college or university admission;

3 (vii) Educational therapies or services for the qualified student from a licensed or
4 accredited practitioner or provider, including licensed or accredited paraprofessionals or
5 educational aides;

6 (viii) Fees for courses at an eligible postsecondary institution, taken prior to the student's
7 graduation from high school or the equivalent;

8 (ix) Fees for management of the scholarship account by firms selected by the general
9 treasurer; and

10 (x) Services provided by a public school, including individual classes and extracurricular
11 programs;

12 (4) Any unspent funds may be rolled over and shall remain in the participating student's
13 scholarship for use in future years during the participating student's K through twelve (12)
14 educational career;

15 (5) Not to use monies deposited in the participating student's account for any of the
16 following:

17 (i) Computer hardware or other technological devices, except as required in lieu of
18 textbooks or for the completion of specific course requirements;

19 (ii) Transportation of the pupil; and

20 (iii) Consumable educational supplies, including, but not limited to, paper, pens or
21 markers;

22 (c) Parent payments. Parents will be allowed to make payments for the costs of
23 educational programs and services not covered by the funds in their scholarship accounts.

24 (d) Department scholarship account fund. In exchange for the parent's agreement
25 pursuant to subsection (b) of this section, the department shall transfer from the aggregate monies
26 that would otherwise be allocated to the participating student's resident school district a payment
27 for base funding or qualified funding as described in subsections (e), (f), and (g) of this section, to
28 the general treasurer for deposit into an individual bright today scholarship account to be
29 managed by the parents of the student. The department may retain a maximum of three percent
30 (3%) of each individual scholarship awarded in any given school year for deposit in the
31 department's scholarship account fund to be used for administration of the scholarship program.

32 (e) Base funding - scholarship award schedule for new and switching students. Grant
33 amounts to scholarship accounts of families of eligible students will be determined by the
34 following guidelines, provided that no individual student's scholarship shall exceed six thousand

1 dollars (\$6,000):

2 (1) For students from households qualifying for the federal free or reduced-price lunch
3 program, each student's scholarship amount shall be equal to one hundred percent (100%) of the
4 resident district's base funding.

5 (2) For students from households with annual income greater than the amount required to
6 qualify for the free or reduced-price lunch program but less than or equal to one and one-half
7 (1.5) times that amount, each student's scholarship amount shall be equal to seventy-five percent
8 (75%) of the resident district's base funding.

9 (3) For students from households with annual income of greater than one and one-half
10 (1.5) times the amount required to qualify for the free or reduced-price lunch program, but less
11 than or equal to two (2) times that amount, each student's scholarship amount shall be equal to
12 fifty percent (50%) of the resident district's base funding.

13 (4) For students from households with annual income of greater than two (2) times the
14 amount required to qualify for the free or reduced lunch program but less than or equal to two and
15 one-half (2.5) times that amount, each student's scholarship amount shall be equal to twenty-five
16 percent (25%) of the resident district's base funding.

17 (5) For students from households with annual income of greater than two and one-half
18 (2.5) times the amount required to qualify for the free or reduced-price lunch program, each
19 student's scholarship amount shall be equal to fifteen percent (15%) of the resident district's base
20 funding.

21 (f) Base funding - scholarship award schedule for students attending private school or
22 receiving at-home instruction at the time of enactment. Grant amounts to scholarship accounts of
23 families of approved students pursuant to this chapter shall be equal to the scholarships for their
24 household income level, as set forth in subsection (e) of this section, provided that each student's
25 scholarship amount shall be reduced by seventy-five percent (75%).

26 (g) Qualified funding - scholarship awards. For any student having a disability who is
27 accepted into the bright today scholarship account program, the scholarship amount will be equal
28 to the scholarships for their household income level, as described in this section, plus the
29 additional qualified funding designated for that student. The department may reduce the
30 additional qualified funding award by an amount sufficient to reimburse the department and the
31 resident school district for services assessing the student or developing an individual education
32 plan for that student; provided that such reimbursements shall not exceed five percent (5%) of the
33 additional qualified funding award.

