

1 SECTION 1. This act may **be** cited and referred to as the ‘Put  
2 Parents in Charge Act.’

3  
4 SECTION 2. Title 59 of the 1976 Code is amended by adding:

5  
6 “CHAPTER 8  
7 Education Scholarship Accounts

8  
9 Section 59-8-110. For purposes of this chapter:

10 (1)

11 (2) **‘Department’ means the South Carolina Department  
12 of Education.**

13 (3) ‘Education Scholarship Account’, ‘ESA’, or ‘account’  
14 means the individual account that is administered by the department  
15 to which funds are allocated to the parent of an ESA student to pay  
16 for qualifying expenses.

17 (4) **‘Eligible student’ means a student who satisfies (A)  
18 and (B) and (C) or (D) below:**

19 (A)(1) **is a resident of this State.**

20 (B)(1) **attended a public school in this state the prior  
21 school year; or**

22 (2) **had not yet attained the age of five on or before  
23 September first of the prior school year but has attained the age  
24 of five on or before September first of the current school year.**

25 (C)(1)(a) **has a statement of Medicaid eligibility; or**

26 (b) **attends a public school in this State that has  
27 earned an overall rating of “unsatisfactory” on the most recent  
28 South Carolina School Report Card; or**

29 (c) **attends a public school in this State that has  
30 earned an overall rating of “below average,” or a combination  
31 of “below average” and “unsatisfactory,” on the South Carolina  
32 School Report Card for 3 of the past 5 years; or**

33 (d) **has an IEP.**

34 (D) (1) **received an ESA scholarship issued pursuant to  
35 this chapter for the prior school year; or**

36 (2) **has a sibling living in the same household who  
37 receives an ESA scholarship.**

38 (5) ‘ESA student’ means an eligible student who is  
39 participating in the Education Scholarship Account Act Program.

40 (6) ‘IDEA’ means the Individuals with Disabilities Education  
41 Act found in 20 U.S.C. Section 1400, et seq.

**Commented [SC1]:** Staff technical correction.

**Commented [SC2]:** 2/15/22 14:30  
**WORKING DOCUMENT FOR FOR 2/16/22 S. 935  
SUBCOMMITTEE:**

- Proposed changes to the original bill are indicated in **bold**.  
- Incorporates changes pursuant to 2/9/22 subcomm  
discussion on amendments #1 – #9, using Amendment #1 as  
the starting point (Massey proposal), and staff technical  
corrections.

- **Pending:** Hutto **Amdmt #4** on funding. (*Carried over  
2/9/22*)

**Commented [ASM3]:** I changed “committee” to  
“department” throughout

1 (7) 'Parent' means a resident of this State who is the natural  
2 or adoptive parent, legal guardian, custodian, or other person with  
3 legal authority to act on behalf of an eligible student.

4 (8) 'Education service provider' means a person or  
5 organization approved by the Department that receives payments  
6 from education savings accounts to provide educational goods and  
7 services to ESA students.

8 (9) 'Program' means the ESA program created by this  
9 chapter.

10 (10) 'Resident school district' means the public school district  
11 in which the student is domiciled.

12 (11) 'Scholarship' means education funding allocated from an  
13 account established pursuant to this chapter.

14 (12) 'Substantial misuse' means willfully and knowingly  
15 receiving or spending any portion of a scholarship for any purpose  
16 other than a qualifying expense.

17 (13) 'Qualifying expense' means:

18 (a) tuition and fees of an education service provider.

19 (b) textbooks, curriculum, or other instructional materials,  
20 including, but not limited to, any supplemental materials or  
21 associated online instruction required by either a curriculum or an  
22 education service provider.

23 (c) tutoring services approved by the Department.

24 (d) computer hardware or other technological devices that  
25 are used primarily for an ESA student's educational needs and  
26 approved by the department or a licensed physician.

27 (e) ~~payment to an educational consultant who is an~~  
28 ~~advisor in education curriculum, finance, scholarships or~~  
29 ~~achievement, or who has experience necessary to provide~~  
30 ~~guidance to parents of eligible ESA students, and is approved by~~  
31 ~~the Department.~~

32 (f) tuition and fees for an approved nonpublic online  
33 education service provider or course;

34 (g) fees for approved:

35 (1) national norm-referenced examinations, advanced  
36 placement examinations, or similar assessments.

