
SENATE BILL 935

S. 935 -- Senators Grooms, Loftis, Goldfinch, Verdin, Rice, Cash, Adams, Climer, Peeler, Garrett, Kimbrell, Davis, Campsen, Hembree, Turner, Corbin, Bennett, Massey, Gambrell, Rankin, Senn and Gustafson: A BILL TO AMEND TITLE 59 OF THE 1976 CODE, RELATING TO EDUCATION, BY ADDING CHAPTER 8, TO PROVIDE FOR THE CREATION OF EDUCATION SCHOLARSHIP ACCOUNTS, TO PROVIDE REQUIREMENTS FOR THE ACCOUNTS, TO CREATE AN EDUCATION SCHOLARSHIP ACCOUNT FUND TO FUND THE SCHOLARSHIPS, AND TO PROVIDE RELATED REQUIREMENTS OF THE EDUCATION OVERSIGHT COMMITTEE AND THE DEPARTMENT OF ADMINISTRATION, AMONG OTHER THINGS.

Summary of Bill:

This bill creates the Education Scholarship Trust Fund which is administered by the Department of Education. It differs from the bill that Ways and Means passed in that it is not a temporary pilot program, is available on a first come-first served basis, expands to fifteen thousand students in three years, and depends upon an annual appropriation for a six thousand dollar scholarship for each student to use for a myriad of education purposes approved by the Education Oversight Committee.

Estimated Revenue Impact:

By year three, \$110,068,000 annually.

Other Notes:

We have a strike and insert amendment to place the Ways and Means passed Parental Choice bill (H. 4897) on this bill with minor changes. H. 4897 establishes a three-year pilot program for five thousand students a year, selected through a lottery administered by the Department of Education to receive a \$5,000 stipend to use for qualified expenses at a public or private school of the student's choosing. The money for the pilot program will be funded through the Contingency Reserve Fund and the program sunsets unless reauthorized by the legislature at the end of the third year. This amendment inserts that bill, but includes transportation expenses in qualified expenses, expands eligibility to students grades K-8, includes preamble language, and allows for students outside of the poverty threshold to participate should the amount of applications fall below 5,000.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0935 Amended by Senate Education on March 10, 2022
Author: Grooms
Subject: Education Savings Accounts
Requestor: Senate Education
RFA Analyst(s): Wren
Impact Date: March 16, 2022

Fiscal Impact Summary

This bill creates the Education Scholarship Account (ESA) Act to provide scholarship funding to qualifying elementary and secondary students to pay for eligible education expenses. The program will be administered by the State Department of Education (SCDE). The scholarship amount per pupil is defined as the state average of state funding per pupil in public schools for the current fiscal year.

Based upon the number of students allowed to participate in the program by school year as referenced in the bill and the average state funding per pupil amounts determined by the Revenue and Fiscal Affairs Office (RFA), the estimated scholarship funding net of administrative expenditures could total up to \$34,630,000 in school year 2023-24, reaching up to \$110,068,000 in school year 2025-26 when the number of eligible students allowed to participate in the program reaches the maximum amount. Actual participation in the program may vary widely and determining a better estimate will require actual student enrollment. Further, the bill allows SCDE to retain an amount up to 3 percent of the ESA program funds for administrative purposes. Please see the table below for the estimated ESA program funds by year.

School Year	Number of Allowed Students	Estimated Maximum Scholarship Funding	3% Available to SCDE	Estimated Scholarship Funding Amount (Net of Expenditures)
2023-24	5,000	\$35,701,000	\$1,071,000	\$34,630,000
2024-25	10,000	\$73,495,000	\$2,205,000	\$71,290,000
2025-26 forward	15,000	\$113,472,000	\$3,404,000	\$110,068,000

(Figures may be rounded)

This bill requires SCDE to administer the ESA program and allows the agency to contract with qualified organizations or vendors. The bill also requires SCDE to provide a report of the program and a report of a parental satisfaction survey to General Assembly annually. The bill allows SCDE to retain up to 3 percent of ESA program funds for expenses. Initial funding to establish the program is dependent upon appropriations. This will increase Other Funds revenue and expenditures of the agency. Please see the table above for the estimated amount available by

year. However, the amounts for the second and subsequent years are dependent upon projected expenditures by SCDE. The expenditure impact of the bill on SCDE is pending, contingent upon a response.

This bill will have no expenditure impact on the Education Oversight Committee (EOC), as the agency will be able to manage the reporting requirements with existing staff and appropriations.

This bill will increase General Fund expenses of the State Treasurer's Office (STO) by \$25,000 beginning in FY 2022-23 for 0.33 FTE to coordinate the provisions of the bill with SCDE to ensure funding to districts is adjusted correctly.

We do not anticipate that the bill will have an expenditure impact on the Office of the Governor, Senate, or House of Representatives as we expect that any expenses associated with the ESA Review Panel can be accomplished within existing appropriations.

The state average of state funding per pupil includes the amounts allocated for state property tax relief. *For this analysis, we have assumed that local property tax reimbursements will be reduced by the amount of the appropriations transferred to the ESA fund. However, should the state still be responsible for the full amount of local property tax reimbursements, net state expenditures would increase.* On average, 24.6 percent of the state average funding per pupil is for local property tax reimbursements and could be affected. Additionally, while certain school operating property tax relief reimbursement funding is allocated on a school district basis, other funding such as the uncapped portion of the age sixty-five and over Homestead Exemption Tier II reimbursements, the manufacturer's depreciation reimbursement, manufacturer's value exemption, and merchant's inventory reimbursements are distributed to each county to distribute to their respective school districts. It is unclear how the Department of Revenue will handle reallocation of those property tax reimbursements that are distributed to counties.

The overall expenditure impact of this bill on local school districts is undetermined. The potential reduction in school district expenditures due to students enrolling in the program will vary depending on the degree to which districts can consolidate resources by reducing the number of teachers or classrooms. Assuming the students are spread throughout the state, each school district would see only a reduction in the variable costs per student. School districts may be able to realign resources to realize savings, but this will take time to implement. Since the bill provides a phase-in on the number of eligible students per year, we anticipate only marginal expenditure reductions initial implementation. Therefore, we do not anticipate significant local expenditure savings from the ESA program in the initial years. Potential savings in future years will be largely dependent on the number of participants and actions taken by school districts in response to changes in enrollment.

The revenue impact on local school districts is undetermined. The local school district revenue impact of this bill corresponds to the state appropriations that are allocated to the ESA program. Using a statewide average revenue per pupil, we have estimated the amount that will be shifted from districts to the ESA program. Based on the number of eligible students and average state funding per pupil amounts, the school district revenue that could be reallocated to the ESA

program is \$35,701,000 in school year 2023-24, \$73,495,000 in school year 2024-25, \$113,472,000 in school year 2025-26 and beyond when the number of eligible students allowed to participate in the program reaches the maximum amount. The actual reduction in local revenue will depend upon the number of students participating in the program and the district's state funding. State funding per pupil in FY 2019-20 ranged from \$5,089 to \$11,940.

Explanation of Fiscal Impact

Amended by Senate Education on March 10, 2022

State Expenditure

This bill creates the ESA program for elementary and secondary students, which will be administered by SCDE. Funds will be allocated to the parent of an eligible student to pay for qualifying expenses. The bill defines an eligible student as follows:

- A resident of this state;
- Attended a public school in this state the during the previous school year,
 - had not yet attained the age of five on or before September first of the prior school year but has attained the age of five on or before September first of the current school year, or
 - received an ESA scholarship issued pursuant to this bill for the prior school year; and
- Has a statement of Medicaid eligibility,
 - has an IEP, or
 - has a sibling living in the same household who receives an ESA scholarship.

The bill also limits the number of annual enrollees. In the first year, school year 2023-24, the program is limited to 5,000 ESA students. In the second year, school year 2024-25, the program is limited to 10,000 ESA students. In the third year, school year 2025-26 and beyond, the program is limited to 15,000 ESA students. In 2026 and every five years thereafter, SCDE must conduct an eligibility and use review of the program and must make recommendations to the General Assembly to improve the program.

Additionally, the bill requires RFA to determine the state average of state funding per pupil in public schools for the current fiscal year. The amount must not include federal or local funds.

Also, for this analysis, we used the state funding per pupil amount from our Revenue Per Pupil Report. Following the methodology used to determine revenue per pupil in Proviso 1.3 of the FY 2021-22 Appropriations Act, the state funding per pupil amount used in this analysis includes only revenues from the regular school districts and does not include the statewide public charter school districts. Also, historical growth rates have been factored into the state revenue per pupil amount. The funding in state average funding per pupil includes funding from the Education Finance Act (EFA), Education Improvement Act (EIA), state grants, Education Lottery (when appropriated to K-12), and property tax reimbursements. Since the General Assembly has great discretion in the appropriations process to determine state per pupil funding, these estimates are based solely on the growth in state property tax reimbursements and total school district appropriations in recent years. These estimated amounts are also a statewide average across all

school districts. Actual state revenue per pupil ranged from \$5,089 to \$11,940 in FY 2019-20. An individual student’s total state funding can vary depending on the student’s grade, poverty standing, and any special educational needs. The analysis anticipates that a general cross section of students will participate in the ESA program. If participants reflect predominately higher or lower per pupil funding, this would affect our estimates.