34 (h) A parent must renew the participating student's scholarship account on an annual

1 basis. A student who has previously qualified for a bright today scholarship account shall remain
2 eligible to apply for renewal until the student graduates with a high school diploma or the
3 equivalent.

4 (i) A participating school, qualified school, or a provider of services purchased pursuant
5 to §16-105-4(b)(3) shall not share, refund, or rebate any bright today scholarship account monies
6 with the parent, eligible student, or qualified student in any manner.

7 (j) A participating student shall be counted in the enrollment figures for their resident
8 school district for the purposes of the state funding formula under the permanent foundation
9 education aid set forth in chapter 7.2 of this title for as long as that student remains an eligible
10 student under this chapter. The department shall subsequently subtract the total aggregate
11 scholarship amounts awarded to students within each resident district from that district's state
12 school aid.

13 (k) In subsequent years following enactment of this chapter, for "participating" students
14 who have entered the state's K through twelve (12) educational system for the first time, fifteen
15 percent (15%) of the total number of such students shall be counted in the enrollment figures for
16 their resident school district for the purposes of the state funding formula under, for as long as
17 those students remain "eligible" students pursuant to the provisions of this chapter.

18 (l) Funds in the scholarship account may only be used during the student's K through
19 twelve (12) educational career. Upon the participating student's graduation with a high school
20 diploma or the equivalent, the student's bright today scholarship account shall be closed and any
21 remaining funds shall be returned to the Rhode Island department of elementary and secondary
22 education.

23 (m) Monies received pursuant to this chapter do not constitute taxable income to the
24 parent of the participating student.

25 **16-106-5. Administration of bright today scholarship accounts. --** (a) The department
26 shall determine a specified "application period" that is between April 1 and June 30 of each year
27 during which it will accept applications for the following fiscal year.

28 (b) The department shall adopt rules and policies necessary for the administration of
29 scholarship accounts, including policies for conducting examinations of use of account funds.
30 Conducting random quarterly and annual reviews of accounts, potentially including, but not
31 limited to, creating an online anonymous fraud reporting service, and creating an anonymous
32 telephone hotline for fraud reporting.

33 (c) The general treasurer may contract with private financial management firms to
34 manage bright today scholarship accounts, provided the treasurer maintains supervision of the

1 process.

2 (d) The department shall have the authority to conduct or contract for annual or random
3 audits of scholarship accounts, to ensure compliance with this chapter.

4 (e) A parent or participating student or vendor may be disqualified from program
5 participation if the party is found to have committed an intentional program violation consisting
6 of any misrepresentation or other act that materially violates a law or rule governing the program.
7 The department may then remove any parent or participating student from future eligibility for a
8 bright today scholarship account and shall notify the treasurer. A parent, student, or vendor may
9 appeal the department's decision pursuant to an appeal process to be established by the
10 department and as set forth in chapter 39 of title 16.

11 (f) The department may refer cases of substantial misuse of monies to the attorney
12 general for investigation if the department obtains evidence of fraudulent use of an account.

13 (g) The department shall make quarterly transfers of the amount calculated for base
14 funding and qualified funding pursuant to the provisions of § 16-105-4 to the general treasurer for
15 deposit into the individual scholarship account of each qualified student.

16 (h) A person commits savings account fraud if the person knowingly obtains by means of
17 a false statement or representation, by impersonation, or by other fraudulent device any of the
18 following:

19 (1) Assistance or service to which that person is not entitled;

20 (2) Assistance or service greater than that to which the person is entitled; and

21 (3) Payment for services or materials not listed in §16-105-4(b)(3).

22 (i) No financial institution shall be liable in any civil action for providing a scholarship
23 account's financial information to the department of education unless the information provided is
24 false and the financial institution providing the false information does so knowingly and with
25 malice.

26 **16-106-6. Administrative and academic accountability standards. --** (a) To hold
27 participating schools accountable and to ensure that certain administrative standards are met to
28 treat all students safely and fairly, participating schools shall:

29 (1) Comply with all state laws dealing with health and safety that apply to private
30 schools;

31 (2) Maintain a valid occupancy permit, as may be required by state or local laws;

32 (3) Certify their compliance with nondiscrimination policies and provisions set forth in
33 42 U.S.C. 1981; and

34 (4) Provide parents with a receipt for all qualifying expenses at the school.

