

REPORT OF THE REVENUE POLICY SUBCOMMITTEE

HOUSE BILL 4879

H. 4879 -- Reps. G.M. Smith, Lucas, Simrill and Erickson: A JOINT RESOLUTION TO CREATE THE "STUDENT FLEXIBILITY IN EDUCATION SCHOLARSHIP FUND", TO PROVIDE FOR FUNDING, TO PROVIDE FOR QUALIFICATIONS, AND TO PROVIDE FOR THE ADMINISTRATION OF THE PROGRAM.

Summary of Bill:

This joint resolution takes \$75 million from the Contingency Reserve Fund for a pilot program to provide \$5,000 scholarships to 5,000 students to use at the public or private school of their choice for three years. Eligible students must be Medicaid Eligible and the program is limited to elementary school students. The program will be administered by the Department of Education and to the extent demand exceeds 5,000 students, the Department will conduct a lottery. Students may use the \$5,000 on the "cost of attendance" for the school which includes tuition, fees, and books, but does not include transportation or tutoring. Each year, the Department shall report to the General Assembly and the Governor information on the program including the number of scholarships issued, the allowable expenditures funded, the number of applications by county, etc. The money will be held by the Office of the State Treasurer and parents will access the funds via an online portal through which they will direct the expenditures to the eligible school of their choice.

Estimated Revenue Impact:

\$75 million from the Contingency Reserve Fund

Subcommittee Recommendation:

Passed Revenue Policy Subcommittee favorably as amended on February 8, 2022.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ALLEN/FLINT
FEBRUARY 8, 2022

CLERK OF THE HOUSE

THE REVENUE POLICY SUBCOMMITTEE PROPOSES THE
FOLLOWING AMENDMENT No. TO H. 4879
(COUNCIL\SA\4879C001.DF.SA22):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE JOINT RESOLUTION, AS AND IF
AMENDED, BY STRIKING ALL AFTER THE
ENACTING WORDS AND INSERTING:**

**/ SECTION 1. THIS ACT MAY BE REFERRED TO
AS THE “PARENTAL CHOICE IN EDUCATION ACT”.**

SECTION 2. (A) AS USED IN THIS SECTION:

**(1)“COST OF ATTENDANCE” MEANS THE
PUBLISHED TUITION, FEES, AND TEXTBOOKS BUT**

DOES NOT INCLUDE TRANSPORTATION OR TUTORING.

(2)“DEPARTMENT” MEANS THE DEPARTMENT OF EDUCATION.

(3)“ELIGIBLE SCHOOL” MEANS A SOUTH CAROLINA PUBLIC SCHOOL OR AN INDEPENDENT SCHOOL THAT CHOOSES TO PARTICIPATE IN THE PROGRAM, ACCEPTS QUALIFYING STUDENTS, AND INSTRUCTS STUDENTS IN GRADES KINDERGARTEN THROUGH SIXTH GRADE. AN ELIGIBLE SCHOOL DOES NOT INCLUDE CHARTER SCHOOLS.

(4)“INDEPENDENT SCHOOL” MEANS A SCHOOL, OTHER THAN A PUBLIC SCHOOL UNLESS AT WHICH THE COMPULSORY ATTENDANCE REQUIREMENTS OF SECTION 59-65-10 MAY BE MET AND:

(A) OFFERS A GENERAL EDUCATION TO ELEMENTARY STUDENTS;

(B) DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN;

(C) IS LOCATED IN THIS STATE;

(D) HAS AN EDUCATIONAL CURRICULUM THAT INCLUDES COURSES SET FORTH IN THE STATE’S DIPLOMA REQUIREMENTS, AND WHERE THE STUDENTS ATTENDING ARE ADMINISTERED NATIONAL ACHIEVEMENT OR STATE STANDARDIZED TESTS, OR BOTH, AT PROGRESSIVE GRADE LEVELS TO DETERMINE STUDENT PROGRESS;

(E) HAS SCHOOL FACILITIES THAT ARE SUBJECT TO APPLICABLE FEDERAL, STATE, AND LOCAL LAWS; AND

(F) IS A MEMBER IN GOOD STANDING OF THE SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS, THE SOUTH CAROLINA ASSOCIATION OF CHRISTIAN SCHOOLS, THE SOUTH CAROLINA INDEPENDENT SCHOOLS ASSOCIATION, OR PALMETTO ASSOCIATION OF INDEPENDENT SCHOOLS.