37 (2) industry certification exams; or

38 (3) examinations related to college or university  
39 admission.

40 (h) educational services for pupils with disabilities from a  
41 licensed or accredited practitioner or provider including, but not  
42 limited to, occupational, behavioral, physical, and speech-language  
43 therapies.

1 (i) ~~tuition and fees at an eligible postsecondary~~  
2 ~~institution that is an accredited community college, technical~~  
3 ~~college, university, or independent postsecondary institution in~~  
4 ~~this State;~~

5 ~~(j) textbooks required for instruction at an eligible~~  
6 ~~postsecondary institution referenced in subitem (i);~~

7 (k) approved contracted services from a public school  
8 district, including individual classes, after school tutoring services,  
9 transportation, or fees or costs associated with participation in  
10 extracurricular activities;

11 (l) contracted teaching services and education classes  
12 approved by the Department;

13 (m) fees for transportation paid to a fee-for-service  
14 transportation provider for the ESA student to travel to and from an  
15 eligible provider as defined in this section, but not to exceed seven  
16 hundred and fifty dollars for each school year;

17 (n) fees for ESA account management by private financial  
18 management firms approved by the department; or

19 (o) any other educational expense approved by the  
20 department.

21  
22 Section 59-8-115. (A) The department shall create a standard  
23 application process for parents of eligible students to establish the  
24 eligibility of their student for the Education Scholarship Account  
25 program.

26 (B) The department shall process applications on a rolling basis  
27 in the order in which they are received, after a preference has been  
28 extended to all prior-year participants and their respective siblings.  
29 The department shall enroll and issue award letters within ~~forty five~~  
30 **thirty** days after receipt of applications and all required  
31 documentation. **The application window for ESA applications**  
32 **shall open from May first to June fifteenth of each calendar**  
33 **year.**

Commented [SC5]: Hutto Amdmt #5, as amended 2/9/22.

34 (C) Before awarding a scholarship, the department shall have  
35 obtained evidence of the student's eligibility through the following  
36 application documentation:

37 (1) card issued in the student's name from the Department of  
38 Health and Human Services for Medicaid eligibility; or

39 ~~(2) other documentation that the department may require~~  
40 ~~to demonstrate that the family income is two hundred percent~~  
41 ~~or less of the poverty level.~~

42 (D) The department shall approve an application for an ESA if:

1 (1) the parent submits an annual application for an ESA in  
2 accordance with the application and procedures established by the  
3 department;

4 (2) the student on whose behalf the parent is applying is an  
5 eligible student;

6 (3) funds are available for the ESA; and

7 (4) the parent signs an annual agreement with the department:

8 (a) to provide, at a minimum, a program of academic  
9 instruction for the eligible student in at least the subjects of  
10 English/language arts to include writing, mathematics, social  
11 studies, and science;

12 (b) to ensure the ESA student takes assessments as  
13 referenced in Section 59-8-150 or provides assessments in a similar  
14 manner through other means if the ESA student does not receive  
15 full-time instruction from an education service provider;

16 (c) to use program funds for qualifying expenses only for  
17 an approved provider to educate the eligible student, subject to  
18 penalty;

19 ~~(d) not to enroll their eligible student in a public school  
20 as a full-time student;~~

21 (e) not to participate in a home instruction program under  
22 Sections 59-65-40, 59-65-45, or 59-65-47;

23 (f) ~~to release the resident school  
24 district from an obligation to educate the eligible student  
25 while enrolled in the program, which shall have the same  
26 effect as to the resident school district as a parental  
27 placement under Section 1414 of IDEA;~~ that for every  
28 ESA student with a disability, includes the student's  
29 special education and/or related services plan with  
30 documentation of the consultation process between the  
31 resident school district, the school district where the  
32 education service provider is located if different, and the  
33 education services provider and the manner by which  
34 those special education services, related services, or  
35 accommodations will be provided to the ESA student  
36 with a disability by the education service provider as  
37 required by the IDEA and ADA

38  
39 (g) to comply with the conditions and requirements of this  
40 program as established by the department; and

**Commented [ASM6]:** Not sure about similar tests

**Commented [ASM7]:** I want to allow for use at other public schools

**Commented [SC8]:** Hutto Amendment 9-A, pursuant to 2/9/22 discussion:  
- Retains Amendment #9 strike-and-add text for (f)..  
- Keeps vs. deletes (h), and adds new language at the end, (based on NC statute provided by SDE), addressing assurance of parental notifications.

