



February 26, 2024

SUMMARY OF BILL AS AMENDED (014400): Creates the *Education Freedom Scholarship (EFS) Act*. Requires the Department of Education (DOE) to administer the EFS program to provide a scholarship to an eligible student who applies in the 2024-25 school year or subsequent years to enroll in a private school or public school located in a local education agency (LEA) other than the LEA where the student resides.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures –

\$95,465,500/FY24-25/Education Freedom Scholarship Program
\$333,235,300/FY25-26/Education Freedom Scholarship Program
Exceeds \$333,235,300/FY26-27 and Subsequent Years/
Education Freedom Scholarship Program

Other Fiscal Impact – Annual growth estimates for the program are conservative due to the lack of sufficient data to determine participation trends in other states with similar programs. Without limiting the annual number of participants, the liability to the state could grow significantly. Should all private school students receive a scholarship, the additional increase in state expenditures would be \$551,247,400 in FY25-26.

For students previously enrolled in a public school who receive a scholarship and enroll in an out-of-district LEA, a shift in TISA funding will occur as follows: \$48,534,500 in FY24-25; \$107,324,700 in FY25-26; and exceeding \$107,324,700 in FY26-27 and subsequent years.

If students enrolling in the program are part of a Title I local education agency and attend a private school that participates in federal grants, recurring local expenditures could increase by unknown amounts.

The Governor's FY2024-25 Proposed Budget has allocated recurring funding in the amount of \$144,200,000 for the Education Freedom Scholarship Program.

Assumptions for the bill as amended:

- An “eligible student” is defined as a resident of this state who is entitled to attend a public school, is not enrolled in a home school as described in Tenn. Code Ann. § 49-6-3050(b), and is not expelled from school, or subject to disciplinary proceedings that may result in the student’s expulsion from a school, at the time of application.
- The state shall fund 100 percent of the scholarship amount awarded to recipients.
- An EFS may be provided to a student to enroll in a private school or a public school located in an LEA other than the LEA where the student resides.
- The maximum amount of scholarship awarded to an eligible student who enrolls in a private school is the base funding amount provided under the *Tennessee Investment in Student Achievement Act (TISA)*.
- The maximum amount of scholarship awarded to an eligible student who enrolls in a public school where the student does not reside or is zoned, is the greater of:
 - Out-of-district tuition that may be charged; or
 - The local share of the base funding amount generated by the student for the LEA in which the student is counted as enrolled.
- If a public student enrolls in a private school, then funding for the EFS is determined as follows:
 - The state share of the base funding amount generated by a recipient must be subtracted from the state TISA funds otherwise payable to the LEA and remitted to the scholarship account;
 - The state shall pay 100 percent of the local share of base funding and remit such funds to the scholarship account;
 - The state share of a student’s weights and direct payments remain at the student’s home LEA or with the out-of-district LEA, if the student generates TISA funding for such district; and
 - The respective LEA must pay the local share of the student’s weights and direct payments which remains with the LEA.
- A recipient of a scholarship that will be enrolled in a private school must be counted in the average daily membership (ADM) for the LEA in which the recipient resides and is zoned to attend if the recipient, in the previous school year:
 - Was enrolled in a public school; or
 - Participated in the Education Savings Account (ESA) or Individualized Education Account (IEA) programs.
- If a student goes to a public school in an out-of-district LEA, then:
 - The student must be counted in the ADM for the out-of-district LEA;
 - The state share of the student’s base funding goes to the out-of-district LEA; and
 - In the first school year of EFS enrollment, an LEA may apply to the DOE for reimbursement in the amount of the weighted allocations generated by a student who requires special education services, if the student was not enrolled in the out-of-district LEA the year prior to receiving the EFS.
- Based on the Governor’s 2024-25 proposed budget, the TISA base funding amount is \$7,075 for the 2024-25 school year.

