**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “EDUCATIONAL OPPORTUNITY ACT” BY ADDING ARTICLE 6 TO CHAPTER 63, TITLE 59 SO AS TO PROVIDE THAT A QUALIFYING STUDENT IS ELIGIBLE TO RECEIVE A SCHOLARSHIP TO ATTEND AN INDEPENDENT SCHOOL IF HE MEETS CERTAIN CONDITIONS, AND TO PROVIDE THE VALUE OF THOSE SCHOLARSHIPS; TO ALLOW A TAX CREDIT TO BE TAKEN BY A PERSON WHO FILES STATE INCOME TAX FOR TUITION PAID FOR A QUALIFYING STUDENT TO ATTEND AN INDEPENDENT SCHOOL UPON CERTAIN CONDITIONS, TO PROVIDE THE VALUE OF THE TAX CREDIT, TO PROVIDE THAT THE TAX CREDIT MAY BE TAKEN IN FUTURE YEARS UPON CERTAIN CONDITIONS, TO REQUIRE A RECEIPT TO CLAIM THE TAX CREDIT, AND TO PROVIDE THAT A TAX CREDIT MAY NOT BE TAKEN IF THE STUDENT’S ENROLLMENT IN THE INDEPENDENT SCHOOL IS TERMINATED; TO REQUIRE THE STATE BUDGET AND CONTROL BOARD TO CALCULATE THE SAVINGS TO THE STATE GENERAL FUND DERIVED FROM THE PROVISIONS OF THIS ARTICLE, TO PROVIDE THE MECHANISM FOR THAT CALCULATION, TO PROVIDE FOR TAX CREDITS TO BE TAKEN FOR TUITION PAID FOR OTHER STUDENTS TO ATTEND INDEPENDENT SCHOOLS, AND TO PROVIDE FOR THE TOTAL AND INDIVIDUAL AMOUNTS OF THOSE TAX CREDITS; TO PROVIDE FOR A TAX CREDIT FOR A PERSON WHO TEACHES A QUALIFYING STUDENT AT HOME, AND TO PROVIDE THAT THE TAX CREDIT MAY BE TAKEN IN FUTURE YEARS UPON CERTAIN CONDITIONS; TO ALLOW A CORPORATION OR PERSON TO CLAIM A CREDIT AGAINST STATE INCOME TAX OR FRANCHISE FEES FOR A CONTRIBUTION MADE TO A STUDENT SCHOLARSHIP ORGANIZATION; TO PROVIDE DUTIES FOR INDEPENDENT SCHOOLS AND STUDENT SCHOLARSHIP ORGANIZATIONS WITH REGARD TO THIS ARTICLE; TO PROVIDE TESTING REQUIREMENTS; TO ALLOW THE DEPARTMENT OF REVENUE TO PROMULGATE NECESSARY REGULATIONS AND TO CONDUCT NECESSARY EXAMINATIONS AND INVESTIGATIONS; TO PROVIDE REPORTING REQUIREMENTS BY THE STATE BUDGET AND CONTROL BOARD AND THE LEGISLATIVE AUDIT COUNCIL; TO PROVIDE DUTIES OF THE EDUCATION OVERSIGHT COMMITTEE AND THE DEPARTMENT OF EDUCATION WITH REGARD TO THIS ARTICLE; TO PROVIDE THAT AN INDEPENDENT SCHOOL IS NOT AN AGENT OR ARM OF THE STATE OR FEDERAL GOVERNMENT WITH RESPECT TO THIS ARTICLE; TO PROVIDE THAT OTHER STATE AGENCIES MAY NOT REGULATE THE EDUCATIONAL PROGRAM OF AN INDEPENDENT SCHOOL; AND BY ADDING SECTION 12-6-3383 SO AS TO ALLOW AN INDIVIDUAL TO CLAIM AN INCOME TAX CREDIT PURSUANT TO THE PROVISIONS OF ARTICLE 6, CHAPTER 63, TITLE 59.

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

SECTION 1. This act may be cited as the “South Carolina Educational Opportunity Act”.