1 (h) to confirm that, if the  
2 parent's child is a student with disabilities, the parent  
3 has received notice from the department that  
4 participation in the ESA program is a parental placement  
5 of the ESA student under Section 1412 of IDEA, along  
6 with an explanation of the rights that parentally placed  
7 students possess under IDEA and any applicable state  
8 laws and regulations. **The department shall make**  
9 **readily available on its website information notifying**  
10 **parents that federal regulations adopted under**  
11 **IDEA provide that no parentally placed private**  
12 **school child with a disability has an individual right**  
13 **to receive some or all of the special education and**  
14 **related services that the child would receive if**  
15 **enrolled in a public school.**  
16

17 (E) A parent will be allowed to make payments for the cost of  
18 educational goods and services not covered by the funds in their  
19 student's ESA; however, personal deposits into an ESA are  
20 prohibited.

21 (F) Funds received pursuant to this section do not constitute  
22 taxable income to the parent of the ESA student or to the ESA  
23 student.

24 ~~(G) Nothing in this chapter may be construed to require that~~  
25 ~~an ESA student must be enrolled, full or part-time, in a school.~~

26 (H) A parent's signed agreement under subsection (D)(4)  
27 satisfies the state's compulsory attendance law pursuant to Section  
28 59-65-10.

29 (I) The department shall promulgate regulations for the  
30 administration of the program as may be applicable.

31 (J) The department may contract with qualified organizations to  
32 administer the program application process or specific functions,  
33 maintenance, and monitoring of the program application process as  
34 required above.

35  
36 Section 59-8-120. (A) There is established, at the department,  
37 the 'South Carolina Education Scholarship Account Fund' that is  
38 separate and distinct from the general fund, consisting of monies  
39 appropriated to the department to provide scholarships to ESA  
40 students for qualifying expenses. The fund must receive and hold all

**Commented [ASM9]:** Does Dept of Ed maintain accounts like this, or do they all go through Treasurer's office?

1 monies allocated for it as well as all earnings until disbursed as  
2 provided in this section.

3 (B) The department shall administer the fund and is responsible  
4 for keeping records, managing accounts, and disbursing  
5 scholarships awarded pursuant to this section.

6 (C) Upon approval of an eligible student's application by the  
7 department, the State Treasurer shall transfer from the State  
8 appropriated monies allocated for the child's education in the prior  
9 school district of the child's domicile, or if the child is currently  
10 eligible to attend kindergarten, the state monies that would  
11 otherwise be allocated for the child's education in the expected  
12 school district of the child's domicile, to the department. The  
13 department shall deposit these monies into the South Carolina  
14 Education Scholarship Account Fund.

15 (D) The department shall create an individual online ESA  
16 account for each ESA student and transfer an amount that is  
17 equivalent to the State average of State funding per pupil in public  
18 schools for the current fiscal year as determined by the Revenue and  
19 Fiscal Affairs Office. The amount deposited shall not include  
20 federal or local funds.

21 (1) The parent must be able to access the online account for  
22 the ESA student using a secure portal.

23 (2) The ESA student account must be created within thirty  
24 days of the application approval.

25 (E) The department shall make payments to an ESA student's  
26 account on a quarterly basis with the first payment being distributed  
27 by July thirty-first of each year.

28 (F) For the purpose of funding calculations, each eligible student  
29 who participates in the program must be counted in the enrollment  
30 figures for the resident school district in which the student is zoned  
31 to attend.

32 (G) By September first of each school year and again on January  
33 fifteenth and March fifteenth of the school year, the ~~State~~  
34 ~~Department of Education~~ shall compare the list of ESA students  
35 with the public school enrollment lists ~~and shall notify the~~  
36 ~~department of any duplications~~ to avoid duplicate payments.