The estimated maximum scholarship funding could total up to \$113,472,000 in school year 2025-26 when the number of eligible students allowed to participate in the program reaches the maximum amount. Actual participation in the program may vary widely and determining a better estimate will require actual student enrollment. Additionally, in 2026 and every five years thereafter, the number of students and estimated scholarship amount may vary since SCDE must conduct an eligibility and use review of the program and make recommendations to the General Assembly to improve the program. Please see the table below for an analysis of the eligible students and maximum scholarship funding.

Table 1

School Year	Number of Allowed Students	Average State Funding per Pupil	Estimated Maximum Scholarship Funding
2023-24	5,000	\$7,140	\$35,701,000
2024-25	10,000	\$7,349	\$73,495,000
2025-26 forward	15,000	\$7,565	\$113,472,000

(Figures may be rounded)

The amount of funding for the individual ESA accounts is based upon the state average of state funding per pupil. However, in Section 59-8-120 (C), upon approval of an eligible student’s application by SCDE, the State Treasurer is directed to transfer from the state appropriated monies allocated to the child’s district of residence the monies that would otherwise be allocated for the child’s education in the school district. The amount of state funding by district varies widely, and the funding transferred to the program based upon each district’s appropriations could be more or less than the state average. While funding is likely to meet the average over time, if the funding to the districts for students in the program varies significantly from the average in a particular year, the program may either have more or less funding than necessary.

Further, depending on the timing of eligibility determination, if the full appropriation is redirected to the ESA fund at the beginning of the fiscal year before sufficient revenues have been received, there may be an issue with cash flow, depending upon the volume of students participating in the program, particularly in later years when a greater number of students may participate.

Lastly, the appropriations and average funding per pupil include the amounts allocated for property tax relief. For this analysis, we have assumed that local property tax reimbursements will be reduced by the amount of the appropriations transferred to the ESA fund. However, should the state still be responsible for the full amount of local property tax reimbursements, net state expenditures would increase. On average, 24.6 percent of the state average funding per pupil is for local property tax reimbursements and could be impacted. Additionally, while

certain school operating property tax relief reimbursement funding is allocated on a school district basis, other funding such as the uncapped portion of sixty-five and over Homestead Exemption Tier II reimbursements, the manufacturer's depreciation reimbursement, manufacturer's value exemption, and merchant's inventory reimbursements are distributed to each county to distribute to their respective school districts. It is unclear how the Department of Revenue will handle reallocation of those property tax reimbursements that are distributed to counties.

State Department of Education. This bill requires SCDE to create a standard application process for the ESA program, process and approve applications, establish conditions and requirements of the ESA program, and promulgate regulations for the administration of the program. The bill also establishes the South Carolina Education Scholarship Account Fund, which SCDE is responsible for administering including keeping records, managing accounts, and disbursing scholarships. Additionally, SCDE is required to create individual online accounts for each student and make payments to the online accounts on a quarterly basis. Furthermore, the bill requires the department to develop an online electronic system for payment for services by participating parents. The bill requires the General Assembly to provide funds to SCDE for the initial costs to create the program. The amount of funding will be contingent upon appropriations. Thereafter, SCDE may deduct an amount from the fund to cover the costs of overseeing the accounts and administering the program up to a limit of 3 percent. The bill further provides requirements for how SCDE will inform parents and students of the program, handle cases of misuse, and audit accounts.

This bill additionally requires SCDE to maintain a record of the number of applications received annually for the program, the number of students accepted into the program each year, and the number of students not accepted into the program each year with a corresponding explanation as to why the student was not accepted into the program. SCDE is required to provide a report on this information to the General Assembly each year. Furthermore, SCDE must develop and administer an annual parental satisfaction survey, the results of which are to be provided to the General Assembly each year.

The bill also requires SCDE to develop an application and process for participation in the program by education service providers. An education service provider is defined as a person or organization approved by SCDE that receives payments from education savings accounts to provide educational goods and services to ESA students. SCDE must publish on its website a comprehensive list of certified education service providers by March fifteenth of each year. SCDE must develop and administer an annual parental satisfaction survey to parents of ESA students. Results of the survey must be provided to the General Assembly by December thirty-first of each year. Additionally, education service providers must ensure that each ESA student in grades three through twelve takes a nationally norm-referenced or formative assessment approved by SCDE.

Also, the bill requires SCDE to make readily available on its website information in conformity with 34 C.F.R and 300.130 through 300.144, *Assistance to States for the Education of Children*

with Disabilities, explaining to parents the rights of children with disabilities under IDEA both in public schools and as parentally placed students in private schools.

Further, the bill allows SCDE to contract with qualified organizations or vendors to administer some or all portions of the program, including the program application process, fund administration, account management, and account auditing.

The expenditure impact of this bill on SCDE is pending, contingent upon a response. However, please see Table 2 below for an estimate of the scholarship funding amounts by year and available funding for SCDE’s expenses.

Table 2

School Year	Number of Allowed Students	Estimated Maximum Scholarship Funding	3% Available to SCDE	Estimated Scholarship Funding Amount (Net of Expenditures)
2023-24	5,000	\$35,701,000	\$1,071,000	\$34,630,000
2024-25	10,000	\$73,495,000	\$2,205,000	\$71,290,000
2025-26 forward	15,000	\$113,472,000	\$3,404,000	\$110,068,000

(Figures may be rounded)

Education Oversight Committee. The amended bill requires the EOC to report on and publish associated learning gains and graduation rates to the public by means of a state website with data aggregated by grade level, gender, family income level, number of years of participation in the program, and race. The EOC must also evaluate and report the academic performance of ESA students compared to similar public school student populations. The EOC indicates that the bill will have no expenditure impact as the agency can manage the reporting requirements with existing staff and appropriations.

Office of the Governor, Senate, and House of Representatives. This bill creates the ESA Review Panel that must serve as an advisory panel to SCDE. The review panel must consist of ten members as follows:

- The Governor, or his designee, who will serve as chair of the panel; and
- Three members to be appointed by the Governor;
- One member appointed by the Speaker of the House of Representatives;
- One member appointed by the President of the Senate;
- One member appointed by the Chairman of House Education and Public Works;
- One member appointed by the Chairman of Senate Education; and
- Two parents of ESA students to be appointed by the Governor.

The review panel may advise SCDE on whether certain expenses meet the requirements to be considered a qualified expense and may make recommendations to the General Assembly on improving the program. Members may not receive mileage or per diem.

We anticipate that any expenses for the Office of the Governor, Senate, and House of Representatives can be accomplished within existing appropriations. Therefore, the bill is not expected to have an expenditure impact on these entities.

Department of Revenue. The Department of Revenue (DOR) allocates local property tax reimbursements from the Trust Fund for Tax Relief and the Homestead Exemption fund to local school districts and counties. Under our analysis, this bill would shift those appropriations for eligible students from locals to the ESA fund. We anticipate that DOR will coordinate with SCDE and the State Treasurer's Office to determine the adjustments to local property tax reimbursements as a result of this bill. While certain school operating property tax funding is allocated on a school district basis, other funding, such as the uncapped portion of Tier II Homestead Exemption reimbursements, the manufacturer's depreciation reimbursement, manufacturer's value exemption, and merchant's inventory reimbursement is distributed to each county to distribute to their respective school districts. It is unclear how those property tax reimbursements that are distributed to counties will be distributed.

State Treasurer's Office. STO is directed to transfer from the state appropriated monies allocated for the child's education in the prior school district of the child's domicile or for kindergarten students, the district that the child is eligible to attend, to the department the monies that would otherwise be allocated for the child's education in the expected school district. Based upon information previously obtained from STO, the agency will coordinate with SCDE to determine the appropriate funding to be transferred to the ESA fund. STO indicates that the bill will increase General Fund expenses of the agency by \$25,000 beginning in FY 2022-23 for 0.33 FTE to manage the responsibilities of the bill. Further, STO does not anticipate any cashflow or timing issues as a result of the bill.

State Revenue

This bill requires SCDE to create a standard application process for the ESA program, process and approve applications, establish conditions and requirements of the ESA program, and promulgate regulations for the administration of the program. The bill also establishes the South Carolina Scholarship Account Fund, which SCDE is responsible for administering including keeping records, managing accounts, and disbursing scholarships. The bill further allows SCDE to deduct an amount from the fund to cover the costs of overseeing the accounts and administering the program up to a limit of 3 percent. Based upon the estimated expenditures for the program explained above, we anticipate that the bill will increase Other Funds revenue of SCDE by approximately \$1,071,000 in FY 2023-24, \$2,205,000 in FY 2024-25, and \$3,404,000 in FY 2025-26 annually thereafter for administrative expenses. However, the amounts for the second and subsequent years are dependent upon projected expenditures by SCDE.

Local Expenditure

The overall expenditure impact of this bill on local school districts is undetermined. The potential reduction in school district expenditures due to students enrolling in the program will vary depending on the degree to which districts can consolidate resources by reducing the number of teachers or classrooms. Assuming the students are spread throughout the state, each school district would see only a reduction in the variable costs per student. School districts may

be able to realign resources to realize savings, but this will take time to implement. Since the bill provides a phase-in on the number of eligible students per year, we anticipate only marginal expenditure reductions for teachers, school classrooms, and buildings during initial implementation. Savings on counseling, libraries, and school administration would be similarly minimal. Therefore, we do not anticipate significant local expenditure savings from the ESA program in the initial years. Potential savings in future years will be largely dependent on the number of participants and actions taken by school districts in response to changes in enrollment.