SECTION 2. (A) The General Assembly finds:

(1) it has the inherent power to determine subjects of taxation for general or particular public purposes;

(2) expanding educational opportunities and improving the quality of educational services within the State are valid public purposes that the General Assembly may promote using its sovereign power to determine subjects of taxation and exemptions from taxation; (3) ensuring that all parents, regardless of means, may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the General Assembly may promote using its sovereign power to determine subjects of taxation and exemptions from taxation;

(4) expanding educational opportunities and the healthy competition they promote are critical to improving the quality of education in the State and ensuring that all children receive the high‑quality education to which they are entitled; and

(B) The purpose of this article is to:

(1) allow maximum freedom to parents and independent schools to respond to and provide for the educational needs of children without governmental control, and this act must be liberally construed to achieve that purpose;

(2) enable taxpayers to make private, voluntary contributions to nonprofit scholarship funding organizations in order to promote the general welfare;

(3) provide taxpayers who wish to help parents with limited resources exercise their basic right to educate their children as they see fit with a means to do so;

(4) promote general welfare by expanding educational opportunities for children of families that have limited financial resources;

(5) enable children in this State to achieve a greater level of excellence in their education;

(6) improve the quality of education in this State, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence; and

(7) enable taxpayers to receive an income tax credit for a portion of tuition paid for a qualifying student to attend an independent school.

SECTION 3. Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Article 6

Educational Opportunity Act

Section 59‑63‑610. As used in this article:

(1) ‘Department’ means the Department of Revenue.

(2) ‘Independent school’ means a school, other than a public school, at which the compulsory attendance requirements of Section 59‑65‑10 may be met and that does not discriminate based on the grounds of race, color, or national origin. For purposes of this article, ‘independent school’ does not include a home where a parent or legal guardian teaches one or more children as authorized pursuant to Sections 59‑65‑40, 59‑65‑45, or 59‑65‑47.

(3) ‘Nonstudent‑based per‑pupil state funding’ means all projected state expenditures to local public school districts not directly related to the number of students, divided by the total projected pupil count in those districts.

(4) ‘Owner or operator’ includes:

(a) an owner, president, officer, or director of an eligible nonprofit scholarship funding organization or a person with equivalent decision making authority over an eligible nonprofit scholarship funding organization; and

(b) an owner, operator, superintendent, or principal of an eligible independent school or a person with equivalent decision making authority over an eligible independent school.

(5) ‘Parent’ means the natural or adoptive parent or legal guardian of a child.

(6) ‘Public school’ means a public school in the State as defined in Section 59‑1‑120.

(7) ‘Qualifying student’ means a student who is a South Carolina resident and who was enrolled in a South Carolina secondary or primary public school at the kindergarten or later year level for the preceding school year or who is eligible to enroll in a qualified five‑year-old kindergarten program.

(8) ‘Receipt’ means a document developed by the Department of Revenue that is issued by the receiving school to a person who makes a tuition payment on behalf of a qualifying student and that contains, at a minimum:

(a) the name and address of the school;

(b) the name, social security number, and address of the qualifying student for whom the tuition has been paid; and

(c) the name of the payer and the date and amount of tuition paid.

(9) ‘Receiving school’ means an independent school which the qualifying student seeks to attend.

(10) ‘Resident public school district’ means the public school district in which a student resides.

(11) ‘Release of information form’ means a document developed by a receiving school which is signed by the parent or guardian of a qualifying student and which acknowledges the consent of the parent or guardian to release of information contained in the receipt.

(12) ‘Scholarship receipt’ means a document developed by the Department of Revenue that is issued by the student scholarship organization to a corporation or a person who makes a contribution to a student scholarship organization.

(13) ‘State’ means the state of South Carolina.

(14) ‘Student‑based per‑pupil state funding’ means the sum of projected allocations from all state sources to local districts that are directly related to the number of students, divided by the total projected pupil count in those districts.

(15) ‘Student scholarship organization’ means a charitable organization incorporated or qualified to do business in this State that:

(a) is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code;

(b) complies with the applicable state and federal antidiscrimination provisions; and

(c) is registered with the Office of the Secretary of State.

