



**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.*

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**Bill Number:** S. 0544    Introduced on February 11, 2021  
**Author:** Loftis  
**Subject:** Education: Open Enrollment  
**Requestor:** Senate Education  
**RFA Analyst(s):** Wren  
**Impact Date:** April 30, 2021 Updated for Additional Agency Response

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### **Fiscal Impact Summary**

This bill requires every school district and charter school to allow its resident and non-resident pupils to apply to enroll in a particular program or school within such school district. A district school board must adopt and post on its website the process required to participate in open enrollment.

This bill is not expected to have an expenditure impact on the Judicial Department since we anticipate that the department will be able to accomplish the requirements of the bill within existing appropriations.

This bill is not expected to have a revenue impact on the General Fund since we anticipate there have only been a small number of offenses related to school district trustees permitting the enrollment of non-resident pupils without the consent of the residing school district.

The overall expenditure impact on local school districts to adopt and follow procedures for open enrollment of resident and non-resident pupils is undetermined. Some school districts indicate the need to hire FTEs to manage the application and enrollment process and may need to purchase a lottery system to determine student enrollment.

The overall revenue impact on local governments is undetermined. However, school districts may experience a reduction in base student cost funding since students will be allowed to apply and enroll in a district other than their resident district. Additionally, some school districts may experience a reduction in local revenue due to the repeal of Section 59-63-45, which allows a non-resident child to attend a school in a school district with a payment equal to the prior year's local revenue per child. The revenue impact will depend upon the number of non-resident students, actual base student cost funding, and local revenue per student.

*The local expenditure and local revenue sections of this impact statement have been updated to include responses from the local school districts. Additionally, the local expenditure section has been updated to correct a typographical error in the amount of the fine.*

## **Explanation of Fiscal Impact**

**Updated for Additional Agency Response on April 30, 2021**

**Introduced on February 11, 2021**

### **State Expenditure**

This bill allows a party aggrieved by the decision of a school board to deny enrollment to a particular program or school within a school district to have the right to appeal to the court of common pleas of the county where the matter will be tried de novo by the circuit judge.

We anticipate that the implementation of this bill may increase the number of hearings held in circuit courts, which may lead to an increased backlog for the circuit courts. However, we anticipate that the Judicial Department will be able to accomplish the requirements of the bill within existing appropriations.

### **State Revenue**

This bill repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of non-resident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on the General Fund.

### **Local Expenditure**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow non-resident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school. A district school board must adopt and post on its website the process required to participate in open enrollment. Also, a district board must provide preferential treatment in its open enrollment process to dependent children of active-duty military personnel whose move resulted from military orders, children who have been relocated due to a foster care placement, children who move due to a court ordered change in custody, students residing in the school district, and children entitled to attend school pursuant to a qualifying reason as stated in Section 59-63-31. Additionally, a school district may deny enrollment to any of its resident pupils or any non-resident pupils in a particular program or school within the district under certain conditions.

The bill also removes the requirement that out-of-district enrollment at a charter school may not exceed twenty percent of the total enrollment of the school without the approval of the sponsoring district board of trustees. Additionally, the bill removes the requirement that if the twenty percent of out-of-district enrollment is from one school district, the sending district must concur with additional students transferring from the district to the charter school. Further, the bill removes the residency and real estate ownership requirements for students to attend public schools.

SDE surveyed the seventy-nine regular school districts and the two charter school districts regarding the expenditure impact of this bill. One of the responding districts indicates that the bill could increase expenses by \$170,000 for an additional FTE to manage the application process and a lottery system to determine student enrollment. Another responding district indicates that this bill would increase expenses by approximately \$50,000 for an FTE to manage the provisions of the bill. Due to the limited responses, the expenditure impact on local school districts to implement the application and enrollment process is undetermined. Further, several of the responding districts expressed a concern with the deletion of the requirement that non-resident students must own real estate in the attending district. Districts indicate that this deletion could create an influx of applications for enrollment, which would further complicate the application and enrollment process for current staff. This section has been updated to include responses from the local school districts.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of non-resident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Therefore, we do not anticipate any cost savings for county or municipal prison or court systems for this portion of the bill. This section of the impact statement has been updated to correct a typographical error in the amount of the fine.