Local Revenue

The overall impact on local revenues is undetermined. The bill provides a phase-in on the number of eligible students for the ESA program for school years 2024-25 through 2025-26 until the number of students reaches the maximum limit in school year 2025-26. The estimated potential local school district revenue impact of this bill corresponds to the state appropriations that are allocated to the ESA program as outlined in Table 1. Based upon average funding per pupil, if all eligible students participate, the revenue reduction would total up to \$35,701,000 in school year 2023-24, reaching \$113,472,000 by school year 2025-26. However, the actual reduction in local revenue will depend upon the number of students participating in the program and the district's actual state funding. State funding per pupil in FY 2019-20 ranged from \$5,089 to \$11,940.

Amended by Senate Education Subcommittee on February 16, 2022

State Expenditure

This bill creates the ESA program for elementary and secondary students, which will be administered by SCDE. Funds will be allocated to the parent of an eligible student to pay for qualifying expenses. The bill defines an eligible student as follows:

- A resident of this state;
- Attended a public school in this state the prior school year; or
 - has not yet attained the age of five on or before September first of the prior school year but has attained the age of five on or before September first of the current school year;
- Has a statement of Medicaid eligibility; or
 - attends a public school in this State that has earned an overall rating of “unsatisfactory” on the most recent school report card; or
 - attends a public school in this State that has earned an overall rating of “below average” and “unsatisfactory” on the school report card for three of the past five years; or
 - has an IEP; or
 - received an ESA scholarship issued pursuant to this bill for the prior school year; or
 - has a sibling living in the same household who receives an ESA scholarship.

The bill also limits the number of annual enrollees. In the first year, school year 2023-24, the program is limited to 5,000 ESA students. In the second year, school year 2024-25, the program is limited to 10,000 ESA students. In the third year, school year 2025-26 and beyond, the program is limited to 15,000 ESA students. In 2026 and every five years thereafter, SCDE must

conduct an eligibility and use review of the program and must make recommendations to the General Assembly to improve the program.

Additionally, the bill requires RFA to determine the state average of state funding per pupil in public schools for the current fiscal year. The amount must not include federal or local funds.

Also, for this analysis, we used the state funding per pupil amount from our Revenue Per Pupil Report. Following the methodology used to determine revenue per pupil in Proviso 1.3 of the FY 2021-22 Appropriations Act, the state funding per pupil amount used in this analysis includes only revenues from the regular school districts and does not include the statewide public charter school districts. Also, historical growth rates have been factored into the state revenue per pupil amount. The funding in state average funding per pupil includes funding from the Education Finance Act (EFA), Education Improvement Act (EIA), state grants, Education Lottery (when appropriated to K-12), and property tax reimbursements. Since the General Assembly has great discretion in the appropriations process to determine state per pupil funding, these estimates are based solely on the growth in state property tax reimbursements and total school district appropriations in recent years. These estimated amounts are also a statewide average across all school districts. Actual state revenue per pupil ranged from \$5,089 to \$11,940 in FY 2019-20. An individual student's total state funding can vary depending on the student's grade, poverty standing, and any special educational needs. The analysis anticipates that a general cross section of students will participate in the ESA program. If participants reflect predominately higher or lower per pupil funding, this would affect our estimates.

The estimated maximum scholarship funding could total up to \$113,472,000 in school year 2025-26 when the number of eligible students allowed to participate in the program reaches the maximum amount. Actual participation in the program may vary widely and determining a better estimate will require actual student enrollment. Additionally, in 2026 and every five years thereafter, the number of students and estimated scholarship amount may vary since SCDE must conduct an eligibility and use review of the program and make recommendations to the General Assembly to improve the program. Please see the table below for an analysis of the eligible students and maximum scholarship funding.

Table 1

School Year	Number of Allowed Students	Average State Funding per Pupil	Estimated Maximum Scholarship Funding
2023-24	5,000	\$7,140	\$35,701,000
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2025-26 forward	15,000	\$7,565	\$113,472,000

(Figures may be rounded)

The amount of funding for the individual ESA accounts is based upon the state average of state funding per pupil. However, in Section 59-8-120 (C), upon approval of an eligible student's application by SCDE, the State Treasurer is directed to transfer from the state appropriated monies allocated to the child's district of residence the monies that would otherwise be allocated for the child's education in the school district. The amount of state funding by district varies

widely, and the funding transferred to the program based upon each district's appropriations could be more or less than the state average. While funding is likely to meet the average over time, if the funding to the districts for students in the program varies significantly from the average in a particular year, the program may either have more or less funding than necessary.

Further, depending on the timing of eligibility determination, if the full appropriation is redirected to the ESA fund at the beginning of the fiscal year before sufficient revenues have been received, there may be an issue with cash flow, depending upon the volume of students participating in the program, particularly in later years when a greater number of students may participate.

Lastly, the appropriations and average funding per pupil include the amounts allocated for property tax relief. For this analysis, we have assumed that local property tax reimbursements will be reduced by the amount of the appropriations transferred to the ESA fund. However, should the state still be responsible for the full amount of local property tax reimbursements, net state expenditures would increase. On average, 24.6 percent of the state average funding per pupil is for local property tax reimbursements and could be at risk. Additionally, while certain school operating property tax relief reimbursement funding is allocated on a school district basis, other funding such as the uncapped portion of sixty-five and over Homestead Exemption Tier II reimbursements, the manufacturer's depreciation reimbursement, manufacturer's value exemption, and merchant's inventory reimbursements are distributed to each county to distribute to their respective school districts. It is unclear how the Department of Revenue will handle reallocation of those property tax reimbursements that are distributed to counties.

State Department of Education. This bill requires SCDE to create a standard application process for the ESA program, process and approve applications, establish conditions and requirements of the ESA program, and promulgate regulations for the administration of the program. The bill also establishes the South Carolina Education Scholarship Account Fund, which SCDE is responsible for administering including keeping records, managing accounts, and disbursing scholarships. Additionally, SCDE is required to create individual online accounts for each student and make payments to the online accounts on a quarterly basis. Furthermore, the bill requires the department to develop an online electronic system for payment for services by participating parents. The bill requires the General Assembly to provide funds to SCDE for the initial costs to create the program. The amount of funding will be contingent upon appropriations. Thereafter, SCDE may deduct an amount from the fund to cover the costs of overseeing the accounts and administering the program up to a limit of 3 percent. The bill further provides requirements for how SCDE will inform parents and students of the program, handle cases of misuse, and audit accounts.

This bill additionally requires SCDE to maintain a record of the number of applications received annually for the program, the number of students accepted into the program each year, and the number of students not accepted into the program each year with a corresponding explanation as to why the student was not accepted into the program. SCDE is required to provide a report on this information to the General Assembly each year. Furthermore, SCDE must develop and

administer an annual parental satisfaction survey, the results of which are to be provided to the General Assembly each year.

The bill also requires SCDE to develop an application and process for participation in the program by education service providers. An education service provider is defined as a person or organization approved by SCDE that receives payments from education savings accounts to provide educational goods and services to ESA students. SCDE must publish on its website a comprehensive list of certified education service providers by March fifteenth of each year. SCDE must develop and administer an annual parental satisfaction survey to parents of ESA students. Results of the survey must be provided to the General Assembly by December thirty-first of each year.

Further, the bill allows SCDE to contract with qualified organizations or vendors to administer some or all portions of the program, including the program application process, fund administration, account management, and account auditing.

The expenditure impact of this bill on SCDE is pending, contingent upon a response. However, please see Table 2 below for an estimate of the scholarship funding amounts by year and available funding for SCDE’s expenses.

Table 2

School Year	Number of Allowed Students	Estimated Maximum Scholarship Funding	3% Available to SCDE	Estimated Scholarship Funding Amount (Net of Expenditures)
2023-24	5,000	\$35,701,000	\$1,071,000	\$34,630,000
2024-25	10,000	\$73,495,000	\$2,205,000	\$71,290,000
2025-26 forward	15,000	\$113,472,000	\$3,404,000	\$110,068,000

(Figures may be rounded)

Office of the Governor, Senate, and House of Representatives. This bill creates the ESA Review Panel that must serve as an advisory panel to SCDE. The review panel must consist of ten members as follows:

- The Governor, or his designee, who will serve as chair of the panel; and
- Three members to be appointed by the Governor upon the recommendation of the:
 - S.C. Association of Christian Schools;
 - S.C. Independent Schools Association; and
 - Palmetto Association of Independent Schools;
- One member appointed by the Speaker of the House of Representatives;
- One member appointed by the President of the Senate;
- One member appointed by the Chairman of House Education and Public Works;
- One member appointed by the Chairman of Senate Education; and
- Two parents of ESA students to be appointed by the Governor.

The review panel may advise SCDE on whether certain expenses meet the requirements to be considered a qualified expense and may make recommendations to the General Assembly on improving the program. Members may not receive mileage or per diem.

We anticipate that any expenses for the Office of the Governor, Senate, and House of Representatives can be accomplished within existing appropriations. Therefore, the bill is not expected to have an expenditure impact on these entities.