(16) ‘Total per‑pupil state funding’ means the total projected state expenditures to local public school districts divided by the total projected pupil count in those districts.

(17) ‘Tuition’ means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school and school‑related transportation.

Section 59‑63‑620. (A) A qualifying student is eligible to receive a scholarship to attend an independent school in this State if the student transfers to an independent school or enters kindergarten at an independent school and:

(1) has a household income that qualifies the student to receive free or reduced meals pursuant to the Richard B. Russell National School Lunch Act, 7 C.F.R. Part 245, or that qualifies the student’s family to receive Medicaid; and

(2) is not a student for whom a taxpayer has received a tax credit pursuant to Section 59‑63‑623.

(B) The value of a scholarship given to a qualifying student who meets the criteria provided in subsection (A) may not exceed the greater of:

(1) fifty percent of the state’s total projected allocation to the resident public school district of the student, divided by the projected average daily membership of the resident public school district; or

(2) the statewide base student cost as defined in Section 59‑20‑20.

(C) For purposes of this section, the state’s total projected allocation to the local public school district includes both general fund and nongeneral fund allocations, including, but not limited to, restricted state grants, unrestricted grants, the Education Finance Act (EFA), the Education Improvement Act (EIA), education lottery revenue, state revenue in lieu of taxes, and other state revenue.

Section 59‑63‑623. (A) Beginning in the 2011‑2012 school year, a person who files a state income tax return and who is not a dependent of another taxpayer may claim a tax credit for the tuition paid by that person for a qualifying student to attend an independent school in an amount not to exceed the greater of:

(1) fifty percent of the State’s total projected allocation to the resident public school district of the student, divided by the projected average daily student membership of that school district; or

(2) the statewide base student cost.

(B) For purposes of this section, the state’s total projected allocation to the local public school district includes both general fund and nongeneral fund allocations, including, but not limited to, restricted state grants, unrestricted grants, the Education Finance Act (EFA), the Education Improvement Act (EIA), education lottery revenue, state revenue in lieu of taxes, and other state revenue.

(C) In no event may the total amount of the tax credit exceed the amount of actual tuition paid on behalf of the qualifying student.

(D) Beginning with the 2012‑2013 school year and for every school year thereafter, a person who files a state income tax return and who is not a dependent of another taxpayer may claim a tax credit as provided in subsection (A) for tuition paid by that person for the qualifying student for whom the tax credit was initially taken pursuant to subsection (A) who continues to be enrolled in an independent school.

(E) A tax credit may not be claimed without a receipt issued by the department.

(F) For a student for whom tuition is paid to attend an independent school for which a tax credit is claimed pursuant to this section and whose enrollment in the independent school is terminated for any reason during the academic year, the independent school shall notify the department so that no tax credit may be taken for any tuition paid on behalf of the student.

Section 59‑63‑624. (A) The State Budget and Control Board annually shall calculate the savings to the state general fund derived from the provisions of this article. The amount of savings per school district is equal to the amount of the student‑based per‑pupil state funding to each district less the value of tax credits taken pursuant to Section 59‑63‑623 and scholarships given pursuant to Section 59‑63‑620 issued to qualifying students in the district.

(B) Beginning with the 2014‑2015 school year and thereafter, the credit provided in Section 59‑63‑623 must be available to all persons otherwise eligible under that section for any students to attend an independent school notwithstanding the limitation contained in Section 59‑63‑610(7). The total amount of funds available for taxpayers to take advantage of this credit pursuant to this subsection must be capped at eighty percent of the aggregate amount of the savings for all local districts, as calculated in subsection (A), and determined by the State Budget and Control Board pursuant to Section 59‑63‑650(A)(5).

(C) The department annually shall certify the amount of the credit per student based upon the amount of savings as calculated in subsections (A) and (B), divided by the number of eligible students then enrolled in independent schools.