(5) “PARENT” MEANS THE NATURAL OR ADOPTIVE PARENT OR LEGAL GUARDIAN OF A CHILD OR A FOSTER PARENT PURSUANT TO SECTION 59-63-31.

(6)(A) “QUALIFYING STUDENT” MEANS A STUDENT WHO IS A RESIDENT OF THIS STATE WHO HAS NOT EARNED A HIGH SCHOOL DIPLOMA AND IS BETWEEN KINDERGARTEN AND FIFTH GRADE. A QUALIFYING STUDENT MUST HAVE A FAMILY INCOME EQUAL TO OR LESS THAN MEDICAID ELIGIBILITY AS SET FORTH BY THE MEDICALLY INDIGENT ASSISTANCE PROGRAM AND:

(I) IS ENTERING KINDERGARTEN OR FIRST GRADE; OR

(II) WAS PREVIOUSLY ENROLLED IN AND ATTENDED A SOUTH CAROLINA ELEMENTARY PUBLIC SCHOOL DURING ONE OF THE THREE SCHOOL YEARS IMMEDIATELY PRECEDING THE SCHOOL YEAR IN WHICH THE STUDENT WOULD BE ENROLLED UNDER THIS PROGRAM.

(B) FOR PURPOSES OF THIS ITEM, A QUALIFYING STUDENT’S SIBLING ALSO IS CONSIDERED TO BE A QUALIFYING STUDENT PROVIDED THAT HE MEETS THE QUALIFICATIONS SET FORTH IN THIS SECTION, AND HIS PARENT ELECTS TO ENROLL HIM IN THE PROGRAM.

(C) STUDENTS PARTICIPATING IN THE EDUCATIONAL CREDIT FOR EXCEPTIONAL NEEDS CHILDREN’S FUND PROGRAM AS PROVIDED IN SECTION 12-6-3790 ARE NOT CONSIDERED TO BE QUALIFYING STUDENTS FOR THE PURPOSES OF THIS SECTION.

(D) A QUALIFYING STUDENT ALSO INCLUDES UP TO FIVE HUNDRED STUDENTS WHOSE PARENTS ARE AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES.

(7) “SCHOLARSHIP ACCOUNT” MEANS THE INDIVIDUAL STUDENT ACCOUNT THAT IS ESTABLISHED BY THE DEPARTMENT FOR EACH QUALIFYING STUDENT.

(B)(1) THERE IS CREATED THE “PARENTAL CHOICE IN EDUCATION SCHOLARSHIP FUND” THAT IS SEPARATE AND DISTINCT FROM THE STATE GENERAL FUND. THE FUND MUST RECEIVE AND HOLD ALL FUNDS ALLOCATED FOR IT AS WELL AS ALL EARNINGS UNTIL DISBURSED AS PROVIDED IN THIS SECTION. MONIES RECEIVED IN THE FUND MUST BE HELD BY THE OFFICE OF THE STATE TREASURER AND MUST BE USED TO

PROVIDE SCHOLARSHIPS TO QUALIFYING STUDENTS ATTENDING ELIGIBLE SCHOOLS TO PROVIDE FOR THE COST OF ATTENDANCE.

(2) THE DEPARTMENT IS RESPONSIBLE FOR KEEPING RECORDS, MANAGING ACCOUNTS, AND DISBURSING SCHOLARSHIPS AWARDED PURSUANT TO THIS SECTION. INFORMATION CONTAINED IN OR PRODUCED FROM A TAX RETURN, DOCUMENT, OR MAGNETICALLY OR ELECTRONICALLY STORED DATA UTILIZED BY THE DEPARTMENT IN THE EXERCISE OF ITS DUTIES AS PROVIDED IN THIS SECTION MUST REMAIN CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE PURSUANT TO THE FREEDOM OF INFORMATION ACT. PERSONALLY IDENTIFIABLE INFORMATION, AS DESCRIBED IN THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT, OF CHILDREN APPLYING FOR OR RECEIVING SCHOLARSHIPS MUST REMAIN CONFIDENTIAL AND IS NOT SUBJECT TO DISCLOSURE PURSUANT TO THE FREEDOM OF INFORMATION ACT.