37 ~~(H) The department may receive contributions from private~~  
38 ~~sources to help fund administration of the program.~~

39 (I) Education service providers may not refund, rebate, or share  
40 an ESA student's scholarship funds with a parent or the ESA  
41 student. The funds in an account may only be used for qualifying  
42 expenses as defined in this chapter and provided by the department.

**Commented [ASM10]:** This is the language that takes money from the public school.

**Commented [SC11]:** Pending further discussion re: Hutto Amdmt #4, carried over 2/9/22.

**Commented [ASM12]:** We have to put a deadline on application submissions and approvals

1 (J) The department may contract with qualified organizations to  
2 administer the program.

3  
4 Section 59-8-125. (A) The department shall develop an online  
5 electronic system for payment for services by participating parents.  
6 The department shall not adopt a system that requires parents to be  
7 reimbursed for out-of-pocket expenses.

8 (B) The General Assembly shall appropriate funds to the  
9 department for initial costs to create the program. Thereafter, the  
10 department shall deduct an amount from the grants of all accounts  
11 to cover the costs of overseeing the accounts and administering the  
12 program up to a limit of ~~four~~ **three** percent. **The department shall**  
13 **notify the Chairman of the Senate Finance Committee and the**  
14 **Chairman of the House of Representatives Ways and Means**  
15 **Committee of the amount deducted for administrative costs and**  
16 **a breakdown of the costs incurred to administer the program**  
17 **for the previous school year by December 31 of each year.**

18 (C) The department may contract with qualified vendors to  
19 manage accounts and shall establish reasonable fees for private  
20 financial management firms participating in the program based upon  
21 market rates.

22 (D) The department may contract with qualified organizations to  
23 administer the program or specific functions of the program.

24 (E) Payments made by the department must remain in force until  
25 a parent or ESA student is proven to have participated in a prohibited  
26 activity specified in this chapter, an ESA student returns to his  
27 resident ~~or other~~ public school district or his public charter school,  
28 or an ESA student graduates from high school or attains twenty-two  
29 years of age, whichever occurs first. An ESA student who enrolls in  
30 a public school or public charter school program is considered to  
31 have returned to a public school for the purpose of determining the  
32 end of the term.

33 (F) An account is active and usable until funds are revoked by  
34 the department for substantial misuse or the ESA student leaves the  
35 program for any reason, at which time any remaining funds must  
36 revert to the program fund.

37 (G) Unused funds must be rolled over to the following year for  
38 an ESA student who continues to meet eligibility requirements to  
39 participate in the program.

40 (H) An agreement terminates automatically if the ESA student is  
41 no longer domiciled in this State, and money remaining in the  
42 account reverts to the program fund.

43 (I) Only one account may be established for an eligible student.

1  
2 Section 59-8-130. (A) If an ESA student's program of  
3 academic instruction is terminated for any reason before the end of  
4 the semester or school year and the ESA student does not resume  
5 instruction within thirty days, then the parent shall notify the  
6 department and remaining funds in the ESA student's account must  
7 be credited to the program fund.

8 (B) Any funds not expended in an ESA student's scholarship  
9 account at the end of the school year will be carried forward into the  
10 next school year and expended for the same purposes.

11  
12 Section 59-8-135. (A) Beginning with the 2022-2023 School  
13 Year, the annual number of ESA students is limited by the following  
14 capacity:

15 (1) In School Year 2022-2023, the program is limited to five  
16 thousand ESA students, ~~kindergarten aged through third grade.~~

17 (2) In School Year 2023-2024, the program is limited to ten  
18 thousand ESA students, ~~kindergarten aged through fifth grade.~~

19 (3) In School Year 2024-2025 and beyond, the program is  
20 limited to fifteen thousand ESA students, ~~kindergarten aged~~  
21 ~~through eighth grade.~~

22 ~~(4) In School Year 2025-2026, the program is limited to~~  
23 ~~twenty thousand ESA students, kindergarten aged through~~  
24 ~~twelfth grade.~~

25 ~~—(B) In all subsequent years, if the program remains in effect~~  
26 ~~and contingent upon the amount of funds in the program, there~~  
27 ~~may be no limit on the number of ESA students.~~

28 (C) In 2026, and every five years thereafter, the Department  
29 shall conduct an eligibility and use review of the program and shall  
30 make recommendations to the General Assembly to improve the  
31 program.