Section 59‑63‑625. (A) A parent or legal guardian who teaches one or more qualifying students at home as authorized pursuant to Section 59‑65‑40, 59‑65‑45, or 59‑65‑47 may take a tax credit of up to one thousand dollars per home school student for instruction-related expenditures.

(B) Beginning with the 2012‑2013 school year and for every school year thereafter, a person who files a state income tax return and who is not a dependent of another taxpayer may claim a tax credit as provided in subsection (A) for instruction-related expenditures paid by that person for the qualifying student for whom the tax credit was initially taken pursuant to subsection (A) who continues to be taught at home.

Section 59‑63‑627. (A) A corporation or a person may claim a credit against state income tax or against state franchise fees for a contribution made to a student scholarship organization.

(B) A tax credit may not be claimed without a scholarship receipt.

Section 59‑63‑630. (A) An independent school that accepts students pursuant to this article shall:

(1) be included on a list of eligible schools published by the Education Oversight Committee;

(2) comply with state and federal antidiscrimination laws;

(3) meet state and local health and safety laws and codes;

(4) comply with state statutes relating to independent schools, including the compulsory school attendance requirements provided in Section 59‑65‑10;

(5) employ or contract with teachers who hold a baccalaureate or higher degree, have at least three years of teaching experience in a public or independent school, or have special skills, knowledge, or expertise that qualify them to provide instruction in subjects taught;

(6) be academically accountable to the parent or guardian for meeting the education needs of the student;

(7) administer to students a nationally recognized achievement test and report the school’s aggregate score to all parents in accordance with Section 59‑63‑633;

(8) accept scholarship students who meet the admissions criteria of the school within the school’s capacity to accept additional students;

(9) have a physical location in the State in which the students attend classes;

(10) verify student enrollment and attendance for the previous year pursuant to the issuance of a tax credit receipt;

(11) be in operation for three years or post a surety bond or letter of credit equal to two hundred fifty thousand dollars;

(12) be a member in good standing of South Carolina Association of Christian Schools, South Carolina Independent Schools Association, or Southern Association of Colleges and Schools;

(13) annually contract with an independent certified public accountant to perform the accounting procedures as required by this section;

(14) participate, through the independent schools associations, with student scholarship organizations, in the joint development of procedures to be performed by an independent certified public accountant as required by this section, if the school received more than one hundred thousand dollars in scholarship funds from student scholarship organizations in the preceding fiscal year. These procedures uniformly must apply to all independent schools and must determine, at a minimum, whether the independent school has been verified as eligible by the Education Oversight Committee pursuant to Section 59‑63‑661; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education‑related expenses. During the development of the procedures, the participating scholarship funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant’s performance of the procedures. The procedures and guidelines must be provided to independent schools and the Education Oversight Committee by June first of each year;

(15) participate in a joint review of the procedures and guidelines developed pursuant to item (14) by August 1, 2012, and biennially thereafter, if the school received more than one hundred thousand dollars in scholarship funds pursuant to this section during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to independent schools and the Education Oversight Committee by August 15, 2012, and biennially thereafter; and

(16) produce a report of the results of the procedures required in item (14) if the independent school receives more than one hundred thousand dollars in funds from scholarships awarded pursuant to this section in the preceding state fiscal year or a state fiscal year thereafter. An independent school subject to the provisions of this item shall submit the report byJuly first of the first full year of participation and annually thereafter to the scholarship funding organization that awarded the majority of the school’s scholarship funds. The procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

(B) The inability of an independent school to meet the requirements of this section constitutes a basis for the ineligibility of the independent school to participate in the scholarship program as determined by the Education Oversight Committee.

