



HOUSE BILL 32: Equity in Opportunity Act.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2021-2022 General Assembly

Committee:	House Appropriations, Education.	If Date:	April 1, 2021
	favorable, re-refer to Rules, Calendar, and Operations of the House		
Introduced by:	Reps. Arp, Blackwell, Lambeth, Saine	Prepared by:	Leslie Karkanawi*
Analysis of:	PCS to Second Edition		Staff Attorney
	H32-CSMKa-2		

OVERVIEW: *HB 32 would make the following changes to kindergarten-12 (K-12) scholarship programs:*

- *For Opportunity Scholarships, makes modifications to eligibility requirements, establish the scholarship amount in relation to the State per pupil allocation, authorize the use of a nonprofit for family outreach, and adjust the administrative funds allocated to the State Education Assistance Authority (SEAA).*
- *Merge the Special Education Scholarships for Students with Disabilities and Personal Education Savings Accounts into the Personal Education Student Accounts for Children with Disabilities, establish the scholarship amount in relation to the State per pupil allocation, and create a new Reserve for the program.*
- *Authorize counties to appropriate supplemental funds for students in that county receiving K-12 scholarships.*

The PCS would make the following changes:

- *Make technical corrections to cross references.*
- *Add a provision to clarify that the statute in the State Budget Act requiring a house of the General Assembly to first pass its version of the Current Operations Appropriations Act on third reading and order it sent to the other chamber before placing any other appropriations bill on the calendar for second reading does not apply to the bill.*

CURRENT LAW: G.S. 115C-364 establishes the requirements for admission of students to public school, beginning at age 5. A student may be admitted before the age of 5 if the student meets certain requirements, including a determination by the school principal that the child is gifted and has the maturity to justify admission to the school, based on standards established by the State Board of Education.

G.S. 115C-366 establishes the domicile requirements for assignment of students to public school.

There are 3 scholarship programs for K-12 students.

1. **Opportunity Scholarship.** – This scholarship provides \$4200 annually to a qualifying student who meets certain income requirements to be used for tuition and fees at nonpublic schools that receive those scholarships. To qualify, a student must meet all of the following requirements:
 - a. Reside in a household with an income level not in excess of 150% of the amount required for the student to qualify for the federal free or reduced-price lunch program.
 - b. Reside in the State.
 - c. Has not been enrolled in a postsecondary institution as a full-time student or received a high school diploma.
 - d. Meet at least one of the following requirements:

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- i. Was enrolled in a North Carolina public school (public school) or a Department of Defense (DoD) school during the previous semester.
 - ii. Was approved for a scholarship for the previous semester.
 - iii. Is entering either kindergarten or first grade.
 - iv. Is a child whose parent or legal guardian is on full-time duty active status in the military.
 - v. Is a child in foster care.
 - vi. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship application.
- 2. **Special Education Scholarship for Children with Disabilities.** (CWD Scholarship) – This scholarship provides \$8000 annually to a qualifying student with a disability to be used for tuition and reimbursement of special education, related services, and educational technology. The scholarship may be used in any nonpublic school, including a home school, to provide for special education and related expenses. To qualify, a student must meet all of the following requirements:
 - a. Be a child with a disability for special education purposes who has not been placed in a private setting by a public agency at public expense.
 - b. Be eligible to attend a public school under G.S. 115C-366.
 - c. Has not been enrolled in a postsecondary institution as a full time student or received a high school diploma.
 - d. Meets at least one of the following requirements:
 - i. Was enrolled in a public or DoD school during the previous semester.
 - ii. Received special education or related services through the public schools as a preschool child with a disability during the previous semester.
 - iii. Was approved for a scholarship for the previous semester.
 - iv. Is identified as a child with a disability prior to the end of the year of initial enrollment in kindergarten or first grade.
 - v. Is a child whose parent or legal guardian is on full-time active duty status in the military.
 - vi. Is a child who has been domiciled in the State for at least six months.
 - vii. Is a child in foster care.
 - viii. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship application.
 - ix. Is a child enrolled in a nonpublic school when applying who was enrolled in a public or DoD school in the prior school year.

Priority in award of these scholarships is given first to prior year recipients, then to other qualifying students, other than those qualifying on the basis of 6 months' domicile, and finally to those students who qualify on the basis of 6 months' domicile.

- 3. **Personal Education Savings Account (PESA).** - This scholarship provides \$9000 annually to a qualifying student with a disability to be used by parents for qualifying education expenses through funds provided to the parent in an electronic account or debit card. To qualify, a student must meet all of the following requirements:
 - a. Be a child with a disability for special education purposes who has not been placed in a private setting by a public agency at public expense.
 - b. Be eligible to attend a NC public school under G.S. 115C-366.
 - c. Has not been enrolled in a postsecondary institution as a full time student or received a high school diploma.

Students with certain disabilities may qualify to receive both a PESA and CWD Scholarship.

