**South Carolina General Assembly**

124th Session, 2021-2022

**S. 935**

**STATUS INFORMATION**

General Bill

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

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Companion/Similar bill(s): 3976

Introduced in the Senate on December 7, 2021

Introduced in the House on April 5, 2022

Last Amended on May 10, 2022

Currently residing in conference committee

Summary: Education Scholarships Account, created

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/7/2021 Senate Introduced and read first time ([Senate Journal‑page 16](file:///h:\sj\20211207.docx))

12/7/2021 Senate Referred to Committee on **Education** ([Senate Journal‑page 16](file:///h:\sj\20211207.docx))

3/15/2022 Senate Committee report: Favorable with amendment **Education** ([Senate Journal‑page 15](file:///h:\sj\20220315.docx))

3/16/2022 Scrivener's error corrected

3/22/2022 Senate Special order, set for March 22, 2022 ([Senate Journal‑page 26](file:///h:\sj\20220322.docx))

3/22/2022 Senate Roll call Ayes‑27 Nays‑12 ([Senate Journal‑page 26](file:///h:\sj\20220322.docx))

3/23/2022 Senate Debate interrupted ([Senate Journal‑page 32](file:///h:\sj\20220323.docx))

3/24/2022 Senate Amended ([Senate Journal‑page 5](file:///h:\sj\20220324.docx))

3/24/2022 Senate Debate interrupted ([Senate Journal‑page 5](file:///h:\sj\20220324.docx))

3/28/2022 Scrivener's error corrected

3/29/2022 Senate Amended ([Senate Journal‑page 25](file:///h:\sj\20220329.docx))

3/29/2022 Senate Debate interrupted ([Senate Journal‑page 25](file:///h:\sj\20220329.docx))

3/30/2022 Senate Amended ([Senate Journal‑page 18](file:///h:\sj\20220330.docx))

3/30/2022 Senate Read second time ([Senate Journal‑page 18](file:///h:\sj\20220330.docx))

3/30/2022 Senate Roll call Ayes‑25 Nays‑15 ([Senate Journal‑page 18](file:///h:\sj\20220330.docx))

3/31/2022 Senate Read third time and sent to House ([Senate Journal‑page 67](file:///h:\sj\20220331.docx))

3/31/2022 Scrivener's error corrected

4/5/2022 House Introduced and read first time ([House Journal‑page 41](file:///h:\hj\20220405.docx))

4/5/2022 House Referred to Committee on **Ways and Means** ([House Journal‑page 41](file:///h:\hj\20220405.docx))

4/28/2022 House Committee report: Favorable with amendment **Ways and Means** ([House Journal‑page 8](file:///h:\hj\20220428.docx))

5/4/2022 House Requests for debate‑Rep(s).  Gilliard, Forres, tElliott, Crawford, Wetmore, Stavrinakis, Hayes, Wheeler, KO Johnson, Erickson, Ballentine, Brawley, McDaniel, Govan, Thigpen, Hewitt, Tedder, Jefferson, Hart, Clyburn, Murray, Allison, Cobb‑Hunter, Matthews, Magnuson, Morgan, Dillard, Wooten, Ott, May, Anderson, DC Moss, Willis, GR Smith ([House Journal‑page 111](file:///h:\hj\20220504.docx))

5/10/2022 House Amended ([House Journal‑page 612](file:///h:\hj\20220510.docx))

5/10/2022 House Read second time ([House Journal‑page 612](file:///h:\hj\20220510.docx))

5/10/2022 House Roll call Yeas‑66 Nays‑38 ([House Journal‑page 645](file:///h:\hj\20220510.docx))

5/11/2022 House Read third time and returned to Senate with amendments ([House Journal‑page 84](file:///h:\hj\20220511.docx))

5/12/2022 Senate Non‑concurrence in House amendment ([Senate Journal‑page 61](file:///h:\sj\20220512.docx))

5/12/2022 Senate Roll call Ayes‑4 Nays‑39 ([Senate Journal‑page 61](file:///h:\sj\20220512.docx))

5/12/2022 House House insists upon amendment and conference committee appointed Reps.  Erickson, Whitmire, Hayes ([House Journal‑page 121](file:///h:\hj\20220512.docx))

5/12/2022 Senate Conference committee appointed Hembree, Grooms, Jackson ([Senate Journal‑page 80](file:///h:\sj\20220512.docx))

6/15/2022 House Conference report received and adopted ([House Journal‑page 139](file:///h:\hj\20220615.docx))

6/15/2022 House Roll call Yeas‑85 Nays‑14 ([House Journal‑page 151](file:///h:\hj\20220615.docx))

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**VERSIONS OF THIS BILL**

[12/7/2021](file:///p:\pprever\2021-22\935_20211207.docx)

[3/15/2022](file:///p:\pprever\2021-22\935_20220315.docx)