- Based on historical education funding data for Tennessee, it is estimated that the TISA base funding amount and the average TISA payment will increase each year by an average of 3.2 percent.
- The TISA base funding amount is estimated to increase as follows:
 - \$7,301 ($\$7,075 \times 1.032$) in FY25-26; and
 - Exceeds \$7,301 in FY26-27 and subsequent years.
- According to Private School Review, the average private school tuition in Tennessee for the 2023-24 school year is \$11,344. Therefore, the scholarship is estimated to cover approximately 62 percent ($\$7,075 / \$11,344$) of the cost of attending a private school on average.
- For the 2024-25 school year, 20,000 scholarships will be awarded as follows:
 - 10,000 scholarships for eligible students whose household income does not exceed 300 percent of the federal poverty level or who meet the definition of eligible student to participate in the ESA Program or the IEA Program; and
 - 10,000 scholarships for eligible students regardless of whether the students meet the above income eligibility requirements.
- No student may receive a scholarship for the same school year in which the student is participating in the ESA Program or the IEA Program.
- For the 2023-24 school year, 390 students participate in the IEA Program while 2,004 students are enrolled in the ESA Program.
- It is assumed that students participating in these programs will not seek participation in the EFS Program as benefits received through the programs, including, but not limited to, higher per-pupil funding amounts in the ESA Program, outweigh the benefits of the EFS Program.
- The 2024-2025 estimated ADM in Tennessee public schools is approximately 971,568. There are also approximately 155,650 students in non-public Tennessee schools; 105,503 of those students are estimated to attend private schools. The ADM varies significantly from year to year, in part due to recent pandemic distortions.
- The total number of students eligible to receive an EFS beginning in the 2024-25 school year is approximately 1,124,824 [$(971,568 \text{ public students} + 155,650 \text{ non-public students}) - (390 \text{ IEA students} + 2,004 \text{ ESA students})$].
- According to Census Bureau data, approximately 46.1 percent of children below the age of 18 lived in a household whose income did not exceed 300 percent of the federal poverty level in 2022.
- It is estimated that 518,544 students ($46.1\% \times 1,124,824$) may be eligible to receive one of the 10,000 scholarships subject to income restrictions during the 2024-25 school year.
- Based on the statewide application of the proposed EFS Program, the income threshold, and the number of eligible students, it is assumed that all 20,000 scholarships will be awarded in the 2024-25 school year.
- Beginning in the 2025-26 school year, if the number of eligible students who apply for a scholarship exceeds the number of scholarships available for the respective school year, the DOE will be required to prioritize students who received a scholarship in the prior year, then low income students, public school students or upcoming kindergarten students in public schools, and finally all other eligible students.