(3) BY JANUARY FIFTEENTH OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY AND THE GOVERNOR:

(A) THE NUMBER AND TOTAL AMOUNT OF SCHOLARSHIPS ISSUED TO QUALIFYING STUDENTS IN EACH YEAR;

(B) PROGRAMMATIC INFORMATION THAT INCLUDES, BUT IS NOT LIMITED TO, WHERE QUALIFYING STUDENTS ATTEND ELIGIBLE SCHOOLS;

(C) A COPY OF A COMPILATION, REVIEW, OR AUDIT OF THE FUND'S FINANCIAL STATEMENTS, CONDUCTED BY A CERTIFIED PUBLIC ACCOUNTING FIRM; AND

(D) THE NUMBER OF APPLICATIONS FOR SCHOLARSHIPS BY COUNTY.

(C)(1) THE DEPARTMENT SHALL ENSURE THAT QUALIFYING STUDENTS PARTICIPATING IN THE PROGRAM AND THEIR PARENTS ANNUALLY ARE INFORMED OF WHICH ELIGIBLE SCHOOLS ARE PARTICIPATING IN THE PROGRAM. THE DEPARTMENT SHALL CREATE A STANDARD APPLICATION PROCESS FOR PARENTS TO ESTABLISH THE ELIGIBILITY OF THEIR STUDENT FOR THE PROGRAM. THE DEPARTMENT

SHALL ENSURE THAT THE APPLICATION IS READILY AVAILABLE TO INTERESTED PARENTS THROUGH VARIOUS SOURCES, INCLUDING THE INTERNET.

(2) THE DEPARTMENT SHALL SET A DEADLINE FOR THE RECEIPT OF APPLICATIONS. IN THE EVENT THE NUMBER OF ELIGIBLE STUDENTS EXCEEDS FIVE THOUSAND BY THE DEADLINE, THE DEPARTMENT SHALL USE A LOTTERY SYSTEM TO AWARD SCHOLARSHIPS. STUDENTS ALREADY PARTICIPATING IN THE PROGRAM ARE AUTOMATICALLY APPROVED FOR PARTICIPATION IN THE IMMEDIATE SUBSEQUENT YEAR.

(3) THE DEPARTMENT SHALL PROVIDE THE PARENT OF A QUALIFYING STUDENT PARTICIPATING IN THE PROGRAM WITH A WRITTEN EXPLANATION OF THE ALLOWABLE USES OF AN ACCOUNT, THE RESPONSIBILITIES OF THE PARENT, AND THE DUTIES OF THE DEPARTMENT.

(4) THE DEPARTMENT MAY PROHIBIT A SCHOOL FROM PARTICIPATING IN THE PROGRAM IF THE DEPARTMENT FINDS THAT THE PARTICIPATING SCHOOL HAS:

(A) ROUTINELY FAILED TO COMPLY WITH THE ACCOUNTABILITY STANDARDS ESTABLISHED IN THIS SECTION; OR

(B) FAILED TO PROVIDE THE ELIGIBLE STUDENT PARTICIPATING IN THE PROGRAM WITH THE EDUCATIONAL SERVICES FUNDED BY THE ACCOUNT.

(5) IF THE DEPARTMENT DECIDES TO PROHIBIT AN ELIGIBLE SCHOOL FROM PARTICIPATING IN THE PROGRAM, THEN THE DEPARTMENT SHALL NOTIFY QUALIFYING STUDENTS PARTICIPATING IN THE PROGRAM AND THEIR PARENTS OF THIS DECISION AS QUICKLY AS POSSIBLE. THE DEPARTMENT ALSO MUST NOTIFY THE EDUCATION OVERSIGHT COMMITTEE WHICH MUST REMOVE THE SCHOOL FROM THE LIST OF APPROVED SCHOOLS.