32  
33 Section 59-8-140. (A)(1) The Department shall develop an  
34 application for education service providers desiring to participate in  
35 the program to submit according to the process established by the  
36 Department.

37 (2) The Department shall require an independent school that  
38 applies to be an education service provider to be located in the State,  
39 to have an educational curriculum that includes courses set forth in  
40 the state's diploma requirements and to meet the compulsory  
41 attendance requirements of Section 59-65-10 ~~be accredited or~~  
42 ~~certified by, and a member in good standing with, the South~~  
43 ~~Carolina Association of Christian Schools, the Association of~~



1 ~~Christian Schools International, the South Carolina~~  
2 ~~Independent Schools Association, the Palmetto Association of~~  
3 ~~Independent Schools, Cognia, the National Council for Private~~  
4 ~~School Accreditation, or their respective successors.~~

5 (3) An education service provider that participated in the  
6 program in the previous school year and which desires to participate  
7 in the program in the current year shall reapply to the Department.  
8 The education service provider reapplying shall certify to the  
9 Department that it continues to meet all program requirements. An  
10 education service provider required to administer academic testing  
11 shall provide to the Department test score data from the previous  
12 school year. If individual student test score data is not submitted,  
13 then the Department shall remove the education service provider  
14 from the program.

15 (4) By March first of each year, the Department will certify  
16 **the list of approved** education service providers for participation in  
17 the program that meet all program requirements. The Department  
18 may waive the deadline requirement upon good cause shown by the  
19 education service provider.

**Commented [SC13]:** Staff technical correction to clarify.

20 (5) An education service provider that is denied certification  
21 pursuant to this section may seek review by filing a request for a  
22 contested case hearing with the Administrative Law Court in  
23 accordance with the court's rules of procedure.

24 (6) By March fifteenth of each year, the Department shall  
25 publish on its website a comprehensive list of certified education  
26 service providers. The list must include the name, address,  
27 telephone number, and website address for each education service  
28 provider.

29 (B) The Department shall establish the process for new  
30 education service providers to participate in the program which may  
31 be added on a rolling basis, subject to the Department's approval,  
32 and will be published on its website.

33 (C) The Department may bar an education service provider from  
34 the program if the Department establishes that the education service  
35 provider has:

36 (1) ~~routinely~~ failed to comply with the accountability  
37 standards established in this ~~subsection~~ **section**; or

**Commented [SC14]:** Staff technical correction.

38 (2) failed to provide the ESA student with the educational  
39 services funded by the account.

40 (D) The Department shall create procedures to ensure that a fair  
41 process exists to determine whether an education service provider  
42 may be barred from receiving payments from accounts.

1 (1) If the Department decides to bar an education service  
2 provider from the program, it shall notify ~~the department, which,~~  
3 ~~in turn, shall notify~~ affected students and their parents of this  
4 decision as quickly as possible.

5 (2) Education service providers may appeal the Department's  
6 decision to bar them from receiving payments from accounts  
7 pursuant to the state's Administrative Procedures Act.

8 (E) The ~~South Carolina Department of Education State~~  
9 ~~Board of Education~~ shall promulgate regulations to allow ESA  
10 students to return to their resident school districts at any time,  
11 providing the least disruptive process, and as may be necessary for  
12 applicable administration of the program.

Commented [SC15]: Staff technical correction.

13  
14 Section 59-8-145. (A) The department shall include on its  
15 website a link to the list of certified education service providers that  
16 the Department is required to publish on its website under Section  
17 59-8-140(A)(6).

18 (B) The department shall adopt procedures to inform students  
19 that are eligible for the program and their parents annually of their  
20 ability to participate in the program.

21 (C) The department shall adopt procedures to annually inform  
22 ESA students and their parents of which education service providers  
23 will be participating in the program.

24 (D) The department shall provide parents of an ESA student with  
25 a written explanation of the allowable uses of an account and the  
26 responsibilities of parents and the duties of the department.

27 (E) The department may make a parent ineligible for the  
28 program for substantial misuse of the funds in the account.

29 (F) The department may conduct or contract for the auditing of  
30 accounts, and shall, at a minimum, conduct random audits of  
31 accounts on an annual basis.