Department of Revenue. The Department of Revenue (DOR) allocates local property tax reimbursements from the Trust Fund for Tax Relief and the Homestead Exemption fund to local school districts and counties. Under our analysis, this bill would shift those appropriations for eligible students from locals to the ESA fund. We anticipate that DOR will coordinate with SCDE and the State Treasurer's Office to determine the adjustments to local property tax reimbursements as a result of this bill. While certain school operating property tax funding is allocated on a school district basis, other funding, such as the uncapped portion of Tier II Homestead Exemption reimbursements, the manufacturer's depreciation reimbursement, manufacturer's value exemption, and merchant's inventory reimbursement is distributed to each county to distribute to their respective school districts. It is unclear how those property tax reimbursements that are distributed to counties will be distributed.

State Treasurer's Office. STO is directed to transfer from the state appropriated monies allocated for the child's education in the prior school district of the child's domicile or for kindergarten students, the district that the child is eligible to attend, to the department the monies that would otherwise be allocated for the child's education in the expected school district. Based upon information previously obtained from STO, the agency will coordinate with SCDE to determine the appropriate funding to be transferred to the ESA fund. STO indicates that the bill will increase General Fund expenses of the agency by \$25,000 beginning in FY 2022-23 for 0.33 FTE to manage the responsibilities of the bill. Further, STO does not anticipate any cashflow or timing issues as a result of the bill.

State Revenue

This bill requires SCDE to create a standard application process for the ESA program, process and approve applications, establish conditions and requirements of the ESA program, and promulgate regulations for the administration of the program. The bill also establishes the South Carolina Scholarship Account Fund, which SCDE is responsible for administering including keeping records, managing accounts, and disbursing scholarships. The bill further allows SCDE to deduct an amount from the fund to cover the costs of overseeing the accounts and administering the program up to a limit of 3 percent. Based upon the estimated expenditures for the program explained above, we anticipate that the bill will increase Other Funds revenue of SCDE by approximately \$1,071,000 in FY 2023-24, \$2,205,000 in FY 2024-25, and \$3,404,000 in FY 2025-26 annually thereafter for administrative expenses. However, the amounts for the second and subsequent years are dependent upon projected expenditures by SCDE.

Local Expenditure

The overall expenditure impact of this bill on local school districts is undetermined. The potential reduction in school district expenditures due to students enrolling in the program will vary depending on the degree to which districts can consolidate resources by reducing the number of teachers or classrooms. Assuming the students are spread throughout the state, each school district would see only a reduction in the variable costs per student. School districts may be able to realign resources to realize savings, but this will take time to implement. Since the bill provides a phase-in on the number of eligible students per year, we anticipate only marginal expenditure reductions for teachers, school classrooms, and buildings during initial implementation. Savings on counseling, libraries, and school administration would be similarly minimal. Therefore, we do not anticipate significant local expenditure savings from the ESA program in the initial years. Potential savings in future years will be largely dependent on the number of participants and actions taken by school districts in response to changes in enrollment.

Local Revenue

The overall impact on local revenues is undetermined. The bill provides a phase-in on the number of eligible students for the ESA program for school years 2024-25 through 2025-26 until the number of students reaches the maximum limit in school year 2025-26. The estimated potential local school district revenue impact of this bill corresponds to the state appropriations that are allocated to the ESA program as outlined in Table 1. Based upon average funding per pupil, if all eligible students participate, the revenue reduction would total up to \$35,701,000 in school year 2023-24, reaching \$113,472,000 by school year 2025-26. However, the actual reduction in local revenue will depend upon the number of students participating in the program and the district's actual state funding. State funding per pupil in FY 2019-20 ranged from \$5,089 to \$11,940.

Introduced on December 7, 2021

State Expenditure

This bill creates the ESA program for elementary and secondary students, which will be administered by Admin. Funds will be allocated to the parent of an eligible student to pay for qualifying expenses. The bill defines an eligible student as follows:

- A student residing in any school district of this state that has attained the age of five on or before September first of the school year; and
 - Has an annual adjusted gross family income of 200 percent or less of the federal poverty guidelines as promulgated annually by the U.S. Department of Health and Human Services or a statement of Medicaid eligibility; or
 - That participated in the S.C. Early Reading Development and Education Program; or
 - That previously received an ESA scholarship issued pursuant to this legislation or an Educational Credit for Exceptional Needs Children (ECENC) scholarship.

The bill also limits the number of annual enrollees. In the first year, school year 2022-23, the program is limited to 5,000 eligible students in kindergarten through third grade. In the second year, school year 2023-24, the program is limited to 10,000 students in kindergarten through fifth grade. In the third year, school year 2024-25, the program is limited to 15,000 students in

kindergarten through eighth grade. In the fourth year, school year 2025-26, the program is limited to 20,000 students in kindergarten through twelfth grade. In all subsequent years, as long as the program remains in effect and contingent upon the amount of funds in the program, there will be no limit on the number of eligible students.

Additionally, the bill requires RFA to determine the state average of state funding per pupil in public schools for the current fiscal year. The amount must not include federal or local funds.

For this analysis, we used the 2019 American Community Survey 1-Year Estimates from the U.S. Census Bureau to determine the population of school age persons age 5 to 17 by poverty level and then factored in growth expectations to determine the estimated number of eligible school age children under the poverty threshold of 200 percent. Additionally, please note the following adjustments and considerations in determining the potential number of eligible students:

- Based upon current guidelines, students eligible for Medicaid would be at or below the 185 percent poverty threshold, so we did not add additional students due to the Medicaid eligibility provision.
- Based upon the eligibility requirements for the S.C. Early Reading Development Education program, we assume that the majority of students who participated in the program are already included under the poverty threshold and have not included any additional students under this eligibility category.
- We included the number of students served under the ECENC scholarship program for the 2018-19 school year. While we anticipate that some students in the ECENC scholarship program may be below the poverty threshold, the program does not include specific poverty requirements. Further, we are unable to determine how many students may be duplicated and have, therefore, included all students.
- For future years, including students previously receiving an ESA may slightly increase the number of eligible students, but we do not anticipate this would significantly change these estimates as most would likely continue to meet the original eligibility requirements.

Also, for this analysis, we used the state funding per pupil amount from our Revenue Per Pupil Report. Following the methodology used to determine revenue per pupil in Proviso 1.3 of the FY 2021-22 Appropriations Act, the state funding per pupil amount used in this analysis includes only revenues from the regular school districts and does not include the statewide public charter school districts. Also, historical growth rates have been factored into the state revenue per pupil amount. The funding in state average funding per pupil includes funding from the Education Finance Act (EFA), Education Improvement Act (EIA), state grants, Education Lottery (when appropriated to K-12), and property tax reimbursements. Since the General Assembly has great discretion in the appropriations process to determine state per pupil funding, these estimates are based solely on the growth in state property tax reimbursements and total school district appropriations in recent years. These estimated amounts are also a statewide average across all school districts. Actual state revenue per pupil ranged from \$5,089 to \$11,940 in FY 2019-20. An individual student's total state funding can vary depending on the student's grade, poverty standing, and any special educational needs. The analysis anticipates that a general cross section

of students will participate in the ESA program. If participants reflect predominately higher or lower per pupil funding, this would affect our estimates.

The estimated maximum scholarship funding could total up to \$2,921,792,000 in school year 2026-27 when there is no limit on the allowed number of students who can receive a scholarship. Actual participation in the program may vary widely and determining a better estimate will require actual student enrollment. Please see the table below for an analysis of the eligible students and maximum scholarship funding.

Table 1

School Year	Grade Level	Population at 200% of Poverty	Number of ECENC Students	Total Number of Eligible Students	Number of Allowed Students	Percent of Eligible Students Allowed	Average State Funding per Pupil	Estimated Maximum Scholarship Funding
2022-23	K-3	107,411	142	107,553	5,000	4.6%	\$7,140	\$35,701,000
2023-24	K-5	163,288	363	163,651	10,000	6.1%	\$7,349	\$73,495,000
2024-25	K-8	252,012	790	252,802	15,000	5.9%	\$7,565	\$113,472,000
2025-26	K-12	360,608	1,138	361,746	20,000	5.5%	\$7,786	\$155,729,000
2026-27 forward	K-12	363,421	1,138	364,559	no cap	100%	\$8,015	\$2,921,792,000

(Figures may be rounded)

The amount of funding for the individual ESA accounts is based upon the state average of state funding per pupil. However, in Section 59-8-120 (C), upon approval of an eligible student’s application by Admin, the State Treasurer is directed to transfer from the state appropriated monies allocated to the child’s district of residence the monies that would otherwise be allocated for the child’s education in the school district. The amount of state funding by district varies widely, and the funding transferred to the program based upon each district’s appropriations could be more or less than the state average. While funding is likely to meet the average over time, if the funding to the districts for students in the program varies significantly from the average in a particular year, the program may either have more or less funding than necessary.

Further, depending on the timing of eligibility determination, if the full appropriation is redirected to the ESA fund at the beginning of the fiscal year before sufficient revenues have been received, there may be an issue with cash flow, depending upon the volume of students participating in the program, particularly in later years when a greater number of students may participate.

Lastly, the appropriations and average funding per pupil include the amounts allocated for property tax relief. For this analysis, we have assumed that local property tax reimbursements will be reduced by the amount of the appropriations transferred to the ESA fund. However, should the state still be responsible for the full amount of local property tax reimbursements, net state expenditures would increase. On average, 24.6 percent of the state average funding per pupil is for local property tax reimbursements and could be at risk. Additionally, while certain school operating property tax relief reimbursement funding is allocated on a school district basis,

other funding such as the uncapped portion of sixty-five and over Homestead Exemption Tier II reimbursements, the manufacturer's depreciation reimbursement, manufacturer's value exemption, and merchant's inventory reimbursements are distributed to each county to distribute to their respective school districts. It is unclear how the Department of Revenue will handle reallocation of those property tax reimbursements that are distributed to counties.

