



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 Introduced on December 7, 2021
Author: Grooms
Subject: Education Savings Accounts
Requestor: Senate Education
RFA Analyst(s): Wren and Coomer
Impact Date: January 10, 2021

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, including, but not limited to, tuition and fees for an education service provider, textbooks, computer equipment, and other defined expenses. The program will be administered by the Department of Administration (Admin) in conjunction with the Education Oversight Committee (EOC). 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 Revenue and Fiscal Affairs (RFA), the estimated scholarship funding net of administrative expenditures could total up to \$34,273,000 in school year 2022-23, reaching up to \$2,919,509,000 in school year 2026-27 when there is no limit on the number of students allowed to participate in the program. Actual participation in the program may vary widely and determining a better estimate will require actual student enrollment. Further, the bill allows Admin to retain an amount up to 4 percent of the ESA program funds for administrative purposes. Please see the table below for the estimated ESA program funds by year.

School Year	Estimated Maximum Scholarship Funding	4% Available to Admin.	Admin. Projected Expenditures	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)

This bill requires Admin to administer the ESA program and allows the agency to contract with qualified organizations or vendors. The bill also requires Admin to provide a report of the

program and a report of a parental satisfaction survey to General Assembly annually. The bill allows Admin to retain up to 4 percent of ESA program funds for expenses. This will increase Other Funds revenue and expenditures of the agency. Please see the table above for the estimated amount available by year.

Admin expects to contract with a third-party to administer the program. The agency expects the expenditures will total approximately \$2,283,000 in FY 2022-23 and each year thereafter, although this amount may range from \$1,833,000 to \$2,561,000 based on the scope of third-party services required. In the initial year, the estimated 4 percent of scholarship funding allocated to Admin is not sufficient to fully-fund the projected expenses. Based upon the expected expenditures, 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 should be sufficient to offset these expenditures. 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. The expenditure impact of any potential legal defense is undetermined.

This bill will increase Other Funds expenses of EOC by \$199,126 in FY 2022-23. Of this amount, \$119,126 is for recurring funds for 1.0 FTE to implement the requirements of the bill. 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 will decrease to \$149,126 beginning in FY 2023-24 for the new FTE and \$20,000 of annual software licenses and maintenance for the secure portal.

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 the State Department of Education (SCDE) and Admin to ensure funding to districts is adjusted correctly.

This bill will have no expenditure impact on SCDE since the agency can accomplish the requirements of the bill within existing appropriations.

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 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 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 2022-23, \$73,495,000 in school year 2023-24, \$113,472,000 in school year 2024-25, \$155,729,000 in school year 2025-26, and \$2,921,792,000 in school year 2026-27 and forward when there is no limit on the number of students allowed to participate in the program. 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

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

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

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.

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.



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