32 (G) The department may refer cases of ~~substantial~~ misuse of  
33 funds to law enforcement agencies for investigation if credible  
34 evidence of the fraudulent use of an account is obtained.

35 (H) The department may contract with one or more qualified  
36 organizations to administer some or all portions of this program.

37 (I) The department shall maintain a record of the number of  
38 applications received annually for the program, the number of  
39 students accepted into the program each year, the number of  
40 students not accepted into the program each year with a  
41 corresponding explanation as to why the student was not accepted  
42 into the program. The department shall compile this information and

1 provide a report the General Assembly by December thirty-first of  
2 each year.

3  
4 Section 59-8-150. (A) To ensure equitable treatment and  
5 personal safety of all ESA students, all education service providers  
6 shall:

7 (1) comply with all applicable health and safety laws or  
8 codes;

9 (2) hold a valid occupancy permit if required by their  
10 municipality and if applicable;

11 (3) not discriminate on the basis of race, color, **religion**  
12 **national** origin; and

13 (4) conduct criminal background checks on employees and  
14 exclude from employment anyone who:

15 (a) is not permitted by state law to work in a school;

16 (b) reasonably might pose a threat to the safety of students;

17 or

18 (c) is listed on federal, state, or other central child abuse  
19 registries.

20 (B) To ensure that funds are spent appropriately, all education  
21 service providers shall:

22 (1) provide parents with a receipt for all qualifying expenses;  
23 and

24 (2) demonstrate their financial viability by showing they can  
25 repay funds received from parents that might be provided from  
26 accounts, if they are to receive fifty thousand dollars or more during  
27 the school year, by filing a surety bond with the Department prior to  
28 the start of the school year.

29 (C) In order to allow parents and the public to measure the  
30 achievements of the program, academic progress must be  
31 documented annually for each ESA student. ESA students with an  
32 Individualized Education Plan (IEP) that cannot be accommodated  
33 with standardized testing are excluded from the requirements of  
34 item (1). Education service providers that provide academic  
35 instruction, however, must monitor the progress of students with  
36 significant cognitive disabilities through alternative assessments  
37 including portfolios.

38 (1) Education service providers that provide full-time  
39 academic instruction shall:

40 (a) ensure that each ESA student in grades three through  
41 ~~eight twelve takes one of an approved list of nationally~~  
42 ~~norm-referenced assessments identified by the Department at~~  
43 ~~the end of each school year~~ **completes the same state assessments**

Commented [SC16]: Hutto Amdmt #5 as amended 2/9/22

1 **administered to public school students to satisfy the**  
2 **accountability provisions of the Every Student Succeeds Act in**  
3 **math, reading/language arts, and science. The department shall**  
4 **ensure that the education service provider has access to and is**  
5 **trained in administering the state assessments;** and

6 (b) measure academic performance and learning gains of  
7 its ESA by:

8 (i) requiring that each ESA student takes one of an  
9 approved list of nationally norm-referenced tests identified by the  
10 Department that measure learning gains in math and language arts  
11 and provide for value-added assessment; and

12 (ii) collecting high school graduation information of  
13 ESA students for reporting to the Department as required in this  
14 section.

15 (2) For the purpose of evaluating program effectiveness,  
16 education service providers that provide full-time academic  
17 instruction shall ensure that results in item (1) are:

18 (a) provided to the parent of an ESA student and must be  
19 provided to the Department on an annual basis, beginning with the  
20 first year of program implementation; and

21 (b) disaggregated by grade level, gender, family income  
22 level, and race **and English learner status.**

23 (3) The department or the appropriate organization chosen by  
24 the department, if any, will be informed of the ESA student's  
25 graduation from high school.

26 (D) The Department shall:

27 (1) comply with all student privacy laws;

28 (2) collect all test results;

29 (3) annually provide the test results, associated learning gains,  
30 and graduation rates to the public by means of a state website with  
31 aggregated data by the school, grade level, gender, family income  
32 level, number of years of participation in the program, and race, **and**  
33 **a report card for each participating school;**

34 (4) collaborate with the department to develop and administer  
35 an annual parental satisfaction survey to all parents of ESA students  
36 to express their satisfaction with the program and their opinions on  
37 issues relevant to the ESA program that the State finds would elicit  
38 information about the effectiveness of the program, including the  
39 number of years the child has participated in it. Results of this  
40 survey must be provided to the General Assembly by December  
41 thirty-first of each year.