(6) QUALIFYING STUDENTS PARTICIPATING IN THE PROGRAM MAY RETURN TO THEIR RESIDENT SCHOOL DISTRICTS AT ANY TIME, PROVIDING THE LEAST DISRUPTIVE PROCESS.

(7) A SCHOOL SHALL REPORT TO THE DEPARTMENT IF A STUDENT WITHDRAWS FROM THE PROGRAM.

(8) THE DEPARTMENT SHALL ADOPT RULES AND PROCEDURES AS NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM.

(D) AN ELIGIBLE SCHOOL MAY NOT REFUND, REBATE, OR SHARE THE SCHOLARSHIP ACCOUNT OF A QUALIFYING STUDENT PARTICIPATING IN THE PROGRAM WITH HIS PARENT OR WITH THE QUALIFYING STUDENT.

(E) FUNDS RECEIVED PURSUANT TO THIS SECTION DO NOT CONSTITUTE TAXABLE INCOME TO THE PARENT OF A QUALIFYING STUDENT PARTICIPATING IN THE PROGRAM.

(F)(1) IN THE FIRST YEAR IN WHICH THE ACCOUNT IS FUNDED, SCHOLARSHIPS MAY BE AWARDED IN AN AMOUNT NOT EXCEEDING FIVE THOUSAND DOLLARS OR THE COST OF ATTENDANCE, WHICHEVER IS LOWER, TO A QUALIFYING STUDENT AT AN ELIGIBLE SCHOOL TO BE DISBURSED UP TO TWO THOUSAND FIVE HUNDRED DOLLARS EACH SEMESTER. THE DEPARTMENT MAY NOT ISSUE DEBIT CARDS, BUT SHALL DISTRIBUTE FUNDS THROUGH AN ONLINE SYSTEM DIRECTLY TO A QUALIFYING STUDENT FOR THE PREAPPROVED COST OF ATTENDANCE. THE DEPARTMENT MAY PROCURE A SYSTEM THAT CAN CREATE THE SCHOLARSHIP ACCOUNTS AND PROCESS THE COST OF ATTENDANCE.

(2)(A) BEFORE AWARDING A SCHOLARSHIP, THE DEPARTMENT SHALL DOCUMENT THE STUDENT'S ELIGIBILITY WITH THE FOLLOWING DOCUMENTATION:

(I) A CARD ISSUED IN THE STUDENT'S NAME FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR MEDICAID ELIGIBILITY;

(II) OTHER DOCUMENTATION AS THE DEPARTMENT MAY REQUIRE TO DEMONSTRATE THAT THE FAMILY INCOME IS EQUAL TO THE POVERTY LEVEL OF MEDICAID ELIGIBILITY; OR

(III) A RECORD TO PROVIDE THAT THE STUDENT'S PARENT IS AN ACTIVE MEMBER OF THE ARMED FORCES OF THE UNITED STATES.

(B) UPON APPROVING THE APPLICATION, THE DEPARTMENT SHALL CREATE AN ONLINE ACCOUNT FOR THE QUALIFYING STUDENT THAT THE PARENT OR LEGAL GUARDIAN CAN ACCESS USING A SECURE PORTAL. THE INDIVIDUAL STUDENT ACCOUNT MUST BE CREATED WITHIN THIRTY DAYS OF APPROVAL OF THE APPLICATION.

(3) IF A QUALIFYING STUDENT LEAVES OR WITHDRAWS FROM THE ELIGIBLE SCHOOL FOR ANY REASON BEFORE THE END OF THE SEMESTER OR SCHOOL YEAR AND DOES NOT REENROLL WITHIN THIRTY DAYS, OR IF THE QUALIFYING STUDENT GRADUATES FROM OR CHOOSES TO PERMANENTLY LEAVE A QUALIFYING SCHOOL, THEN THE BALANCE IN THE SCHOLARSHIP ACCOUNT MUST BE CREDITED TO THE PARENTAL CHOICE IN EDUCATION SCHOLARSHIP FUND.