BILL ANALYSIS: HB 32 would make the following changes to the scholarship programs:

Part I: Opportunity Scholarships

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- For the 2021-2022 school year only:
 - Create a one-time provision for applications for the 2021-2022 school year that allows students who otherwise meet the income requirements to qualify if the student was enrolled in a public or DoD school in the fall of 2019, and was then enrolled in any nonpublic school in the spring of 2020 and all of the 2020-2021 school year. Students qualifying under this provision would receive first priority in the same manner as previously awarded scholarships.
- Beginning with the spring semester of the 2021-2022 school year:
 - Allow a student who is at least four years old to be eligible for the scholarship when otherwise meeting the income requirements if the student is found by the principal, or equivalent, of the nonpublic school to meet the same requirements for admission as for a gifted and mature four-year-old admitted to a local school administrative unit.
 - Allow a student with a parent who has received an honorable discharge as an active duty member of the Armed Services within the 18 months prior to application to be eligible for the scholarship when otherwise meeting the income requirements.
- Beginning with the 2022-2023 school year:
 - Allow a student who otherwise meets the income requirements to qualify if the student was enrolled in a NC public school or DoD school in the fall semester, and was then enrolled in any nonpublic school in the spring semester of the year prior to the year for which the scholarship is requested.
 - Children in foster care would be determined to automatically meet the income requirements and the household income of the foster parent would not be considered.
 - Scholarship grant awards would be in an amount of up to seventy percent (70%) of the average State per pupil allocation in the prior fiscal year, rather than a specific dollar amount.
- Beginning with the 2023-2024 school year:
 - Scholarship grant awards would be in an amount of up to eighty percent (80%) of the average State per pupil allocation in the prior fiscal year, rather than a specific dollar amount.
- The State Education Assistance Authority (SEAA) would be authorized to contract with a nonprofit representing parents and families for outreach and scholarship education, program promotion, and application assistance for parents and students with up to \$500,000 from funds remaining at the end of the fiscal year. The nonprofit must meet certain requirements, including employing sufficient staff with a demonstrated capacity of direct family outreach, program promotion, and procedural knowledge to assist parents through the scholarship application process and providing scholarship education and public awareness. SEAA could share contact information of parents of student applicants who did not opt-out of information sharing with the selected nonprofit, who must maintain confidentiality of parents and students and not share information to third parties without written parental consent.
- Rather than the lesser of 4% or \$1.5 million dollars, the SEAA could retain up to 2.5% of the appropriated funds for the program for administrative costs.

Part II: Personal Education Student Accounts for Children with Disabilities

- Beginning with awards for the 2022-2023 school year, the Special Education Scholarships for Children with Disabilities and Personal Education Savings Accounts would be merged into a new program – the Personal Education Student Accounts for Children with Disabilities (PESA-CWD)
 - A student would qualify for a PESA-CWD if the student has been identified as a student with a disability who is eligible to attend a NC public school (including qualifying 4-year-olds) and has not (i) yet received a high school diploma, (ii) enrolled full-time in postsecondary education, or (iii) been placed in a nonpublic school or facility by a public agency at public expense.
 - Applications for PESA-CWD would be available February 1, and awards would begin March 1. First priority would be given to prior PESA-CWD recipients.
 - PESA-CWDs would be awarded in the following amounts:

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- Students with certain disabilities (autism, hearing impairments, moderate or severe intellectual or developmental disabilities, multiple, permanent orthopedic impairments, and visual impairments) would be eligible for scholarship funds up to \$17,000. Up to \$4,500 could be carried forward annually, with a maximum of \$10,000 in carryforward in the account.
- All other eligible students would be eligible for scholarship funds of an amount equal to the sum of the State allocation per funded child with disabilities, plus 85% of the average State per pupil allocation, except for the allocation for children with disabilities from the prior fiscal year. Part-time students would be eligible for half that amount. No carryforwards would be allowed.
- PESA-CWDs would be deposited into an account in 2 installments, one for each semester, and could be used for tuition and qualifying education expenses. Parents must complete semester expense reports, including verification that the child received education at least 70 days of the semester.
- SEAA could directly disburse tuition from funds to nonpublic schools that agree to meet the requirements for participation in the Opportunity Scholarship program. Tuition reimbursement could also be provided to parents for students attending a nonpublic school that does not meet the Opportunity Scholarship requirements or a public school other than the public school to which the student would have been assigned.
- A new Personal Education Student Account Fund Reserve would be created for allocating funds to SEAA for the award of PESA-CWDs. \$16,043,166 would be appropriated in nonrecurring funds for the 2021-2022 fiscal year to the Reserve. At least one million dollars (\$1,000,000) would be appropriated annually to the Reserve for 10 years, beginning in 2022-2023. SEAA would be allowed to retain up to 4% of the funds for administrative costs.
- For awards for the 2022-2023 school year, prior recipients of the scholarship grant programs merged into the PESA-CWDs in 2021-2022 would receive priority in awards for applications made by March 1, 2022.

Part III: County Supplemental K-12 Scholarships

- Beginning with the 2022-2023 fiscal year, counties would be authorized to appropriate local funds as supplements for K-12 scholarships as follows:
 - The supplement could be up to \$1000 per child. The child must reside in the county, attend a nonpublic school in the county, and receive either an Opportunity Scholarship or the PESA-CWD.
 - SEAA would provide de-identified data on scholarship recipients to counties to determine the amount of funds to appropriate for that fiscal year. The county would remit the appropriated funds to SEAA for expenditure. SEAA would return any unused funds at the end of each fiscal year, and would adopt rules for disbursement.
 - SEAA would receive \$300,000 to establish the program in 2021-2022.

Part IV: Order of Appropriation Bills Statute Does Not Apply

- Makes G.S. 143C-5-2 not apply to the act.

EFFECTIVE DATE: Except as otherwise provided, HB 32 would be effective when it becomes law.

**Kara McCraw, Staff Attorney, substantially contributed to this summary.*