**Commented [SC17]:** Massey Amdmt #1 & Hutto Amdmt #7, per 2/9/22.

**Commented [ASM18]:** Let's have them provide a report card for each of these schools, too (Please see staff suggested text).

1 (E) An education service provider that is not a public school is  
2 autonomous and not an agent of the State or federal government,  
3 therefore:

4 (1) the department or any other state agency may not regulate  
5 the educational program of a certified education provider that  
6 accepts funds from an account;

7 (2) the creation of the program does not expand the regulatory  
8 authority of the State, its officers, or a school district to impose  
9 regulation of education service providers beyond those necessary to  
10 enforce the requirements of the program;

11 (3) the freedom of education service providers to provide for  
12 the educational needs of ESA students without governmental  
13 control must not be abridged;

14 (4) an education service provider that accepts payment from  
15 a parent using funds from an ESA pursuant to this chapter is not an  
16 agent of the State or federal government; and

17 (5) education service providers shall not be required to alter  
18 their creeds, practices, admissions policy, or curriculum in order to  
19 accept payments from a parent using funds from an ESA.

20  
21 Section 59-8-155. The ESA student's resident school district  
22 shall provide a parent and the education service providers that  
23 provide academic services to an ESA student with a complete copy  
24 of the student's school records, while complying with the Family  
25 Educational Rights and Privacy Act of 1974, 20 U.S.C. Section  
26 1232(g).

27  
28 Section 59-8-160. (A) There is created the 'ESA Review Panel'  
29 that shall serve as an advisory panel to the department.

30 (B) The review panel shall consist of ten members, pursuant to  
31 the following:

32 (1) the Governor or his designee, who shall serve as the chair  
33 of the panel; and

34 (2) three members to be appointed by the Governor upon the  
35 recommendation of the:

36 (a) South Carolina Association of Christian Schools;

37 (b) South Carolina Independent Schools Association; and

38 (c) Palmetto Association of Independent Schools;

39 (3) one member appointed by the Speaker of the House of  
40 Representatives;

41 (4) one member appointed by the President of the Senate;

42 (5) one member appointed by the Chairman of the House  
43 Education and Public Works Department;

1 (6) one member appointed by the Chairman of the Senate  
2 Education Department; and

3 (7) two parents of ESA students to be appointed by the  
4 Governor.

5 (C) The review panel may advise the department on whether  
6 certain expenses meet the requirements to be considered a qualified  
7 expense under this chapter when requested by the department. The  
8 review panel periodically may make recommendations to the  
9 General Assembly, the department, and the Department about  
10 improving the program.

11 (D) Members shall serve at the pleasure of their appointing  
12 authority. In making appointments to the board, the appointing  
13 authorities, as appropriate, shall consider legal, financial,  
14 accounting, and marketing experience and race, gender, and other  
15 demographic factors to ensure nondiscrimination, inclusion, and  
16 representation of all segments of the State to the greatest extent  
17 possible.

18 (E) Members may not receive mileage or per diem.”

19

20 SECTION 3. If any section, subsection, paragraph, subparagraph,  
21 sentence, clause, phrase, or word of this act is for any reason held to  
22 be unconstitutional or invalid, then such holding shall not affect the  
23 constitutionality or validity of the remaining portions of this act, the  
24 General Assembly hereby declaring that it would have passed this  
25 act, and each and every section, subsection, paragraph,  
26 subparagraph, sentence, clause, phrase, and word thereof,  
27 irrespective of the fact that any one or more other sections,  
28 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,  
29 or words hereof may be declared to be unconstitutional, invalid, or  
30 otherwise ineffective.

31

32 SECTION 4. This act takes effect thirty days after approval by the  
33 Governor, provided that upon approval of this act by the Governor,  
34 ~~the Education Oversight Department and~~ the Department of  
35 ~~Administration Education~~ shall begin undertaking and executing  
36 responsibilities incident to the implementation of this act so that the  
37 provisions of this act may be fully implemented thirty days after  
38 approval by the Governor.

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Commented [SC19]: Staff technical correction to conform