(4) ANY FUNDS NOT EXPENDED IN AN INDIVIDUAL STUDENT'S SCHOLARSHIP ACCOUNT AT THE END OF THE SCHOOL YEAR WILL BE CARRIED FORWARD INTO THE NEXT SCHOOL YEAR AND EXPENDED FOR THE SAME PURPOSES.

(G)(1) THE EDUCATION OVERSIGHT COMMITTEE WILL APPROVE INDEPENDENT SCHOOLS FOR PARTICIPATION IN THE PROGRAM THAT MEET ALL PROGRAM REQUIREMENTS. ONCE A SCHOOL IS FOUND ELIGIBLE TO PARTICIPATE IN THE PROGRAM, IT IS PRESUMED ELIGIBLE FOR THE REMAINING TWO YEARS UNLESS THE EDUCATION OVERSIGHT COMMITTEE FINDS OTHERWISE. THE INDEPENDENT SCHOOL SHALL CERTIFY TO THE EDUCATION OVERSIGHT COMMITTEE THAT IT CONTINUES TO MEET ALL PROGRAM REQUIREMENTS. THE EDUCATION OVERSIGHT COMMITTEE SHALL DEVELOP AN APPLICATION TO BE COMPLETED BY THE INDEPENDENT SCHOOLS.

(2) BY MARCH FIRST OF EACH YEAR THE EDUCATION OVERSIGHT COMMITTEE SHALL PUBLISH ON ITS WEBSITE A COMPREHENSIVE LIST OF INDEPENDENT AND PUBLIC SCHOOLS CERTIFIED AS ELIGIBLE SCHOOLS. THE LIST MUST INCLUDE EACH ELIGIBLE SCHOOL'S NAME, ADDRESSES, TELEPHONE NUMBERS, AND, IF AVAILABLE, WEBSITE ADDRESSES.

(3) AN INDEPENDENT SCHOOL THAT IS DENIED CERTIFICATION PURSUANT TO THIS SECTION MAY SEEK REVIEW BY FILING A REQUEST FOR A CONTESTED CASE HEARING WITH THE ADMINISTRATIVE LAW COURT IN ACCORDANCE WITH THE COURT'S RULES OF PROCEDURE.

(4) THE EDUCATION OVERSIGHT COMMITTEE SHALL GRANT AN EXEMPTION TO AN ELIGIBLE SCHOOL FROM PARTICIPATING IN THE PROGRAM IF THE ELIGIBLE SCHOOL CAN SHOW THAT IT HAS SPACE LIMITATIONS AND IS UNABLE TO ACCEPT ADDITIONAL STUDENTS.

(H) EXCEPT AS OTHERWISE PROVIDED, THE DEPARTMENT OF EDUCATION AND THE EDUCATION OVERSIGHT COMMITTEE, OR ANY OTHER STATE AGENCY, MAY NOT REGULATE THE EDUCATIONAL PROGRAM OF AN INDEPENDENT SCHOOL THAT ACCEPTS STUDENTS RECEIVING SCHOLARSHIP GRANTS PURSUANT TO THIS SECTION.

(I) THE EDUCATION OVERSIGHT COMMITTEE AND THE DEPARTMENT SHALL COLLABORATE TO DEVELOP AND ADMINISTER AN ANNUAL PROGRAM SURVEY TO ALL PARENTS OF QUALIFYING STUDENTS REGARDING THE EFFECTIVENESS OF THE FUND. RESULTS MUST BE PROVIDED TO THE GENERAL ASSEMBLY BY DECEMBER THIRTY-FIRST OF EACH YEAR.

(J) THERE IS APPROPRIATED SEVENTY-FIVE MILLION DOLLARS FROM THE CONTINGENCY RESERVE FUND TO THE PARENTAL CHOICE IN EDUCATION FUND TO BE USED AS DESCRIBED IN THIS JOINT RESOLUTION.