[3/16/2022](file:///p:\pprever\2021-22\935_20220316.docx)

[3/24/2022](file:///p:\pprever\2021-22\935_20220324.docx)

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[3/31/2022](file:///p:\pprever\2021-22\935_20220331.docx)

[4/28/2022](file:///p:\pprever\2021-22\935_20220428.docx)

[5/10/2022](file:///p:\pprever\2021-22\935_20220510.docx)

AMENDED

May 10, 2022

**S. 935**

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

S. Printed 5/10/22--H.

Read the first time April 5, 2022.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This amended bill enacts the Parental Choice in Education Program (program) and creates the Parental Choice in Education Scholarship Fund (fund), which must be administered by SCDE. The amended bill allocates $75,000,000 from the Contingency Reserve Fund to the fund. Monies in the fund must be held by STO and must be used for scholarships for qualifying students attending eligible schools to provide for the cost of attendance and qualifying expenses. Funds will be distributed through an online system directly to a qualifying student. The bill defines an eligible student as follows:

 A resident of this state who has not earned a high school diploma and is between kindergarten and eight grade and is:

o enrolled in the Children’s Health Insurance Program (CHIP) or Medicaid or be a member of a household with an income at or below the S.C. upper income limit for CHIP; and

o is entering kindergarten or first grade; or

o was previously enrolled in and attended a S.C. public school during one of the three school years immediately preceding the school year in which the student would be enrolled under this program.

A qualifying student is also defined as follows:

 The sibling of a qualifying student, provided that he meets the qualifications of this amended bill.

 Up to 500 students whose parent is an active duty member of the Armed Forces of the U.S.

 Up to 500 students who are entering kindergarten and were enrolled in the S.C. Early Reading Development and Education Program.

Students participating in the Educational Credit for Exceptional Needs Children’s Fund program pursuant to Section 12-6-3790 are not considered to be qualifying students.

In the first year in which the account is funded, scholarships may be awarded in an amount not to exceed $5,000 to a qualifying student. The maximum scholarship amount for the second, third, and fourth years is not stated in the bill. If a qualifying student leaves or withdraws from the eligible school before the end of the semester or school year and does not re-enroll within thirty days, the balance in the scholarship account must be credited to the fund. Any funds not expended in a student’s scholarship account at the end of the school year will be carried forward into the next school year.

The amended bill also limits the number of annual enrollees to 5,000 students. If the number of eligible students exceeds 5,000 by the deadline, SCDE must use a lottery system to award scholarships. If the number of students is less than 5,000 by the deadline, any student who is entering kindergarten or first grade or was previously enrolled in and attended a S.C. public school during one of the three school years immediately preceding the school year may apply to the program. However, priority must be given to students who have an adjusted gross family income of 400 percent or less of the federal poverty guidelines as promulgated annually by the U.S. Department of Health and Human Services.

The provisions of this amended bill apply to school years 2022-23 through 2025-26 unless reauthorized by the General Assembly. Any funds remaining in the fund after school year 2025-26 must be credited to the Contingency Reserve Fund, and the newly created fund must be dissolved.

Based upon 5,000 students allowed to participate in the program and the maximum scholarship amount of $5,000, the estimated scholarship funding could total up to $25,000,000 in school year 2022-23. Scholarship funding for school years 2023-24, 2024-25, and 2025-26 is undetermined since the maximum scholarship amount for these years is not stated in the bill. Any funds remaining in the fund after school year 2025-26 will be credited to the Contingency Reserve Fund, and the newly created fund will be dissolved.

**State Department of Education.** SCDE is responsible for keeping records, managing accounts, and disbursing scholarships and must adopt rules and procedures for the administration of the program. By January fifteenth of each year, SCDE must provide a report to the General Assembly and the Governor that details the number and amount of scholarships issued each year, certain programmatic information, a copy of a compilation, review, or audit of the fund’s financial statements, and the number of applicants by county. SCDE must also create a standard application process for parents to establish the eligibility of their student for the program and must procure a system that can create the scholarship accounts and process cost of attendance and qualifying expenses. Also, SCDE and the EOC must collaborate to develop and administer an annual program survey to all parents of qualifying students regarding the effectiveness of the fund. The results of the survey must be provided to the General Assembly by December thirty-first annually.

SCDE indicates that this amended bill will increase recurring expenses of the agency by $978,700 in FY 2022-23. Of this amount, $353,700 is for 4.0 FTEs to manage the new responsibilities for the department, and $625,000 is for annual licensing for a system to maintain student accounts. The agency also anticipates a nonrecurring expense of $1,250,000 in FY 2022-23 to procure a new system to maintain student accounts. In total, this bill will increase expenses of SCDE by $2,228,700 in FY 2022-23. Expenses will decrease to $978,700 each year thereafter. The bill does not specify whether the scholarship funds may be used to cover these expenses.

