**South Carolina General Assembly**

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**H. 5196**

**STATUS INFORMATION**

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Introduced in the House on May 1, 2014

Currently residing in the House Committee on **Education and Public Works**

Summary: Choice Scholarship Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/1/2014 House Introduced and read first time ([House Journal‑page 55](file:///H:\HJ%20Archive\2014\05-01-14.docx))

5/1/2014 House Referred to Committee on **Education and Public Works** ([House Journal‑page 55](file:///H:\HJ%20Archive\2014\05-01-14.docx))

**VERSIONS OF THIS BILL**

[5/1/2014](file:///p:\pprever\2013-14\5196_20140501.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA CHOICE SCHOLARSHIP ACT”; BY ADDING CHAPTER 12 TO TITLE 59 SO AS TO ENABLE NONPROFIT ORGANIZATIONS TO PROVIDE SCHOLARSHIPS TO PAY THE EDUCATION COSTS OF THE STUDENT TO ATTEND PUBLIC SCHOOLS OR NONPUBLIC SCHOOLS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THE DEPARTMENT OF EDUCATION SHALL ADMINISTER THE PROVISIONS OF THIS CHAPTER AND IMPOSE RELATED REQUIREMENTS OF THE DEPARTMENT, TO PROVIDE THESE SCHOLARSHIPS MAY NOT BE TREATED AS INCOME OR A RESOURCE FOR THE PURPOSES OF QUALIFYING FOR ANY OTHER FEDERAL OR STATE GRANT OR PROGRAM ADMINISTERED BY THE STATE OR A POLITICAL SUBDIVISION, AND TO PROVIDE RELATED DEFINITIONS, CRITERIA, AND PROCEDURES.

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

SECTION 1. This act must be known and may be cited as the “South Carolina Choice Scholarship Act”.

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

“CHAPTER 12

Choice Scholarships

Section 59‑12‑110. For the purposes of this chapter:

(1) ‘Choice scholarship’ means a grant to pay only the cost of education for an eligible student as determined for the school year for which the scholarship will be granted.

(2) ‘Contribution’ means a contribution to a scholarship granting organization for use in a choice scholarship program.

(3) ‘Cost of education’ means the tuition and fees that would otherwise be charged by an eligible school to an eligible student or a parent of an eligible student. In the case of an eligible pupil who attends a public school, the term includes any transfer tuition charged to the eligible student or a parent of the eligible student.

(4) ‘Department’ means the South Carolina Department of Education.

(5) ‘Eligible school’ means a public or nonpublic elementary school, middle school, or high school in this State that:

(a) requires an eligible choice scholarship student to provide tuition to attend;

(b) voluntarily agrees to enroll an eligible choice scholarship student;

(c) is accredited by either the State Board of Education or a national or regional accreditation agency that is recognized by the state board;

(d) administers the statewide learning assessments pursuant to Chapter 18 of this title; and

(e) submits to the department only the student performance data required for a category designation pursuant to this chapter.

(6) ‘Eligible choice scholarship student’ means a person who is:

(a) a legal resident of this State;

(b) at least five years of age and less than twenty‑two years of age on September first of the applicable year of his enrollment; and

(c) a member of a household with an annual income of not more than two hundred percent of the amount required for the individual to qualify for the federal free or reduced price lunch program.

(7) ‘Scholarship agreement’ or ‘agreement’ means an agreement between the department and an applicant that applies for certification of a choice scholarship program.

(8) ‘Scholarship granting organization’ means an organization that is:

(a) exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(b) organized at least in part to grant choice scholarships without limiting the availability of scholarships to students of only one eligible school.

Section 59‑12‑120. The department shall:

(1) administer the provisions of this chapter and promulgate regulations to carry out the provisions of this chapter;

(2) certify all choice scholarship programs provided by this chapter; and

(3) maintain a publicly available list of the choice scholarship programs certified by the department. The list must contain names, addresses, and any other information that the department considers necessary for the public to determine which scholarship granting organizations conduct choice scholarship programs. A current list must be posted on the department’s Internet website, and updated weekly.

Section 59‑12‑130. A scholarship agreement:

(1) must require the scholarship granting organization to:

(a) allow a taxpayer to designate an eligible school for which the taxpayer’s contribution must be used as scholarships;

(b) use not more than ten percent of the total amount of contributions for administrative costs;

(c) distribute one hundred percent of any income earned on contributions as choice scholarships to eligible students;

(d) conduct criminal background checks on all the scholarship granting organization’s employees and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds;

(e) make the reports required by this chapter; and

(f) provide a receipt to taxpayers for contributions made to the scholarship granting organization that will be used in a choice scholarship program. The Department of Revenue shall prescribe a standardized form for the receipt issued under this section. The receipt must indicate the value of the contribution and part of the contribution being designated for use in a choice scholarship program;

(2) must not prohibit a scholarship granting organization from receiving contributions except as provided in this chapter;

(3) must prohibit a scholarship granting organization from distributing choice scholarships for use by an eligible student to:

(a) enroll in a school that has paid staff or board members, or relatives of paid staff or board members in common with the scholarship granting support organization;

(b) enroll in a school that the scholarship granting organization knows does not qualify as an eligible school; or