SECTION 3. IF ANY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, OR WORD OF THIS ACT IS FOR ANY REASON HELD TO BE UNCONSTITUTIONAL OR INVALID, SUCH HOLDING SHALL NOT AFFECT THE CONSTITUTIONALITY OR VALIDITY OF THE REMAINING PORTIONS OF THIS ACT, THE GENERAL ASSEMBLY HEREBY DECLARING THAT IT WOULD HAVE PASSED THIS ACT, AND EACH AND EVERY SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, AND WORD THEREOF, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER SECTIONS, SUBSECTIONS,

PARAGRAPHS, SUBPARAGRAPHS, SENTENCES, CLAUSES, PHRASES, OR WORDS HEREOF MAY BE DECLARED TO BE UNCONSTITUTIONAL, INVALID, OR OTHERWISE INEFFECTIVE.

SECTION 4. THIS JOINT RESOLUTION TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.

South Carolina General Assembly
124th Session, 2021-2022

H. 4879

STATUS INFORMATION

Joint Resolution

Sponsors: Reps. G.M. Smith, Lucas, Simrill, Erickson and Elliott

Document Path: l:\council\bill\df13095sa22.docx

Introduced in the House on January 27, 2022

Currently residing in the House Committee on **Ways and Means**

Summary: Student Flexibility in Education Scholarship Fund

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/27/2022	House	Introduced and read first time (<u>House Journal-page 30</u>)
1/27/2022	House	Referred to Committee on Ways and Means (<u>House Journal-page 30</u>)
2/1/2022	House	Member(s) request name added as sponsor: Elliott

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VERSIONS OF THIS BILL

1/27/2022

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A JOINT RESOLUTION

10

11 TO CREATE THE "STUDENT FLEXIBILITY IN EDUCATION
12 SCHOLARSHIP FUND", TO PROVIDE FOR FUNDING, TO
13 PROVIDE FOR QUALIFICATIONS, AND TO PROVIDE FOR
14 THE ADMINISTRATION OF THE PROGRAM.

15

16 Be it enacted by the General Assembly of the State of South
17 Carolina:

18

19 SECTION 1. This act may be referred to as the "Student Flexibility
20 in Education Act".

21

22 SECTION 2. (A) As used in this section:

23 (1) "Allowable expenditures" means the cost of attendance of
24 an eligible school.

25 (2) "Cost of attendance" means the published tuition, fees,
26 and textbooks but does not include transportation or tutoring.

27 (3) "Department" means the Department of Education.

28 (4) "Eligible school" means a South Carolina public school or
29 an independent school that chooses to participate in the program and
30 accepts qualifying students. An eligible school does not include
31 charter schools.

32 (5) "Independent school" means a school, other than a public
33 school unless at which the compulsory attendance requirements of
34 Section 59-65-10 may be met and:

35 (a) offers a general education to elementary or secondary
36 students;

37 (b) does not discriminate on the basis of race, color, or
38 national origin;

39 (c) is located in this State;

40 (d) has an educational curriculum that includes courses set
41 forth in the state's diploma requirements, and where the students
42 attending are administered national achievement or state

1 standardized tests, or both, at progressive grade levels to determine
2 student progress;

3 (e) has school facilities that are subject to applicable
4 federal, state, and local laws; and

5 (f) is a member in good standing of the Southern
6 Association of Colleges and Schools, the South Carolina
7 Association of Christian Schools, the South Carolina Independent
8 Schools Association, or Palmetto Association of Independent
9 Schools.

10 (6) "Parent" means the natural or adoptive parent or legal
11 guardian of a child.

12 (7)(a) "Qualifying student" means a student who is a resident
13 of this State who has not earned a high school diploma and is
14 between the ages of five and eighteen. A qualifying student must be
15 Medicaid eligible or the parent has a family income that is one
16 hundred and eighty-five percent of the poverty level and:

17 (i) is entering kindergarten for the first time; or

18 (ii) was previously enrolled in and attended a South
19 Carolina elementary or secondary public school for one full school
20 year immediately preceding the school year in which the student
21 would be enrolled under this program.

22 (b) For purposes of this item, a qualifying student's sibling
23 also is considered to be a qualifying student.