Department of Administration. This bill requires Admin to create a standard application process for the ESA program, process and approve applications, establish conditions and requirements of the ESA program, and promulgate regulations for the administration of the program. The bill also establishes the South Carolina Scholarship Account Fund, which Admin is responsible for administering including keeping records, managing accounts, and disbursing scholarships. Additionally, Admin is required to create individual online accounts for each student and make payments to the online accounts on a quarterly basis. Furthermore, the bill requires the department to develop an online electronic system for payment for services by participating parents. The bill requires the General Assembly to provide funds to the department for the initial costs to create the program. The amount of funding will be contingent upon appropriations. Thereafter, Admin is to deduct an amount from the fund to cover the costs of overseeing the accounts and administering the program up to a limit of 4 percent. The bill further provides requirements for how Admin will inform parents and students of the program, handle cases of misuse, and audit accounts.

This bill additionally requires Admin to maintain a record of the number of applications received annually for the program, the number of students accepted into the program each year, and the number of students not accepted into the program each year with a corresponding explanation as to why the student was not accepted into the program. Admin is required to provide a report on this information to the General Assembly each year. Furthermore, EOC is required to collaborate with Admin to develop and administer an annual parental satisfaction survey, the results of which are to be provided to the General Assembly each year.

The bill allows Admin to contract with qualified organizations or vendors to administer some or all portions of the program, including the program application process, fund administration, account management, and account auditing.

Admin indicates that this bill will require the agency to hire 2.0 new FTEs to assist with the administration of the ESA program. Annual salary and fringe benefits for a Program Manager II and a Program Coordinator I will total \$126,681, and total annual operating expenses related to telephone and desktop support will total \$6,000. Additionally, Admin anticipates that this bill will increase annual expenditures by \$150,000 for third-party auditing services and \$2,000,000 for third-party administrative costs. In total, Admin estimates that this bill may increase expenditures by approximately \$2,283,000 for 2.0 additional FTEs, operating expenses, and third-party services in FY 2022-23 and each year thereafter. However, Admin estimates that total annual expenditures could range from \$1,833,000 and \$2,561,000 based on the scope of third-party services required.

Further, Admin expressed concerns about potential legal defense costs that could be incurred as a result of this bill given recent litigation with similar issues. Generally, legislation is presumed to be constitutional. However, the agency expressed a concern that they may incur legal costs should there be legal challenges. In recent years, court cases have challenged providing public money to private schools, such as the recent S.C. Supreme Court challenge to a proposal to use federal Governor’s Emergency Education Relief money for private schools, in which Admin was a party.¹

Based upon our analysis of potential ESA funding in Table 2, expenditures in the first year would exceed the projected available 4 percent funding allocated to Admin. We anticipate that General Fund appropriations of approximately \$855,000 would be necessary to fund the expenditures in FY 2022-23. In future years, Other Funds revenue from the scholarship program will be sufficient to offset these expenditures.

Table 2

School Year	Estimated Maximum Scholarship Funding	4% Available to Admin	Admin Projected Expenditures (Average)	Estimated Scholarship Funding Amount (Net of Expenditures)
2022-23	\$35,701,000	\$1,428,000	\$2,283,000	\$34,273,000
2023-24	\$73,495,000	\$2,940,000	\$2,283,000	\$71,212,000
2024-25	\$113,472,000	\$4,539,000	\$2,283,000	\$111,189,000
2025-26	\$155,729,000	\$6,229,000	\$2,283,000	\$153,446,000
2026-27 forward	\$2,921,792,000	\$116,872,000	\$2,283,000	\$2,919,509,000

(Figures may be rounded)

Education Oversight Committee. This bill requires EOC to conduct an eligibility and use review of the ESA program in 2026 and every five years thereafter and to make recommendations to the General Assembly on how to improve the program. The bill also requires EOC to develop an application and process for participation in the program by education service providers. An education service provider is defined as a person or organization approved by EOC that receives payments from education savings accounts to provide educational goods and services to ESA students. Education service providers must apply annually for participation in the program and must certify to EOC that they continue to meet all program requirements. EOC must publish on its website a comprehensive list of certified education service providers by March fifteenth of each year. EOC may bar an education service provider from the program under certain conditions. Further, EOC must comply with all student privacy laws, collect all test results, annually provide the test results and other measures by means of a state website with aggregated data by the school, and must collaborate with Admin to develop and administer an annual parental satisfaction survey to parents of ESA students. Results of the survey must be provided to the General Assembly by December thirty-first of each year.

¹ <https://www.sccourts.org/opinions/HTMLFiles/SC/28000.pdf>

EOC indicates that this bill will increase Other Funds expenses of the agency by \$199,126 in FY 2022-23. Of this amount, \$119,126 is for recurring funds for 1.0 FTE to develop procedures and process applications for education service providers, process all test score data, and to create a state website to provide test results. The remaining \$80,000 in non-recurring funds is for computer equipment, software, and the establishment of a secure portal for education service providers to securely provide student achievement data. Expenses would decrease to \$149,126 beginning in FY 2023-24 for the FTE and \$20,000 of software licenses and annual maintenance for the secure portal.

State Department of Education. This bill requires SCDE by September first of each school year and again on January fifteenth and March fifteenth, to compare the list of ESA students with the public school enrollment lists and to notify Admin of any duplications to avoid duplicate payments. Also, SCDE must promulgate regulations to allow ESA students to return to the resident school districts at any time, providing the least disruptive process, and as may be necessary for applicable administration of the program. Additionally, for the purpose of funding calculations, each eligible student who participates in the program must be counted in the enrollment figures for the resident school district where the student is zoned to attend.

SCDE indicates that it can accomplish the requirements of the bill within existing appropriations as long as Admin uses the Revenue Per Pupil Report to transfer funds for each eligible student. If this is the case, the bill will have no expenditure impact on the agency. However, SCDE indicates that if the agency will be involved in identifying funding for individual students, General Fund expenses of the agency could increase by \$91,650 for 1.0 FTE to assist with the provisions of the bill. Further, SCDE indicates that there could be some cashflow issues related to EIA appropriated line items since there is often a timing issue with EIA revenue.

Office of the Governor, Senate, and House of Representatives. This bill creates the ESA Review Panel that must serve as an advisory panel to Admin. The review panel must consist of ten members as follows:

- The Governor, or his designee, who will serve as chair of the panel; and
- Three members to be appointed by the Governor upon the recommendation of the:
 - S.C. Association of Christian Schools;
 - S.C. Independent Schools Association; and
 - Palmetto Association of Independent Schools;
- One member appointed by the Speaker of the House of Representative;
- One member appointed by the President of the Senate;
- One member appointed by the Chairman of the House Education and Public Works Committee;
- One member appointed by the Chairman of the Senate Education Committee; and
- Two parents of ESA students to be appointed by the Governor.

The review panel may advise Admin on whether certain expenses meet the requirements to be considered a qualified expense and may make recommendations to the General Assembly, Admin, and EOC on improving the program. Members may not receive mileage or per diem.

We anticipate that any expenses for the Office of the Governor, Senate, and House of Representatives can be accomplished within existing appropriations. Therefore, the bill is not expected to have an expenditure impact on these entities.

Department of Revenue. The Department of Revenue (DOR) allocates local property tax reimbursements from the Trust Fund for Tax Relief and the Homestead Exemption fund to local school districts and counties. Under our analysis, this bill would shift those appropriations for eligible students from locals to the ESA fund. We anticipate that DOR will coordinate with Admin and the State Treasurer's Office to determine the adjustments to local property tax reimbursements as a result of this bill. While certain school operating property tax funding is allocated on a school district basis, other funding, such as the uncapped portion of Tier II Homestead Exemption reimbursements, the manufacturer's depreciation reimbursement, manufacturer's value exemption, and merchant's inventory reimbursement is distributed to each county to distribute to their respective school districts. It is unclear how those property tax reimbursements that are distributed to counties will be distributed.

State Treasurer's Office. STO is directed to transfer from the state appropriated monies allocated for the child's education in the prior school district of the child's domicile or for kindergarten students, the district that the child is eligible to attend, to the department the monies that would otherwise be allocated for the child's education in the expected school district. Based upon information from STO, the agency will coordinate with Admin and SCDE to determine the appropriate funding to be transferred to the ESA fund. STO indicates that the bill will increase General Fund expenses of the agency by \$25,000 beginning in FY 2022-23 for 0.33 FTE to manage the responsibilities of the bill. Further, STO does not anticipate any cashflow or timing issues as a result of the bill. The appropriation and cash will be reallocated from SCDE to Admin once the student is approved. SCDE would then reduce its distribution to the school district by the same amount.

State Revenue

This bill requires Admin to create a standard application process for the ESA program, process and approve applications, establish conditions and requirements of the ESA program, and promulgate regulations for the administration of the program. The bill also establishes the South Carolina Scholarship Account Fund, which Admin is responsible for administering including keeping records, managing accounts, and disbursing scholarships. The bill further allows Admin to deduct an amount from the fund to cover the costs of overseeing the accounts and administering the program up to a limit of 4 percent. Based upon the estimated expenditures for the program explained above, we anticipate that the bill will increase Other Funds revenue of Admin by approximately \$1,428,000 in FY 2022-23 and \$2,283,000 annually thereafter for administrative expenses.