(c) pay for the cost of education for a public school where the eligible student is entitled to enroll without the payment of tuition;

(4) must prohibit a scholarship granting organization from limiting the availability of scholarships to students of only one eligible school;

(5) must contract with an independent certified public accountant for an annual financial audit of the scholarship granting organization, which must provide a copy of the annual financial audit to the department and must make the annual financial audit available to a member of the public upon request; and

(6) annually before August first must publicly report to the department the following information regarding the organization’s scholarships awarded in the previous school year:

(a) the name and address of the scholarship granting organization;

(b) the total number and total dollar amount of contributions received during the previous school year;

(c) the total number and total dollar amount of scholarships awarded during the previous school year; and

(d) the total number and total dollar amount of choice scholarships awarded during the previous school year. The report must be certified under penalties of perjury by the chief executive officer of the scholarship granting organization. The department shall prescribe a standardized form for scholarship granting organizations to report information required pursuant to this chapter.

Section 59‑12‑140. (A) The department may suspend or terminate the certification of an organization as a scholarship granting organization if the department establishes that the scholarship granting organization has intentionally and substantially failed to comply with the requirements of this chapter or an agreement entered into pursuant to this chapter.

(B) If the department suspends or terminates the certification of an organization as a scholarship granting organization, the department shall notify affected eligible students and their parents of the decision as quickly as possible. An eligible student affected by a suspension or termination of a scholarship granting organization’s certification remains an eligible student pursuant to this chapter until the end of the school year after the school year in which the scholarship granting organization’s certification is suspended or terminated, regardless of whether the scholarship student currently meets the definition of an eligible student.

Section 59‑12‑150. The department may conduct either a financial review or an audit of a scholarship granting organization certified pursuant to this chapter if the Department of Revenue has evidence of fraud.

Section 59‑12‑160. An eligible choice scholarship student is entitled to a choice scholarship pursuant to this chapter for each school year after July 1, 2015, that the eligible choice scholarship student remains eligible and enrolls in an eligible school. However, the department may award not more than:

(1) seven thousand five hundred choice scholarships for the 2015‑2016 school year; and

(2) fifteen thousand choice scholarships for the 2016‑2017 school year. The department shall establish the standards used to allocate choice scholarships among eligible choice scholarship students.

Section 59‑12‑170. An individual who initially meets the income requirements under for a choice scholarship but whose household income subsequently increases must be considered to remain in compliance with the income requirements for the duration of that school year.

Section 59‑12‑180. (A) An eligible school may not discriminate on the basis of race, color, or national origin.

(B) An eligible school shall abide by the school’s written admission policy fairly and without discrimination regarding a student who applies for or is awarded a scholarship pursuant to this chapter.

(C) If the number of applicants for enrollment in an eligible school under a choice scholarship exceeds the number of choice scholarships available to the eligible school, the eligible school must draw at random in a public meeting the applications of applicants who are entitled to a choice scholarship from among the applicants who meet the requirements for admission to the eligible school.

(D) An eligible school and public school shall grant the department reasonable access to its premises, including access to the school’s grounds, buildings, and property.

(E) The principal of each eligible school annually shall certify under penalties of perjury to the department that the eligible school is complying with the requirements of this chapter. The department shall develop a process for eligible schools to follow to make certification.

Section 59‑12‑190. (A) The amount an eligible choice scholarship student is entitled to receive pursuant to this chapter for a school year is equal to the sum of the tuition, transfer tuition, and fees required for him to enroll in the eligible school of his choice for a school year that the eligible choice scholarship student or his parent would otherwise be obligated to pay to the eligible school; provided, however, that the maximum choice scholarship that an eligible choice scholarship student enrolled in first grade through eighth grade may receive for a school year is five thousand dollars.

(B) If an eligible choice scholarship student enrolls in an eligible school for less than an entire school year, the choice scholarship provided pursuant to this chapter for that school year must be reduced on a prorated basis to reflect the shorter school term.

(C) An eligible choice scholarship student is entitled to only one choice scholarship for each school year. If the eligible choice scholarship student leaves the eligible school for which he was awarded a choice scholarship and enrolls in another eligible school, he is responsible for the payment of any tuition required for the remainder of that school year.

Section 59‑12‑200. (A) The department shall approve an application from a school within fifteen days after the date on which the school applies to become an eligible school, and shall approve an application from a student within fifteen days after the date on which the student applies to become an eligible choice scholarship student.

(B) The department shall accept choice scholarship applications and applications for school eligibility from March first through September first for the upcoming school year.

Section 59‑12‑210. (A) The department shall distribute choice scholarships at least once each semester, or at equivalent intervals. The department may distribute the choice scholarship to the eligible choice scholarship student or his parent to pay the educational costs as permitted pursuant to the provisions of this chapter.

(B) To be valid, the distribution must be endorsed by the eligible choice scholarship recipient or his parent and the eligible school of the eligible choice scholarship recipient.

Section 59‑12‑220. The amount of a choice scholarship provided to an eligible choice scholarship student may not be treated as income or a resource for the purposes of qualifying for any other federal or state grant or program administered by the State or a political subdivision.”

SECTION 3. This act takes effect upon approval by the Governor.

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