Section 59‑63‑631. A student scholarship organization shall:

(1) allocate ninety‑five percent of its annual revenue for which scholarship receipts were issued for tax credit purposes to scholarships or tuition grants for qualifying students to attend independent schools;

(2) not have an owner or operator who in the last seven years has filed for personal bankruptcy or corporate bankruptcy in a corporation of which he or she owned more than twenty percent;

(3) not have an owner or operator who owns or operates an eligible independent school that participates in the scholarship program;

(4) provide scholarships, from eligible contributions, to qualifying students to defray the cost of tuition and fees for an eligible independent school located in South Carolina;

(5) not restrict or reserve scholarships for use at a single independent school or provide scholarships to a child of an owner or operator;

(6) verify the eligibility through transcripts and attendance records of a qualifying student who applies for a scholarship;

(7) not use more than five percent of eligible contributions received during the state fiscal year in which the contributions are collected, and for which scholarship receipts were issued for tax credit purposes, for administrative expenses. These administrative expenses must be reasonable and necessary for the organization’s management and distribution of eligible contributions pursuant to this section. No more than one‑third of the funds authorized for administrative expenses pursuant to this item may be used for expenses related to the recruitment of contributions from taxpayers;

(8) expend an amount equal to or greater ninety‑five percent of the net eligible contributions remaining after administrative expenses are expended for annual or partial‑year scholarships during the state fiscal year in which these contributions are collected. No more than five percent of these net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected may be carried forward to the following state fiscal year. Any amounts carried forward must be expended for annual or partial‑year scholarships in the following state fiscal year. Net eligible contributions remaining on June thirtieth of each year that are in excess of the five percent that must be carried forward must be returned to the State Treasury for deposit in the general revenue fund;

(9) maintain separate accounts for scholarship funds and operating funds;

(10) provide to the Education Oversight Committee an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and in compliance with generally accepted auditing standards. It also must include a report on financial statements presented in accordance with generally accepted accounting principles provided by the American Institute of Certified Public Accountants for not‑for‑profit organizations and a determination of compliance with statutory eligibility and expenditure requirements provided in this section. Audits mustbe provided to the Education Oversight Committee within one hundred eighty days after completion of the eligible nonprofit scholarship funding organization’s fiscal year;

(11) prepare and submit quarterly reports to the Department of Education. In addition, an eligible nonprofit scholarship funding organization must submit in a timely manner any information requested by the Education Oversight Committee relating to the scholarship program;

(12) participate in the joint development, with independent schools associations and other student scholarship organizations, of procedures to be performed by an independent certified public accountant as required pursuant to Section 59‑63‑630(14) if the student scholarship organization provided the majority of the scholarship funds received by a receiving school. The procedures uniformly must apply to all independent schools and must determine, at a minimum, whether the independent school has been verified as eligible by the Department of Education pursuant to Section 59‑63‑661; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education‑related expenses. During the development of the procedures, the participating scholarship funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant’s performance of the procedures. The procedures and guidelines must be provided to independent schools and the Education Oversight Committee;

(13) participate in a joint review of the procedures and guidelines developed pursuant to Section 59‑63‑630(14) by August 1, 2012, and biennially thereafter. If the procedures and guidelines are revised, the revisions must be provided to independent schools and the Education Oversight Committee by August 15, 2012, and biennially thereafter;

(14) monitor the compliance of an independent school with Section 59‑63‑630 if the scholarship funding organization provided the majority of the scholarship funding to the school. For each independent school subject to Section 59‑63‑630(14), the appropriate scholarship funding organization shall notify the Education Oversight Committee by August 15, 2012, and annually thereafter of:

(a) an independent school’s failure to submit the report required pursuant to Section 59‑63‑630; or

(b) any material exceptions set forth in the report required pursuant to Section 59‑63‑630; and

(15) seek input from state recognized independent school accreditation organizations or other independent schoolassociations when jointly developing the procedures and guidelines provided in Section 59‑63‑630 and conducting a review of those procedures and guidelines pursuant to Section 59‑63‑630.

Section 59‑63‑633. To ensure that schools provide academic accountability to parents of students, receiving schools annually shall administer the Palmetto Assessment of State Standards (PASS) test or its equivalent or a nationally recognized norm‑ referenced test including, but not limited to, the Stanford Achievement Test or the Iowa Test of Basic Skills or other test certified by any other state to meet public school testing requirements under federal law, in the areas of mathematics and language arts to each student participating in the program. Receiving schools publicly shall disclose the aggregate results of the tests by grade level, but only if the disclosure of the aggregate results complies with 20 U.S.C. Section 1232g, Family Educational Rights and Privacy Act of 1974, and shall provide the parents of each student with a copy of the results. Receiving schools also shall provide aggregate results by grade level to the Chairman of the House Education and Public Works Committee, the Senate Education Committee, the Education Oversight Committee, and the Governor no later than August thirty‑first of the school year in which the tests are administered.