**Education Oversight Committee.** The EOC must develop an application to be completed by independent schools and must approve independent schools for participation in the program. By March first of each year, the EOC must publish a comprehensive list of eligible independent and public schools on its website. Additionally, the EOC must approve a list of fee-for-service transportation providers that a qualifying student may utilize. Further, SCDE and the EOC must collaborate to develop and administer an annual program survey to all parents of qualifying students regarding the effectiveness of the fund. The results of the survey must be provided to the General Assembly by December thirty-first annually.

EOC previously indicated on similar legislation that expenses of the agency would increase by $89,000 in FY 2022-23 for 1.0 FTE to manage the additional requirements of the legislation and for computer equipment and software for the new FTE. Expenses would decrease to $87,000 each year thereafter for the FTE. EOC currently receives only Other Funds from the EIA. The type of funds for these expenses will depend on appropriations. We will update this impact statement if the agency provides a different response.

**State Treasurer’s Office.** The amended bill requires STO to establish the fund. STO indicates that establishing the fund will have no expenditure impact on the agency as it can manage the responsibilities within existing appropriations. However, STO indicates that if the agency will be responsible for assisting with the administration of the fund and disbursement of scholarships, general fund expenses could increase by $25,000 for 0.33 FTE beginning in FY 2022-23.

**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 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 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.

**Amended by Senate Education on March 10, 2022**

**State Expenditure**

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

 A resident of this state;

 Attended a public school in this state the during the previous school year,

o had not yet attained the age of five on or before September first of the prior school year but has attained the age of five on or before September first of the current school year, or

o received an ESA scholarship issued pursuant to this bill for the prior school year; and

 Has a statement of Medicaid eligibility,

o has an IEP, or

o has a sibling living in the same household who receives an ESA scholarship.

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

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

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

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

**Table 1**

School Year Number of Average State Estimated Maximum

Allowed Students Funding per Pupil Scholarship Funding

2023-24 5,000 $7,140 $35,701,000

2024-25 10,000 $7,349 $73,495,000

2025-26 forward 15,000 $7,565 $113,472,000

*(Figures may be rounded)*

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

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

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

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

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

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

Also, the bill requires SCDE to make readily available on its website information in conformity with 34 C.F.R and 300.130 through 300.144, *Assistance to States for the Education of Children with Disabilities*, explaining to parents the rights of children with disabilities under IDEA both in public schools and as parentally placed students in private schools.

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

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

**Table 2**

School Number of Estimated Maximum 3% Available Estimated

Year Allowed Students Scholarship Funding to SCDE Scholarship

Funding Amount

(Net of

Expenditures)

2023-24 5,000 $35,701,000 $1,071,000 $34,630,000

2024-25 10,000 $73,495,000 $2,205,000 $71,290,000

2025-26 15,000 $113,472,000 $3,404,000 $110,068,000

forward

*(Figures may be rounded)*

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

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

 The Governor, or his designee, who will serve as chair of the panel; and

 Three members to be appointed by the Governor;

 One member appointed by the Speaker of the House of Representatives;

 One member appointed by the President of the Senate;

 One member appointed by the Chairman of House Education and Public Works;

 One member appointed by the Chairman of Senate Education; and

 Two parents of ESA students to be appointed by the Governor.

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

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

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

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

**State Revenue**

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

**Local Expenditure**

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

**Local Revenue**

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

**Amended by Senate Education Subcommittee on February 16, 2022**

**State Expenditure**

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

 A resident of this state;

 Attended a public school in this state the prior school year; or

o has not yet attained the age of five on or before September first of the prior school year but has attained the age of five on or before September first of the current school year;

 Has a statement of Medicaid eligibility; or

o attends a public school in this State that has earned an overall rating of “unsatisfactory” on the most recent school report card; or

o attends a public school in this State that has earned an overall rating of “below average” and “unsatisfactory” on the school report card for three of the past five years; or

o has an IEP; or

o received an ESA scholarship issued pursuant to this bill for the prior school year; or

o has a sibling living in the same household who receives an ESA scholarship.

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

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

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

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

**Table 1**

School Year Number of Average State Estimated Maximum

Allowed Students Funding per Pupil Scholarship Funding

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2025-26 forward 15,000 $7,565 $113,472,000

*(Figures may be rounded)*

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

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

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

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

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

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

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

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

**Table 2**

School Year Number of Estimated Maximum 3% Available Estimated

Allowed Students Scholarship Funding to SCDE Scholarship

Funding Amount

(Net of

Expenditures)

2023-24 5,000 $35,701,000 $1,071,000 $34,630,000

2024-25 10,000 $73,495,000 $2,205,000 $71,290,000

2025-26 forward 15,000 $113,472,000 $3,404,000 $110,068,000

*(Figures may be rounded)*

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

 The Governor, or his designee, who will serve as chair of the panel; and

 Three members to be appointed by the Governor upon the recommendation of the:

o S.C. Association of Christian Schools;

o S.C. Independent Schools Association; and

o Palmetto Association of Independent Schools;

 One member appointed by the Speaker of the House of Representatives;

 One member appointed by the President of the Senate;

 One member appointed by the Chairman of House Education and Public Works;

 One member appointed by the Chairman of Senate Education; and

 Two parents of ESA students to be appointed by the Governor.