- Due to the universal nature of the program, it is assumed that students already attending private school will seek the additional funding through the EFS Program.
- It is, therefore, estimated that applications to participate in the EFS Program will increase each year beginning in FY25-26.
- Based on school voucher program data from other states, the large pool of students that would be eligible for the EFS, and the high availability of out-of-district schools, it is estimated that 60,000 scholarships will be awarded in the 2025-26 school year.
- The EFS Program is projected to grow in subsequent years following the 2025-26 school year. However, due to the lack of multi-year data from other school voucher programs across the country and different factors amongst those programs, a precise growth estimate cannot reasonably be determined.
- For the 2024-25 school year, it is assumed that 100 percent of the 10,000 scholarships available to students who are subject to household income restrictions will be awarded to public school students.
- Based on school voucher data from other states, the scholarships available to students who are not subject to household income restrictions will be awarded to 60 percent of students from private schools and to 40 percent of students from public schools.
- It is estimated that 14,000 [(10,000 x 1.00) + (10,000 x .40)] scholarships will be awarded to public school students and 6,000 will be awarded to private school students in FY24-25.
- Due to a higher availability of out-of-district schools relative to private schools and the fact that an EFS will cover the entire cost of a student's out-of-district tuition, it is assumed that most students receiving an EFS will enroll in an out-of-district LEA.
- For FY24-25, it is estimated that public school students receiving an EFS will enroll as follows:
 - 70 percent, or 9,800 (14,000 x .70), will enroll in an out-of-district LEA; and
 - 30 percent, or 4,200 (14,000 x .30), will enroll in a private school.
- For FY24-25, it is estimated that 100 percent, or 6,000, of private school students receiving an EFS will re-enroll in a private school.
- For FY25-26, it is estimated that 50 percent, or 30,000 (60,000 x .50), of students previously enrolled in public school will accept an EFS award and 50 percent, or 30,000 (60,000 x .50), of students previously enrolled in private school will receive an EFS award.
- For FY25-26, it is estimated that public school students receiving an EFS will enroll as follows:
 - 70 percent, or 21,000 (30,000 x .70), will enroll in an out-of-district LEA; and
 - 30 percent, or 9,000 (30,000 x .30), will enroll in a private school.
- It is estimated that a total of 39,000 students (9,000 students previously enrolled in a public school + 30,000 students previously enrolled in a private school) will receive an EFS award and enroll in a private school in FY25-26.
- Based on a review of available information, out-of-district tuition for public school students in various rural and urban areas across the state, ranges from \$400 to \$10,701. The median amount of out-of-district tuition is \$1,750.
- Because the maximum EFS award for students who enroll in an out-of-district public school is determined by the greater of either the out-of-district tuition that may be

charged or the local share of the base funding amount generated by the student for the LEA where the student is enrolled, it is estimated that EFS awards will be based on the average local share of TISA, which is on average larger.

- The state will pay 30 percent of the local share of the TISA base generated by a student to the out-of-district LEA in which the student receiving a scholarship enrolls. The increase in state expenditures is estimated as follows:
 - \$20,800,500 (9,800 x \$7,075 x .30) in FY24-25;
 - \$45,996,300 (21,000 x \$7,301 x .30) in FY25-26; and
 - Exceeds \$45,996,300 in FY26-27 and subsequent years.
- As is the case under current law, the state share of the base will be transferred to the out-of-district LEA in which the student enrolled.
- It is estimated that EFS awards for students enrolled in a public school who enroll in an out-of-district LEA will result in a shift in TISA funding as follows:
 - \$48,534,500 (9,800 x \$7,075 x .70) in FY24-25;
 - \$107,324,700 (21,000 x \$7,301 x .70) in FY25-26; and
 - Exceeds \$107,324,700 in FY26-27 and subsequent years.
- Public students who accept an EFS award to enroll in a private school will remain in the ADM of their LEA, and the state will continue funding the state portion of the TISA base for such LEA in all subsequent years. Therefore, any impact on LEA funding will be not significant.
- Additionally, the state will fund such student's scholarship account in the amount of full TISA base. The total increase in state expenditures is estimated to be:
 - \$29,715,000 (4,200 x \$7,075) in FY24-25;
 - \$65,709,000 (9,000 x \$7,301) in FY25-26; and
 - Exceeds \$65,709,000 in FY26-27 and subsequent years.
- It is estimated that for students previously enrolled in a private school who accept an EFS and re-enroll in a private school, an increase in state expenditures will result as follows:
 - \$42,450,000 (6,000 x \$7,075) in FY24-25;
 - \$219,030,000 (30,000 x \$7,301) in FY25-26; and
 - Exceeds \$219,030,000 in FY26-27 and subsequent years.
- The state will continue to pay for weights and direct funding for students previously enrolled in a public school who accept an EFS and enroll in a private school. The net impact to state expenditures and corresponding impact to local revenue is estimated to be not significant.
- The increase in state expenditures is estimated as follows:
 - \$92,965,500 (\$20,800,500 + \$29,715,000 + \$42,450,000) in FY24-25;
 - \$330,735,300 (\$45,996,300 + \$65,709,000 + \$219,030,000) in FY25-26; and
 - Exceeding \$330,735,300 in FY26-27 and subsequent years.
- For the first year that a student enrolls in an out-of-district LEA, and requires special education services, such LEA may apply to the DOE for reimbursement in the amount of the weighted allocations generated by the student through the TISA.
- To the extent that out-of-district LEAs seek reimbursement for special education weighted allocations, there may be an increase in state expenditures to pay such reimbursement in the first year of a student's transfer to the LEA. However, because the