24 (c) Students participating in the Educational Credit for
25 Exceptional Needs Children's Fund program as provided in Section
26 12-6-3790 are not considered to be qualifying students for the
27 purposes of this section.

28 (d) A qualifying student also includes up to five hundred
29 students whose parents are an active duty member of the Armed
30 Forces of the United States.

31 (8) "Scholarship account" means the individual student
32 account that is established by the department for each qualifying
33 student.

34 (B)(1) There is created the "Student Flexibility in Education
35 Scholarship Fund" that is separate and distinct from the state general
36 fund. The fund must receive and hold all funds allocated for it as
37 well as all earnings until disbursed as provided in this section.
38 Monies received in the fund must be held by the Office of the State
39 Treasurer and must be used to provide scholarships to qualifying
40 students attending eligible schools to provide for allowable
41 expenditures.

42 (2) The department shall administer the fund and is
43 responsible for keeping records, managing accounts, and disbursing

1 scholarships awarded pursuant to this section. The General
2 Assembly shall appropriate seventy-five million dollars from the
3 contingency reserve fund to the department for initial costs to create
4 the program. Thereafter, the department may expend up to two
5 percent of the fund for administration and related costs. Information
6 contained in or produced from a tax return, document, or
7 magnetically or electronically stored data utilized by the department
8 in the exercise of its duties as provided in this section must remain
9 confidential and is exempt from disclosure pursuant to the Freedom
10 of Information Act. Personally identifiable information, as
11 described in the Family Educational Rights and Privacy Act, of
12 children applying for or receiving scholarships must remain
13 confidential and is not subject to disclosure pursuant to the Freedom
14 of Information Act.

15 (3) By January fifteenth of each year, the department shall
16 report to the General Assembly and the Governor:

17 (a) the number and total amount of scholarships issued to
18 qualifying students in each year;

19 (b) information on allowable expenditures by type funded
20 by the scholarships;

21 (c) programmatic information that includes, but is not
22 limited to, where qualifying students attend eligible schools;

23 (d) a copy of a compilation, review, or audit of the fund's
24 financial statements, conducted by a certified public accounting
25 firm; and

26 (e) the number of applications for scholarships by county.

27 (C)(1) The department shall ensure that qualifying students
28 participating in the program and their parents annually are informed
29 of which eligible schools are participating in the program. The
30 department shall create a standard application process for parents to
31 establish the eligibility of their student for the program. The
32 department shall ensure that the application is readily available to
33 interested parents through various sources, including the Internet.

34 (2) The department shall process applications in the order in
35 which they are received. In the event that by August first
36 applications exceed the number of scholarship accounts, the
37 department will use a lottery system to award scholarships.

38 (3) The department shall provide the parent of a qualifying
39 student participating in the program with a written explanation of
40 the allowable uses of an account, the responsibilities of the parent,
41 and the duties of the department.

1 (4) The department may prohibit a school from participating
2 in the program if the department finds that the participating school
3 has:

4 (a) routinely failed to comply with the accountability
5 standards established in this section; or

6 (b) failed to provide the eligible student participating in the
7 program with the educational services funded by the account.

8 (5) If the department decides to prohibit an eligible school
9 from participating in the program, then the department shall notify
10 qualifying students participating in the program and their parents of
11 this decision as quickly as possible. The department also must notify
12 the Education Oversight Committee which must remove the school
13 from the list of approved schools.

14 (6) Qualifying students participating in the program may
15 return to their resident school districts at any time, providing the
16 least disruptive process.

17 (7) A school shall report to the department if a student
18 withdraws from the program.

19 (8) The department shall adopt rules and procedures as
20 necessary for the administration of the program.

21 (D) An eligible school may not refund, rebate, or share the
22 scholarship account of a qualifying student participating in the
23 program with his parent or with the qualifying student.

24 (E) Funds received pursuant to this section do not constitute
25 taxable income to the parent of a qualifying student participating in
26 the program.

27 (F)(1) In the first year in which the account is funded,
28 scholarships may be awarded in an amount not exceeding five
29 thousand dollars or the cost of attendance, whichever is lower, to a
30 qualifying student at an eligible school to be disbursed each
31 semester. The department may not issue debit cards, but shall
32 distribute funds through an online system directly to a qualifying
33 student for preapproved allowable expenditures. The department
34 may procure a system that can create the scholarship accounts and
35 process allowable expenditures.