Section 59‑63‑647. The department may promulgate regulations to aid in the performance and assessment of its duties pursuant to this article; however, its power does not extend to matters of school governance, curriculum, hiring or firing, or religious beliefs or practices.

Section 59‑63‑648. The department may conduct examinations and investigations when it believes that the provisions of this article have been evaded or violated. All powers possessed by the department provided in Title 12 to conduct examinations and investigations apply to examinations and investigations conducted pursuant to this section.

Section 59‑63‑650. (A) The State Budget and Control Board annually shall provide for the preparation of a report on the fiscal impact of the implementation of this article on school enrollment and state and local funding of public schools for the fiscal year most recently completed. The report must include, but may not be limited to, an analysis of and statement on the:

(1) change in public school enrollment, by school district, attributable to this article;

(2) amount of funds the State would have had to expend for public schools under all education funding formulas in existence on or before the enactment of this article and the amount actually expended by the State in public schools;

(3) amount of all federal and locally raised revenue, calculated on a per student basis, retained by the local school district for each student participating in the scholarship program who is not attending a public school;

(4) impact of the provisions of this article on teacher/pupil ratios in schools in which students have transferred as well as the need for construction of new schools; and

(5) calculation of savings to the state general fund as a result of the implementation of this article according to the provisions of Section 59‑63‑623.

(B) The report must be submitted by December first of each year to the Governor, the Chairman of the Senate Finance Committee, the Chairman of the Senate Education Committee, the Chairman of the House Ways and Means Committee, the Chairman of the House Education and Public Works Committee, the Board of Economic Advisors, the Education Oversight Committee, and the School Choice Trust Fund.

Section 59‑63‑655. (A)(1) The Legislative Audit Council, in conjunction with the Education Oversight Committee and the Department of Education, shall provide for a long‑term evaluation of the impact of this article. The evaluation must be conducted by contract with one or more qualified persons or entities with previous experience evaluating school choice programs and must be conducted for a minimum of five years beginning on July 1, 2016. The evaluation must include an assessment of the:

(a) level of satisfaction of parents of students participating in the scholarship program provided in this article;

(b) level of satisfaction of parents of students in failing public schools;

(c) academic performance of receiving independent schools and failing public schools;

(d) level of student satisfaction with the scholarship program provided in this article;

(e) level of student satisfaction for students attending failing public schools;

(f) impact of the provisions of this article on public school districts, public school students, independent schools, and independent school students;

(g) impact of the provisions of this article on independent school and public school capacity, availability, and quality; and

(h) cumulative savings to the state general fund as calculated pursuant to Section 59‑63‑624.

(2) The evaluation must be conducted using appropriate analytical and behavioral science methodologies and must protect the identity of participating schools and students by, at a minimum, keeping anonymous all disaggregated data other than that for the categories of grade, gender, race, and ethnicity. The evaluation of public and independent school students must compute the relative efficiency of public and independent schools, the value added to educational performance by independent schools relative to failing public schools, and a comparison of acceptance rates into college, while adjusting or controlling for student and family background.

(B) State and local government entities shall cooperate with the persons or entities conducting the evaluation provided in subsection (A). Cooperation includes providing available student assessment results and other information needed to complete the evaluation.

(C) By January thirty‑first of each year, the State Budget and Control Board shall provide to each member of the General Assembly interim reports of the results of the evaluation. Upon completion of the evaluation, the State Budget and Control Board shall provide a final report to each member of the General Assembly. At the same time as the final report is made public, the persons or entities who conducted the evaluation must make their data and methodology available for public review and inspection, but only if the release of the data and methodology complies with 20 U.S.C. Section 1232g, Family Educational Rights and Privacy Act of 1974.