Local Expenditure

The overall expenditure impact of this bill on local school districts is undetermined. The potential reduction in school district expenditures due to students enrolling in the program will vary depending on the degree to which districts can consolidate resources by reducing the number of teachers or classrooms. Assuming the students are spread throughout the state, each

school district would see only a reduction in the variable costs per student. School districts may be able to realign resources to realize savings, but this will take time to implement. Since the bill provides a phase-in on the number of eligible students per year, we anticipate only marginal expenditure reductions for teachers, school classrooms, and buildings during initial implementation. Savings on counseling, libraries, and school administration would be similarly minimal. Therefore, we do not anticipate significant local expenditure savings from the ESA program in the initial years. Potential savings in future years will be largely dependent on the number of participants and actions taken by school districts in response to changes in enrollment.

Local Revenue

The overall impact on local revenues is undetermined. The bill provides a phase-in on the number of eligible students for the ESA program for school years 2022-23 through 2025-26 until the number of students reaches no limit in school year 2026-27. The estimated potential local school district revenue impact of this bill corresponds to the state appropriations that are allocated to the ESA program as outlined in Table 1. Based upon average funding per pupil, if all eligible students participate, the revenue reduction would total up to \$35,701,000 in school year 2022-23, reaching \$2,919,792,000 by school year 2026-27. However, the actual reduction in local revenue will depend upon the number of students participating in the program and the district's actual state funding. State funding per pupil in FY 2019-20 ranged from \$5,089 to \$11,940.



Frank A. Rainwater, Executive Director

South Carolina General Assembly
124th Session, 2021-2022

S. 935

STATUS INFORMATION

General Bill

Sponsors: Senators Grooms, Loftis, Goldfinch, Verdin, Rice, Cash, Adams, Climer, Peeler, Garrett, Kimbrell, Davis, Campsen, Hembree, Turner, Corbin, Bennett, Massey, Gambrell, Rankin, Senn and Gustafson

Document Path: I:\s-res\lkg\036put .kmm.lkg.docx

Companion/Similar bill(s): 3976

Introduced in the Senate on December 7, 2021

Introduced in the House on April 5, 2022

Last Amended on March 30, 2022

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

Summary: Education Scholarships Account, created

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/7/2021	Senate	Introduced and read first time (Senate Journal-page 16)
12/7/2021	Senate	Referred to Committee on Education (Senate Journal-page 16)
3/15/2022	Senate	Committee report: Favorable with amendment Education (Senate Journal-page 15)
3/16/2022		Scrivener's error corrected
3/22/2022	Senate	Special order, set for March 22, 2022 (Senate Journal-page 26)
3/22/2022	Senate	Roll call Ayes-27 Nays-12 (Senate Journal-page 26)
3/23/2022	Senate	Debate interrupted (Senate Journal-page 32)
3/24/2022	Senate	Amended (Senate Journal-page 5)
3/24/2022	Senate	Debate interrupted (Senate Journal-page 5)
3/28/2022		Scrivener's error corrected
3/29/2022	Senate	Amended (Senate Journal-page 25)
3/29/2022	Senate	Debate interrupted (Senate Journal-page 25)
3/30/2022	Senate	Amended (Senate Journal-page 18)
3/30/2022	Senate	Read second time (Senate Journal-page 18)
3/30/2022	Senate	Roll call Ayes-25 Nays-15 (Senate Journal-page 18)
3/31/2022	Senate	Read third time and sent to House (Senate Journal-page 67)
3/31/2022		Scrivener's error corrected
4/5/2022	House	Introduced and read first time (House Journal-page 41)
4/5/2022	House	Referred to Committee on Ways and Means (House Journal-page 41)

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VERSIONS OF THIS BILL

[12/7/2021](#)

[3/15/2022](#)

[3/16/2022](#)

[3/24/2022](#)

3/28/2022

3/29/2022

3/30/2022

3/31/2022

1 AMENDED
2 March 30, 2022
3

S. 935

4
5
6 Introduced by Senators Grooms, Loftis, Goldfinch, Verdin, Rice,
7 Cash, Adams, Climer, Peeler, Garrett, Kimbrell, Davis, Campsen,
8 Hembree, Turner, Corbin, Bennett, Massey, Gambrell, Rankin and
9 Senn

10
11 S. Printed 3/30/22--S. [SEC 3/31/22 8:03 PM]
12 Read the first time December 7, 2021.
13 _____

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A BILL

10

11 TO AMEND TITLE 59 OF THE 1976 CODE, RELATING TO
12 EDUCATION, BY ADDING CHAPTER 8, TO PROVIDE FOR
13 THE CREATION OF EDUCATION SCHOLARSHIP
14 ACCOUNTS, TO PROVIDE REQUIREMENTS FOR THE
15 ACCOUNTS, TO CREATE AN EDUCATION SCHOLARSHIP
16 ACCOUNT FUND TO FUND THE SCHOLARSHIPS, AND TO
17 PROVIDE RELATED REQUIREMENTS OF THE EDUCATION
18 OVERSIGHT COMMITTEE AND THE DEPARTMENT OF
19 ADMINISTRATION, AMONG OTHER THINGS.

20 Amend Title To Conform

21

22 Whereas, in 1970, the State of South Carolina enacted the Tuition
23 Grants Program to award needs-based grants for students to attend
24 the independent college of their choice. Since 1970, 450,000 grants
25 totaling \$988 million have been awarded to deserving students; and
26

26

27 Whereas, in 1999, the State of South Carolina enacted First Steps to
28 School Readiness, a program for low-income children to attend
29 independent, prekindergarten programs; and
30

30

31 Whereas, in 2013, the South Carolina General Assembly passed its
32 first K-12 choice program, the Exceptional SC Scholarship, a tax
33 credit scholarship to assist children with special needs that was
34 made permanent law in 2018; and
35

35

36 Whereas, in establishing the Education Scholarship Account Act,
37 the South Carolina General Assembly intends to further enhance
38 educational opportunity for all South Carolinians across the
39 prekindergarten through higher education spectrum by providing
40 parents with state funds that will allow them to access the K-12
41 education that works best for their child; and

- 1 (ii) had not yet attained the age of five on or before
2 September first of the previous school year but who has attained the
3 age of five on or before September of the current school year; or
4 (iii) received a scholarship pursuant to this chapter for the
5 previous school year; and
6 (c)(i) has a statement of Medicaid eligibility;
7 (ii) has an IEP; or
8 (iii) has a sibling living in the same household who
9 receives a scholarship pursuant to this chapter.
- 10 (4) 'IDEA' means the Individuals with Disabilities Education
11 Act found in 20 U.S.C. Section 1400, et seq.
- 12 (5) 'Parent' means a resident of this State who is the natural
13 or adoptive parent, legal guardian, custodian, or other person with
14 legal authority to act on behalf of an eligible student.
- 15 (6) 'Education service provider' means a person or
16 organization approved by the department that receives payments
17 from ESTF to provide educational goods and services to scholarship
18 students.
- 19 (7) 'Program' means the ESTF program created by this
20 chapter.
- 21 (8) 'Resident school district' means the public school district
22 in which the student is domiciled.
- 23 (9) 'Scholarship' means education funding allocated from an
24 account established pursuant to this chapter.
- 25 (10) 'Scholarship student' means an eligible student who is
26 participating in the Education Scholarship Trust Fund program.
- 27 (11) 'Substantial misuse' means willfully and knowingly
28 receiving or spending any portion of a scholarship for any purpose
29 other than a qualifying expense.
- 30 (12) 'Qualifying expense' means:
31 (a) tuition and fees of an education service provider;
32 (b) textbooks, curriculum, or other instructional materials
33 including, but not limited to, any supplemental materials or
34 associated online instruction required by either a curriculum or an
35 education service provider;
36 (c) tutoring services approved by the department;
37 (d) computer hardware or other technological devices that
38 are used primarily for a scholarship student's educational needs and
39 approved by the department or a licensed physician;
40 (e) tuition and fees for an approved nonpublic online
41 education service provider or course;
42 (f) fees for approved:

- 1 (1) national norm-referenced examinations, advanced
- 2 placement examinations, or similar assessments;
- 3 (2) industry certification exams; or
- 4 (3) examinations related to college or university
- 5 admission;
- 6 (g) educational services for pupils with disabilities from a
- 7 licensed or accredited practitioner or provider including, but not
- 8 limited to, occupational, behavioral, physical, and speech-language
- 9 therapies;
- 10 (h) approved contracted services from a public school
- 11 district, including individual classes, after school tutoring services,
- 12 transportation, or fees or costs associated with participation in
- 13 extracurricular activities;
- 14 (i) contracted teaching services and education classes
- 15 approved by the department;
- 16 (j) fees for transportation paid to a fee-for-service
- 17 transportation provider for the scholarship student to travel to and
- 18 from an eligible provider as defined in this section, but not to exceed
- 19 seven hundred fifty dollars for each school year;
- 20 (k) fees for ESTF account management by private financial
- 21 management firms approved by the department; or
- 22 (l) any other educational expense approved by the
- 23 department.