1 **16-106-7. Academic Accountability Standards. -- (a) In order to allow parents and**
2 **taxpayers to measure the achievements of the program:**

3 **(1) Parents shall ensure that:**

4 **(i) Each year, participating students within their households take either the state**
5 **achievement tests or nationally norm-referenced tests that measure learning gains in math and**
6 **language arts and provide for value-added assessment;**

7 **(ii) The results of these tests are provided to the department on an annual basis, beginning**
8 **with the first year of testing;**

9 **(iii) The student information is reported in a way that would allow the state to aggregate**
10 **data by grade level, gender, family income level, and race; and**

11 **(iv) The department will be informed of the eligible student's graduation from high**
12 **school, or the equivalent.**

13 **(2) The department shall:**

14 **(i) Ensure compliance with all student privacy laws;**

15 **(ii) Collect all test results from all participating students;**

16 **(iii) Provide aggregate test results, associated learning gains, and graduation rates to the**
17 **public via a state website after the third year of test and graduation-related data collection. The**
18 **findings shall be aggregated by the students' grade level, gender, family income level, number of**
19 **years of participation in the scholarship program, and race;**

20 **(iv) Provide graduation rates to the public via a state website after the third year of test**
21 **and test-related data collection;**

22 **(v) Administer an annual parental satisfaction survey that shall ask parents of students**
23 **receiving scholarship accounts to express:**

24 **(A) Their satisfaction with the program; and**

25 **(B) Their opinions on other topics, items, or issues that the state finds would elicit**
26 **information about the effectiveness of scholarship accounts program and the number of years**
27 **their child has participated in the program.**

28 **16-106-8. Prohibition of state control over non-public schools and homeschools. – (a)**
29 **This chapter shall not permit any government agency to exercise control or supervision over any**
30 **nonpublic school or homeschool.**

31 **(b) Participating schools or parents or groups providing at-home instructions that accept**
32 **payments from a scholarship account pursuant to this chapter are not agents of the state or federal**
33 **governments.**

34 **(c) A participating or qualified school shall not be required to alter its creed, practices,**

1 admissions policies, or curricula in order to accept students whose parents pay tuition or fees
2 from scholarship accounts pursuant to this chapter in order to participate.

3 (d) Participating private schools, providers of at-home instruction, and other education
4 providers shall be given the maximum freedom to provide for the educational needs of their
5 students without governmental or departmental control.

6 (e) In any legal proceeding challenging the application of this chapter to a participating
7 school, the state bears the burden of establishing that the law is necessary and does not impose
8 any undue burden on participating schools or providers.

9 **16-106-9. Responsibilities of the department. --** (a) The department shall ensure that
10 eligible students and their parents are informed annually of which schools will be participating in
11 the scholarship account program. Special attention shall be paid to ensuring that lower-income
12 families are made aware of the program and their options.

13 (b) The department shall create a standard form that parents of eligible students can
14 submit to establish their students' eligibility for the scholarship account program. The department
15 shall ensure that the application is readily available to interested families through various sources,
16 including the Internet.

17 (c) The department may bar a participating school or education provider from the
18 scholarship account program if the department establishes that the participating school or
19 education provider has:

20 (1) Routinely failed to comply with the accountability standards established in this
21 chapter; or

22 (2) Failed to provide the eligible student with the educational services funded by the
23 scholarship account.

24 (d) If the department decides to bar a participating school or education provider from the
25 program, it shall notify eligible students and their parents of this decision as quickly as possible.

26 (e) The department shall adopt rules and procedures as necessary for the administration
27 of the scholarship account program.

28 **16-106-10. Responsibilities of the resident school district. --** (a) The resident school
29 district shall provide a participating school or education provider that has admitted an eligible
30 student under this program with a complete copy of the student's school records, while complying
31 with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232 g).