36 (2)(a) Before awarding a scholarship, the department shall
37 document the student's eligibility with the following
38 documentation:

39 (i) a card issued in the student's name from the
40 Department of Health and Human Services for Medicaid eligibility;

41 (ii) other documentation as the department may require
42 to demonstrate that the family income is less than one hundred and
43 eighty-five percent of the poverty level; or

1 (iii) a record to provide that the student's parent is an
2 active member of the Armed Forces of the United States.

3 (b) Upon approving the application, the department shall
4 create an online account for the qualifying student that the parent or
5 legal guardian can access using a secure portal. The individual
6 student account must be created within thirty days of approval of the
7 application.

8 (3) If a qualifying student leaves or withdraws from the
9 eligible school for any reason before the end of the semester or
10 school year and does not reenroll within thirty days, or if the
11 qualifying student graduates from or chooses to permanently leave
12 a qualifying school, then the balance in the scholarship account must
13 be credited to the Student Flexibility in Education Scholarship Fund.

14 (4) Any funds not expended in an individual student's
15 scholarship account at the end of the school year will be carried
16 forward into the next school year and expended for the same
17 purposes.

18 (G) In the first year of the program's operation, the department
19 may award up to five thousand scholarships for students in
20 elementary school. If more than five thousand applications are
21 received, then the department may utilize a lottery system to award
22 scholarships to qualifying students at the discretion of the
23 department. For purposes of this subsection, 'elementary school'
24 means any public school which contains grades no lower than
25 kindergarten and no higher than the sixth grade.

26 (H) The number of scholarships annually awarded to qualifying
27 students is contingent upon the amount of funds in the program. If
28 the number of applicants exceeds available funds, then the
29 department may utilize a lottery system to award scholarships to
30 qualifying students at the department's discretion.

31 (I)(1) The Education Oversight Committee will approve
32 independent schools for participation in the program that meet all
33 program requirements. An independent school that participated in
34 the program in the previous year and desires to participate in the
35 program in the current year shall reapply to the Education Oversight
36 Committee. The independent school shall certify to the Education
37 Oversight Committee that it continues to meet all program
38 requirements. The Education Oversight Committee shall develop an
39 application to be completed by the independent schools.

40 (2) The Education Oversight Committee may waive the
41 March first deadline contained in subsection (E) upon good cause
42 shown by an independent school.

1 (3) By March first of each year the Education Oversight
2 Committee shall publish on its website a comprehensive list of
3 independent and public schools certified as eligible schools. The list
4 must include each eligible school's name, addresses, telephone
5 numbers, and, if available, website addresses.

6 (4) An independent school that is denied certification
7 pursuant to this section may seek review by filing a request for a
8 contested case hearing with the Administrative Law Court in
9 accordance with the court's rules of procedure.

10 (5) Annually, the Education Oversight Committee shall issue
11 a report to the General Assembly documenting the impact of the
12 Student Flexibility in Education Account including, but not limited
13 to, data on the number of students who applied, data on the number
14 of students enrolled in the program, and the number of students who
15 withdrew from the program. The committee also shall report any
16 ways to improve the program.

17 (6) The Education Oversight Committee shall grant an
18 exemption to an eligible school from participating in the program if
19 the eligible school can show that it has space limitations and is
20 unable to accept additional students.

21 (J) Except as otherwise provided, the Department of Education,
22 the Education Oversight Committee, and the Department of
23 Revenue, or any other state agency may not regulate the educational
24 program of an independent school that accepts students receiving
25 scholarship grants pursuant to this section.

26 (K) The Education Oversight Committee and the department
27 shall collaborate to develop and administer an annual program
28 survey to all parents of qualifying students regarding the
29 effectiveness of the fund. Results must be provided to the General
30 Assembly by December thirty-first of each year.

31
32 SECTION 3. This joint resolution takes effect upon approval by
33 the Governor,

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35