24
25 Section 59-8-115. (A) The department shall create a standard
26 application process and establish the timeline for parents to establish
27 the eligibility of their student for the Education Scholarship Trust
28 Fund program. The application window established shall last at least
29 forty-five days, opening no earlier than January fifteenth and closing
30 no later than March fifteenth each calendar year.

31 (B) Pursuant to the timeline established pursuant to subsection
32 (A), the department shall:

- 33 (1) process applications in the order in which they are
- 34 received, after a preference has been extended to all prior-year
- 35 participants and their respective siblings; and
- 36 (2) enroll and issue award letters within thirty days of the
- 37 deadline for receipt of completed applications and all required
- 38 documentation.

39 (C) Before awarding a scholarship, the department shall have
40 obtained evidence of the student's eligibility through the card issued
41 in the student's name from the Department of Health and Human
42 Services for Medicaid eligibility included as applicable with
43 application documentation.

1 (D) The department shall approve an application for scholarship
2 if:

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

6 (2) the student on whose behalf the parent is applying is an
7 eligible student;

8 (3) funds are available for the ESTF; and

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

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

14 (b) to acknowledge and agree to comply with the education
15 service provider's prescribed curriculum, dress code, and other
16 requirements of enrolled students;

17 (c) to ensure the scholarship student takes assessments as
18 referenced in Section 59-8-150 or provides assessments in a similar
19 manner through other means if the scholarship student does not
20 receive full-time instruction from an education service provider;

21 (d) to use program funds for qualifying expenses only for
22 an approved provider to educate the scholarship student, subject to
23 penalty;

24 (e) not to enroll their scholarship student in a public school
25 as a full-time student in the resident school district, as defined in this
26 chapter;

27 (f) not to participate in a home instruction program under
28 Sections 59-65-40, 59-65-45, or 59-65-47;

29 (g) that includes documentation of the consultation process
30 between the parent, the resident school district, the education service
31 provider, and any school district that the education service provider
32 contracts with under an IEP or services plan, for each scholarship
33 student with a disability regarding the special education and related
34 services, and the manner by which these services as listed in the
35 student's IEP or services plan, will be provided to a scholarship
36 student with a disability.

37 (h) to confirm that, if the parent's child is a student with
38 disabilities, the parent has received notice from the department that
39 participation in the ESTF program is a parental placement of the
40 scholarship student under IDEA, along with an explanation of the
41 rights that parentally placed students possess under IDEA and any
42 applicable state laws and regulations, including the consultation
43 process provided for in 20 U.S.C. Section 1412(a)(10) and the

1 Individual Education Program requirements described in Section
2 1414(d) of IDEA.

3 (E) The department shall make available on its website in a
4 conspicuous location information in conformity with 34 C.F.R
5 Sections 300.130 through 300.144, Assistance to States for the
6 Education of Children with Disabilities, explaining to parents the
7 rights of children with disabilities under IDEA both in public
8 schools and as parentally placed students in private schools.

9 (F) A parent will be allowed to make payments for the cost of
10 educational goods and services not covered by the funds in their
11 student's ESTF; however, personal deposits into an ESTF account
12 are prohibited.

13 (G) Funds received pursuant to this section do not constitute
14 taxable income to the parent of the scholarship student or to the
15 student.

16 (H) A parent's signed agreement under subsection (D)(4)
17 satisfies the state's compulsory attendance law pursuant to Section
18 59-65-10.

19 (I) The State Board of Education shall promulgate regulations
20 for the administration of the program as may be applicable.

21 (J) The department may contract with qualified organizations to
22 administer the program application process or specific functions,
23 maintenance, and monitoring of the program application process as
24 required above.

25
26 Section 59-8-120. (A) There is established at the department,
27 the 'South Carolina Education Scholarship Trust Fund' that is
28 separate and distinct from the general fund, consisting of monies
29 appropriated to the department to provide scholarships to eligible
30 students for qualifying expenses. The fund must receive and hold all
31 monies allocated for it as well as all earnings until disbursed as
32 provided in this section.

33 (B) The department shall administer the fund and is responsible
34 for keeping records, managing accounts, and disbursing
35 scholarships awarded pursuant to this section and as directed by the
36 parent.

37 (C) Upon request of the parent and approval of an eligible
38 student's application by the department, the State Treasurer shall
39 transfer six thousand dollars per scholarship student to the
40 Education Scholarship Trust Fund as directed by the General
41 Assembly. Each year this amount shall be adjusted to reflect the
42 percentage increase in the actual state allocated revenue per pupil as

1 calculated by the Revenue and Fiscal Affairs Office pursuant to the
2 annual appropriations act.

3 (D) The department shall create an individual online ESTF
4 account for each scholarship student.

5 (1) The parent must be able to access the individual online
6 account for the scholarship student using a secure portal.

7 (2) The individual scholarship student's account must be
8 created within thirty days of the application approval.

9 (E) The department shall make payments to an individual
10 scholarship student's account from the ETSF on a quarterly basis
11 with the first payment being distributed by July thirty-first of each
12 year.

13 (F) By September first of each school year and again on January
14 fifteenth and March fifteenth of the school year, the department shall
15 compare the list of scholarship students with the public school
16 enrollment lists to avoid duplicate payments.

17 (G) Education service providers may not refund, rebate, or share
18 a student's scholarship funds directly with a parent or the
19 scholarship student. The funds in an account may only be used for
20 qualifying expenses as defined in this chapter and provided by the
21 department.

22 (H) The department may contract with qualified organizations to
23 administer the program.

24

25 Section 59-8-125. (A) The department shall develop an online
26 electronic system for payment for services authorized by
27 participating parents pursuant to this chapter and the guidelines
28 provided by the department. Parents may not be reimbursed for
29 out-of-pocket expenses.

30 (B) The General Assembly shall appropriate funds to the
31 department for initial costs to create the program. Thereafter, the
32 department shall deduct an amount from the ESTF to cover the costs
33 of overseeing the accounts and administering the program up to a
34 limit of three percent. Annually, on or before December thirty-first,
35 the department shall notify the respective chairmen of the Senate
36 Finance Committee and House of Representatives Ways and Means
37 Committee regarding the amount deducted for administrative costs
38 and an itemization of the costs incurred to administer the program
39 for the previous school year.

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

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

3 (E) Payments made by the department must remain in force until
4 a parent or scholarship student is proven to have participated in a
5 prohibited activity specified in this chapter, a scholarship student
6 returns to a public school in his resident public school district, or
7 scholarship student graduates from high school or attains
8 twenty-two years of age, whichever occurs first. A scholarship
9 student who enrolls in his resident public school district is
10 considered to have returned to a public school for the purpose of
11 determining the end of the term.

12 (F) The department may suspend or deactivate an account for
13 substantial misuse or the scholarship student leaves the program for
14 any reason, at which time any remaining funds must revert to the
15 ESTF.

16 (G) Unused funds must be rolled over to the following school
17 year for a scholarship student who applies and continues to meet
18 eligibility requirements to participate in the program.

19 (H) A scholarship terminates automatically if the student is no
20 longer domiciled in this State, and any money remaining in the
21 account reverts to the ESTF.

22 (I) Only one account may be established for a scholarship
23 student.

24

25 Section 59-8-130. If scholarship student's program of academic
26 instruction is terminated for any reason before the end of the
27 semester or school year and the student does not resume instruction
28 within thirty days, then the parent shall notify the department and
29 remaining funds in the account reverts to the ESTF.

30

31 Section 59-8-135. (A) Beginning with the 2023-2024 School
32 Year, the annual number of ESTF students is limited by the
33 following capacity:

34 (1) in School Year 2023-2024, the program is limited to five
35 thousand scholarship students;

36 (2) in School Year 2024-2025, the program is limited to ten
37 thousand scholarship students; and

38 (3) in School Year 2025-2026, and for all subsequent school
39 years, the program is limited to fifteen thousand scholarship
40 students.

41 (B) In 2026, and every five years thereafter, the department shall
42 conduct an eligibility and use review of the program and shall make
43 recommendations to the General Assembly to improve the program.

1

2 Section 59-8-140. (A)(1) The department must develop an
3 application approval process for participation in the ESTF program
4 for education service providers.

5 (2) The department must require an independent school that
6 applies to be an education service provider to be located in the State,
7 to have an educational curriculum that includes courses set forth in
8 the state's diploma requirements and to meet the compulsory
9 attendance and State Board of Education approval requirements in
10 Section 59-65-10.

11 (3) An education service provider that participated in the
12 program in the previous school year and desires to participate in the
13 program in the current school year shall reapply to the department.
14 The education service provider reapplying shall certify to the
15 department that it continues to meet all program requirements. An
16 education service provider required to administer academic testing
17 shall provide to the department test score data from the previous
18 school year. If individual student test score data is not submitted,
19 then the department shall remove the education service provider
20 from the program.

21 (4) By February first of each year, the department will certify
22 the list of approved education service providers for participation in
23 the program that meet all program requirements. The department
24 may waive the deadline requirement upon good cause shown by an
25 education service provider.

26 (5) An education service provider that is denied approval
27 pursuant to this section may seek review by filing a request for a
28 contested case hearing with the Administrative Law Court in
29 accordance with the court's rules of procedure.

30 (6) By February fifteenth of each year, the department shall
31 publish on its website a comprehensive list of approved education
32 service providers. The list must include the name, address,
33 telephone number, and website address for each education service
34 provider.