32 (b) The resident school district shall provide transportation for an eligible student to and
33 from the participating school or education provider under the same conditions as the resident
34 school district is required to provide transportation for other resident students to private schools

1 as per current law. The resident school district may qualify for any existing state transportation
2 aid for each student so transported.

3 (c) Nothing in this chapter shall be construed as supplanting the responsibilities of
4 resident districts as provided in current law.

5 **16-106-11. Open enrollment. --** (a) Definitions. For the purposes of this section, unless
6 the context otherwise requires:

7 (1) "Nonresident pupil" means a pupil who resides in the state of Rhode Island and who
8 is enrolled in or is seeking enrollment in a school district other than the school district in which
9 the pupil resides.

10 (2) "Open enrollment" means a policy adopted and implemented by a school district
11 governing board to allow resident transfer pupils to enroll in any school within the school district,
12 to allow resident pupils to enroll in any school located within other school districts in this state, or
13 to allow nonresident pupils to enroll in any school within the district.

14 (3) "Resident transfer pupil" means a resident pupil who is enrolled in or seeking
15 enrollment in a school that is within the school district but outside the attendance area of the
16 pupil's residence.

17 (4) "Receiving school district" means the school district that has accepted enrollment of a
18 nonresident pupil.

19 (b) Enrollment policies.

20 (1) School district governing boards shall establish inter-district open enrollment policies.

21 (2) State funding adjustments may be arranged for nonresident pupils only if two (2)
22 school districts have entered into a voluntary agreement for such adjustments for certain pupils.
23 These policies shall include admission criteria, available capacity, application procedures, and
24 transportation provisions. Any and all funding adjustments will be made via associated
25 adjustments of the state portion of funds distributed to the mutually agreed districts.

26 (3) A copy of the district policies for open enrollment shall be posted on the district's
27 website and shall be available to the public on request.

28 (i) Each policy shall describe the opportunities for resident pupils to transfer to other
29 schools within the district or outside of the district and the opportunities for nonresident pupils to
30 transfer to schools within the district.

31 (ii) Each nonresident pupil shall be counted in the enrollment figures for their new
32 "receiving school district," for the purposes of the state funding formula under chapter 7.2 of this
33 title.

34 (iii) Resident transfer pupils and nonresident pupils shall be permitted to remain in the

1 school into which they were initially accepted through completion of the highest grade offered in
2 that school and may be given enrollment preference for other schools within the receiving school
3 district.

4 (iv) A school district may give enrollment preference to and reserve capacity for pupils
5 who are children of persons who are employed by or at a school in the school district.

6 (v) The resident school district shall provide transportation for a nonresident or resident
7 transfer pupils to and from the participating school or education provider under the same
8 conditions as the resident school district is required to provide transportation for other resident
9 students to private schools as per current law. The resident school district may qualify for any
10 existing state transportation aid for each student so transported.

11 (vi) Nothing in this section shall be construed to limit or replace specific agreements that
12 school districts may have with other school districts upon enactment of this chapter or to limit
13 their right to enter into such agreements thereafter.

14 (c) District and school immunity. A school district and its employees are immune from
15 civil liability for decisions that concern the acceptance or rejection of a nonresident pupil for
16 enrollment and that are based on a good faith application of the requirements of this chapter and
17 the standards adopted pursuant to this chapter.

18 **16-106-12. Commencement of program. --** The bright today scholarship and open
19 enrollment program will be in effect beginning August 1, 2016.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION - THE BRIGHT TODAY SCHOLARSHIP AND OPEN
ENROLLMENT EDUCATION ACT

1 This act would provide parents of K-12 students in Rhode Island with an opportunity to
2 enroll their child in an educational program of their choosing, either via open enrollment in a
3 traditional public school in their own district or any other public school district, or by receiving a
4 scholarship, with designated public monies to follow the student to a participating private school
5 or private curriculum program selected by the parent. The program combines aspects of what are
6 sometimes referred to as "school choice" and "school voucher" programs. The program would
7 begin August 1, 2016.

8 This act would take effect upon passage.

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