### **Local Revenue**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow non-resident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school.

SDE surveyed the local school districts and many of the responding districts indicate that since the bill allows students to apply to enroll in a district other than their resident district, the bill could have an impact on the base student cost funding that is allocated to districts. The responding districts also indicate that they anticipate that the base student cost funding will follow the student. Since the impact will depend upon the number of non-resident students and the actual base student cost funding per district, the revenue impact on local school districts is undetermined. This section of the impact statement has been updated to include responses from local districts.

This bill repeals Section 59-63-45, which allows a non-resident child to attend a school in a school district with a payment equal to the prior year's local revenue per child. Districts currently have the option to waive all or a portion of the payment. SDE surveyed the local school districts regarding the revenue impact of repealing this section and several districts indicate that they do require payment for non-resident students. Districts further indicate that this could have an impact on local revenues, but could not quantify the impact. Therefore, the impact of repealing Section 59-63-45 is undetermined and depends upon the number of non-resident students and the local revenue amount per district. This section of the impact statement has been updated based upon local district responses provided by SDE.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of non-resident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on local governments. This section of the impact statement has been updated to correct a typographical error in the amount of the fine.

In summary, the overall local revenue impact is undetermined.

### **Introduced on February 11, 2021**

#### **State Expenditure**

This bill allows a party aggrieved by the decision of a school board to deny enrollment to a particular program or school within a school district to have the right to appeal to the court of common pleas of the county where the matter will be tried de novo by the circuit judge.

We anticipate that the implementation of this bill may increase the number of hearings held in circuit courts, which may lead to an increased backlog for the circuit courts. However, we anticipate that the Judicial Department will be able to accomplish the requirements of the bill within existing appropriations.

#### **State Revenue**

This bill repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of non-resident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on the General Fund. We will update this impact statement if SDE provides a different response.

#### **Local Expenditure**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow non-resident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school. A district school board must adopt and post on its website the process required to participate in open enrollment. Also, a district board must provide preferential treatment in its open enrollment process to dependent children of active-duty military personnel whose move resulted from military orders, children who have been relocated due to a foster care placement, children who move due to a court ordered change in custody, students residing in the school district, and children entitled to attend school pursuant to a qualifying reason as stated in Section 59-63-31. Additionally, a school

district may deny enrollment to any of its resident pupils or any non-resident pupils in a particular program or school within the district under certain conditions.

The bill also removes the requirement that out-of-district enrollment at a charter school may not exceed twenty percent of the total enrollment of the school without the approval of the sponsoring district board of trustees. Additionally, the bill removes the requirement that if the twenty percent of out-of-district enrollment is from one school district, the sending district must concur with additional students transferring from the district to the charter school. Further, the bill removes the residency and real estate ownership requirements for students to attend public schools.

*The overall expenditure impact of this bill on local school districts to adopt and follow procedures for open enrollment of resident and non-resident pupils is pending, contingent upon further review by SDE.*

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of non-resident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Therefore, we do not anticipate any cost savings for county or municipal prison or court systems for this portion of the bill. We will update this portion of the impact statement if SDE provides a different response.

### **Local Revenue**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow non-resident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school.

The overall impact on local revenue is undetermined. The bill allows students to apply to enroll in a district other than their resident district, which could have an impact on the base student cost funding that is allocated to districts. We anticipate that the funds will follow the student. Some districts may realize a reduction in base student cost funding, while others may experience an increase. The impact will depend upon the number of students moving between districts and the base student cost that is allocated to those districts. Therefore, the revenue impact on local school districts is undetermined.

This bill deletes Section 59-63-45, which allows a non-resident child to attend a school in a school district with a payment equal to the prior year's local revenue per child. Since districts currently have the option to waive all or a portion of the payment, we anticipate that the repeal of this section will have no significant impact on local school districts.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of non-resident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and

surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on local governments.

In summary, we do not expect that the repeal of Sections 59-63-45 and 59-63-500 will have a revenue impact on local school districts or local governments. However, we will update this impact statement if SDE provides a different response.



Frank A. Rainwater, Executive Director