35 (B) If approved by the department, new education service
36 providers may be added to the list of approved providers on a rolling
37 basis. The providers will be added to the comprehensive list
38 available on the departments website.

39 (C) The department may bar an education service provider from
40 the program if the department establishes that the education service
41 provider has:

42 (1) failed to comply with the accountability standards
43 established in this section; or

1 (2) failed to provide the scholarship student with the
2 educational services funded by the account.

3 (D) The department shall create procedures to ensure that a fair
4 process exists to determine whether an education service provider
5 should be barred from receiving payments from accounts.

6 (1) If the department decides to bar an education service
7 provider from the program, it shall notify affected students and their
8 parents of this decision as quickly as possible.

9 (2) Education service providers may appeal the department's
10 decision to bar the education service provider from receiving
11 payments from accounts pursuant to the Administrative Procedures
12 Act.

13 (E) The State Board of Education shall promulgate regulations
14 to allow scholarship students to return to their resident school
15 districts during the course of their participation in the program.

16
17 Section 59-8-145. (A) The department shall adopt procedures
18 to inform students and their parents annually of their eligibility for
19 the program.

20 (B) The department shall adopt procedures to annually inform
21 scholarship students and their parents of the approved education
22 service providers.

23 (C) The department shall provide to parents of a scholarship
24 student written instructions for the allowable uses of an account and
25 the responsibilities of parents and the duties of the department.

26 (D) The department may declare that a parent is ineligible for
27 continuation in the program due to substantial misuse of their
28 account funds.

29 (E) 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 (F) The department may refer cases of substantial misuse of
33 funds to law enforcement agencies for investigation.

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

36 (H) The department shall maintain a record of the number of
37 applications received annually for the program, the number of
38 students accepted into the program each year, and the number of
39 students not accepted into the program each year with a
40 corresponding explanation as to why the student was not accepted
41 into the program. The department shall compile this information and
42 provide a report to the General Assembly by December thirty-first
43 of each year.

1 Section 59-8-150. (A) To ensure equitable treatment and
2 personal safety of all scholarship students, all education service
3 providers shall:

4 (1) comply with all applicable health and safety laws or
5 codes;

6 (2) hold a valid occupancy permit if required by the
7 municipality in which the education service provider is located;

8 (3) not unlawfully discriminate on the basis of race, color,
9 religion, or national origin; and

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

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

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

14 or

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

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

19 (1) provide parents with a receipt for all qualifying expenses;
20 and

21 (2) demonstrate their financial viability by filing a surety
22 bond with the department prior to the start of the school year if they
23 are to receive fifty thousand dollars or more during the school year.

24 (C) In order to allow parents and the public to measure the
25 achievements of the program, academic progress must be
26 documented annually for each scholarship student. Students with an
27 Individualized Education Plan that cannot be accommodated with
28 standardized testing are excluded from the requirements of item (1).
29 Education service providers that provide academic instruction must
30 monitor the progress of students with significant cognitive
31 disabilities through alternative assessments including portfolios.

32 (1) Education service providers that provide full-time
33 academic instruction shall:

34 (a) ensure that each scholarship student in grades three
35 through eight takes the SC Ready or SC Ready alternative
36 summative assessment required of students in public schools in this
37 State;

38 (b) ensure that each scholarship student in grades four and
39 six takes the SC Pass or SC Pass alternative summative assessment
40 required of students in public schools in this State;

41 (c) ensure that each scholarship student in grades nine
42 through twelve takes a nationally norm-referenced or formative
43 assessment approved by the department. Students with disabilities

1 for whom standardized testing is not appropriate are exempt from
2 this requirement; and

3 (d) measure academic performance and annual learning
4 gains of its scholarship students by:

5 (i) requiring that each scholarship student takes either an
6 approved nationally norm-referenced assessment annually, or an
7 approved formative assessment in the fall and spring, to measure
8 learning gains in math and reading; and

9 (ii) collecting high school graduation information of
10 scholarship students for reporting to the department as required in
11 this section.

12 (2) The department shall ensure that the education service
13 provider has access to and is trained in administering the state
14 assessments required in subitems (1)(a) and (b). The department
15 shall assume any costs associated with training, administering, or
16 taking assessments with no charges to the provider or ESTF
17 students.

18 (3) For the purpose of evaluating program effectiveness,
19 education service providers that provide full-time academic
20 instruction shall ensure that results in item (1) are:

21 (a) provided to the parent of a scholarship student and must
22 be provided to the department on an annual basis, beginning with
23 the first year of program implementation; and

24 (b) disaggregated by grade level, gender, family income
25 level, race, and English learner status.

26 (4) The department, or the appropriate organization chosen by
27 the department, if any, must be informed of the scholarship student's
28 graduation from high school.

29 (D) The department shall:

30 (1) comply with all student privacy laws;

31 (2) collect all test results;

32 (3) annually provide individual student assessment results
33 and information to the Education Oversight Committee. The
34 transmission of the information must be made in a manner that
35 safeguards the data to ensure student privacy.

36 (E) The Education Oversight Committee shall:

37 (1) comply with all student privacy laws;

38 (2) report on and publish associated learning gains and
39 graduation rates to the public by means of a state website with data
40 aggregated by grade level, gender, family income level, number of
41 years participating in the program, and race and a report for any
42 participating school if at least fifty-one percent of the total enrolled
43 students in the private school participated in the ESTF program in

1 the prior school year or if there are at least thirty participating
2 students who have scores for tests administered. If the Education
3 Oversight Committee determines that the thirty participating-
4 student cell size may be reduced without disclosing the personally
5 identifiable information of a participating student, the Education
6 Oversight Committee may reduce the participating-student cell size,
7 but the cell size may not be reduced to fewer than ten participating
8 students;

9 (3) evaluate and report the academic performance of
10 scholarship students compared to similar public school populations;
11 and

12 (4) collaborate with the department to develop and administer
13 an annual parental satisfaction survey for all parents of scholarship
14 students on issues relevant to the ESTF program, to include
15 effectiveness and length of the program participation. Results of this
16 survey must be provided to the General Assembly by December
17 thirty-first of each year.

18 (F) An education service provider, not a public school, is
19 autonomous and not an agent of the state or federal government,
20 therefore:

21 (1) the department or any other state agency may not regulate
22 the educational program of an approved education provider that
23 accepts funds from an account;

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

28 (3) the freedom of education service providers to provide for
29 the educational needs of scholarship students without governmental
30 control must not be abridged;

31 (4) an education service provider that accepts payment by a
32 parent from an ESTF account pursuant to this chapter is not an agent
33 of the state or federal government; and

34 (5) education service providers shall not be required to alter
35 their creeds, practices, admissions policy, or curriculum in order to
36 accept payments by a parent from an ESTF account.

37
38 Section 59-8-155. The scholarship student's resident school
39 district shall provide a parent and the education service providers
40 designated by the parent with a complete copy of the student's
41 school records, while complying with the Family Educational
42 Rights and Privacy Act of 1974, 20 U.S.C. Section 1232(g).

43

1 Section 59-8-160. (A) There is created the 'ESTF Review
2 Panel' that shall serve as an advisory panel to the department.

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

5 (1) the Governor or his designee, who shall serve as the chair
6 of the panel;

7 (2) three members to be appointed by the Governor;

8 (3) one member appointed by the Speaker of the House of
9 Representatives;

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

11 (5) one member appointed by the Chairman of the House of
12 Representatives Education and Public Works Committee;

13 (6) one member appointed by the Chairman of the Senate
14 Education Committee; and

15 (7) two parents of scholarship students to be appointed by the
16 Governor.

17 (C) The review panel may advise the department on whether
18 certain expenses meet the requirements to be considered a qualified
19 expense under this chapter when requested by the department. The
20 review panel periodically may make recommendations to the
21 General Assembly about improving the program.

22 (D) Members shall serve at the pleasure of their appointing
23 authority. In making appointments to the panel, the appointing
24 authorities, as appropriate, shall consider legal, financial,
25 accounting, and marketing experience and race, gender, and other
26 demographic factors to ensure nondiscrimination, inclusion, and
27 representation of all segments of the State to the greatest extent
28 possible.

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

30

31 Section 59-8-165. The provisions of the chapter do not restrict a
32 school district's ability to enact or enforce a district's student
33 transfer policy.

34

35 Section 59-8-170. A scholarship student transferring from one
36 public school to another public school pursuant to this program is
37 not subject to any prohibition by the South Carolina High School
38 League on a transfer student from participating in a sport
39 immediately upon transfer."

40

41 SECTION 3. If any section, subsection, paragraph, subparagraph,
42 sentence, clause, phrase, or word of this act is for any reason held to
43 be unconstitutional or invalid, then such holding shall not affect the

1 constitutionality or validity of the remaining portions of this act, the
2 General Assembly hereby declaring that it would have passed this
3 act, and each and every section, subsection, paragraph,
4 subparagraph, sentence, clause, phrase, and word thereof,
5 irrespective of the fact that any one or more other sections,
6 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,
7 or words hereof may be declared to be unconstitutional, invalid, or
8 otherwise ineffective.

9

10 SECTION 4. This act takes effect thirty days after approval by the
11 Governor, provided that upon approval of this act by the Governor,
12 the Department of Education shall begin undertaking and executing
13 responsibilities incidental to the implementation of this act so that
14 the provisions of this act may be fully implemented thirty days after
15 approval by the Governor.

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17