number of students affected and the number of schools that may seek reimbursement is unknown, the precise increase in state expenditures cannot reasonably be determined.

- EFS recipients in grades three through eleven who enroll in a private school will have to comply with state testing requirements.
- For public school students who enroll in out-of-district LEAs, a shift in testing costs will occur; the net impact to state expenditures is estimated to be not significant as such costs will still be incurred.
- For public-school students who enroll in a private school, a decrease in state expenditures will occur due to the LEA no longer having to administer testing to those students. However, any decrease in state expenditures associated with such testing no longer being administered to those students is assumed to be offset by unknown increases in state expenditures for reimbursements of special education services. The net increase in state expenditures is unknown but assumed to be not significant.
- On May 26, 2023, the DOE entered into a contract with the vendor Student First Technologies to create and administer an online platform for the ESA and IEA programs. The contract is effective until May 25, 2028.
- The contract includes an annual subscription and license fee of \$695,000 for the platform, which is required to accommodate a minimum of 20,000 users. In addition, according to DOE, the current ESA Program team has 22 employees dedicated exclusively to the ESA Program.
- The extent to which the current contract, infrastructure and resources, including utilization of ESA Program staff, can be modified to accommodate the needs of implementing and administering the EFS Program is currently unknown. However, it is assumed that economies of scale are available that will decrease the expenditures that would have been incurred in the absence of the ESA Program.
- The Fiscal Review Committee staff researched expenditures incurred or anticipated by other states in implementation of universal school choice programs. Such information is highly limited due to the lack of states with current programs in place or uncertainty regarding the future costs of implementation.
- However, in 2023, Arizona enacted a law that, similar to this proposed legislation, extended eligibility for the state's ESA program to residents that are eligible to enroll in a public school and do not otherwise qualify for an ESA. The legislation appropriated \$2,200,000 and 26 full-time equivalent positions for administration of the program. The size of the Arizona's universal ESA program is comparable to the estimated size of the program in Tennessee.
- While the cost of implementing and administering the proposed legislation is dependent on multiple unknown variables, it is assumed that a recurring appropriation in the amount of \$2,500,000 would be appropriate and sufficient to fund the full additional cost of the EFS Program.
- The total increase in state expenditures for the EFS Program is estimated as follows:
 - \$95,465,500 (\$92,965,500 + \$2,500,000) in FY24-25;
 - \$333,235,300 (\$330,735,300 + \$2,500,000) in FY25-26; and
 - Exceeding \$333,235,300 in FY26-27 and subsequent years.

- The estimated annual growth in the program is conservative due to a limited amount of data from other states and the inability to establish participation trends in those programs.
- Without a limitation on the number of participants beyond year one of the program, the fiscal liability to the state created by the proposed legislation is significant.
- Should all 105,503 private school students receive a scholarship in FY25-26 (year two of the program), the fiscal impact for FY25-26 would be an additional increase in state expenditures of \$551,247,403 [(105,503 x \$7,301) - (30,000 x \$7,301)].
- If a student enrolling in the EFS Program is in a Title I LEA and attends a private school that participates in federal grants, the LEA's equitable services cost would increase for that student because the equitable services funds that LEAs have to pass along is based on the number of students in private schools.
- An LEA's federal funding will not increase, so they will have to pay out more funding, but not receive any additional funding. However, the amount of additional funding that will be passed along to private schools cannot be reasonably determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/ah