Section 59‑63‑660. The provisions of this article regarding independent schools and their relation to student scholarship organizations apply only to independent schools that choose to accept scholarship students.

Section 59‑63‑661. The Education Oversight Committee shall:

(1) submit annually, by March fifteenth, a list of eligible nonprofit scholarship funding organizations that meet the requirements of Section 59‑63‑631;

(2) verify annually the eligibility of nonprofit scholarship funding organizations that meet the requirements of Section 59‑63‑631;

(3) verify annually the eligibility of independent schools that meet the requirements of Section 59‑63‑630;

(4) verify annually the eligibility of expenditures as provided in Section 59‑63‑631 using the audit required by Section 59‑63‑631(10);

(5) require an annual, notarized, sworn compliance statement by participating independent schools certifying compliance with state laws and retain those records;

(6) select an independent research organization, which may be a public or private entity or university, to which participating independent schools shall report the scores of participating students on the nationally norm‑referenced test administered by the independent school in grades three through ten;

(a) the independent research organization annually shall report to the Education Oversight Committee and the Department of Education on the year‑to‑year learning gains of participating students:

(i) on a statewide basis, the report also must include, to the extent possible, a comparison of these learning gains to the statewide learning gains of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program; and

(ii) according to each participating independent school in which there are at least thirty participating students who have scores for tests administered during or after the 2011‑2012 school year for two consecutive years at the independent school;

(b) the sharing and reporting of student learning gain data pursuant to this subitem must be in accordance with requirements of 20 U.S.C. 1232g, the Family Educational Rights and Privacy Act of 1974, and must be for the sole purpose of creating the annual report required by item (6)(a)(i). All parties must preserve the confidentiality of this information as required by law. The annual report may not disaggregate data to a level that will identify individual participating schools, except as required pursuant to item (6)(a)(ii), or disclose the academic level of individual students; and

(c) the annual report required in this item must be published by the Education Oversight Committee on its website.

Section 59‑63‑662. The South Carolina Department of Education shall:

(1) cross‑check the list of participating independent schools with the public school enrollment lists to avoid duplication;

(2) notify an eligible nonprofit scholarship funding organization of any of the organization’s identified students who are receiving tax credit scholarships from other eligible nonprofit scholarship funding organizations;

(3) establish a process by which individuals may notify the Department of Education of any violation by a parent, independent school, or school district of state laws relating to program participation. The Department of Education shall conduct an inquiry of any written complaint of a violation of this section, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this section or any rule adopted by the State Board of Education has occurred. In order to determine legal sufficiency, the Department of Education may require supporting information or documentation from the complainant;

(4) maintain a list of nationally norm‑referenced tests identified for purposes of satisfying the testing requirement in Section 59‑63‑630(7). The tests must meet industry standards of quality in accordance with State Board of Education rule;

(5) require quarterly reports by an eligible nonprofit scholarship funding organization regarding the number of students participating in the scholarship program, the independent schools at which the students are enrolled, and other information deemed necessary by the Department of Education; and

(6) annually, by December fifteenth, report to the Governor, the President of the Senate, and the Speaker of the House of Representatives the actions of the Department of Education with respect to implementing accountability in the scholarship program pursuant to this section, any substantiated allegations or violations of law or rule by an eligible independent school under this program concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and the corrective action taken by the Department of Education.

Section 59‑63‑663. (A) A receiving independent school that accepts students benefiting from scholarships, grants, or tax credits is not an agent or arm of the state or federal government.

(B) Except as provided by this article, the Department of Education, Department of Revenue, State Budget and Control Board, or any other state agency may not regulate the educational program of a receiving independent school that accepts students pursuant to this article.”

SECTION 4. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3383. An individual may claim an income tax credit for tuition paid for a child to attend a qualifying independent school pursuant to the terms and conditions provided in Article 6, Chapter 63, Title 59.”

SECTION 5. If a section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, this holding does not affect the constitutionality or the validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words thereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect upon approval by the Governor and applies at the start of the first school year beginning after approval of this act.

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