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

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

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

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

**State Revenue**

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

**Local Expenditure**

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

**Local Revenue**

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

**Introduced on December 7, 2021**

**State Expenditure**

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

 A student residing in any school district of this state that has attained the age of five on or before September first of the school year; and

o 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

o That participated in the S.C. Early Reading Development and Education Program; or

o 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 Grade Population at Number of Total Number of Percent of Average Estimated Maximum Scholarship Funding

Year Level 200% of ECENC Number of Allowed Eligible State

Poverty Students Eligible Students Students Funding

Students Allowed per Pupil

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 K-12 363,421 1,138 364,559 no cap 100% $8,015 $2,921,792,000

forward

*(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.

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 4% Available Admin Projected Estimated

Scholarship Funding to Admin Expenditures Scholarship

(Average) 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:

o S.C. Association of Christian Schools;

o S.C. Independent Schools Association; and

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

**Local Revenue**

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

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

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

Amend Title To Conform

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

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

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

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

Whereas, the South Carolina General Assembly intends for these state funds to belong to parents, and for parents to use these funds in furtherance of personalized education to meet the needs of their child and as a direct benefit to their child; and

Whereas, the South Carolina General Assembly intends to promote student achievement by making South Carolina the most student‑centered State in the nation by increasing student participation in, and student access to, effective educational opportunities, both within and outside of their resident school district, regardless of where they live or their socioeconomic status; and

Whereas, the South Carolina General Assembly intends that the provisions of this chapter be construed broadly as a direct benefit to students to maximize parental choice options and student access to customized, high‑quality educational opportunities presently unavailable to their children. Now, therefore,

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

SECTION 1. This act may be referred to as the “Parental Choice in Education Program”.

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

“Chapter 8

Education Scholarship Trust Fund

Section 59-8-110. (A) As used in this chapter:

(1) ‘Cost of attendance’ means the published tuition, fees, textbooks, and fees for transportation paid to a fee‑for‑service transportation provider as approved by the Education Oversight Committee for the student to travel to and from an eligible school as defined in this section, but not to exceed seven hundred and fifty dollars for each school year, but does not include tutoring.

(2) ‘Department’ means the Department of Education.

(3) ‘Eligible school’ means a South Carolina public school or an independent school that chooses to participate in the program, accepts qualifying students, and instructs students in grades kindergarten through eighth grade. An eligible school does not include charter schools.

(4) ‘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:

offers a general education to elementary or middle school students;

(b) does not unlawfully discriminate in the admissions process on the basis of race, color, sex, religion, or national origin with the exception that schools serving a single sex may participate provided they meet all other requirements;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state’s diploma requirements, and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress; and

(e) has school facilities that are subject to applicable federal, state, and local laws.

(5) ‘Parent’ means the natural or adoptive parent or legal guardian of a child or a foster parent pursuant to Section 59-63-31.

(6)(a) ‘Qualifying student’ means a student who is a resident of this State who has not earned a high school diploma and is between kindergarten and eighth grade and is:

(i) enrolled in the Children’s Health Insurance Program (CHIP) or Medicaid or be a member of a household with an income at or below the South Carolina upper income limit for CHIP; and

(ii) is entering kindergarten or first grade; or

(iii) was previously enrolled in and attended a South Carolina public school during one of the three school years immediately preceding the school year in which the student would be enrolled under this program.

(b) For purposes of this item, a qualifying student’s sibling also is considered to be a qualifying student provided that he meets the qualifications set forth in this chapter, and his parent elects to enroll him in the program.

(c) Students participating in the Educational Credit for Exceptional Needs Children’s Fund program as provided in Section 12‑6‑3790 are not considered to be qualifying students for the purposes of this chapter.

(d) A qualifying student also includes up to five hundred students whose parent is an active duty member of the Armed Forces of the United States.

(e) A qualifying student also includes up to five hundred students that are entering kindergarten and were enrolled in the South Carolina Early Reading Development and Education program in the immediately previous school year.

(7) ‘Scholarship account’ means the individual student account that is established by the department for each qualifying student.

Section 59-8-120. (A) There is created the ‘Parental Choice in Education Scholarship Fund’ that is separate and distinct from the state general fund. The fund must receive and hold all funds allocated for it as well as all earnings until disbursed as provided in this chapter. Monies received in the fund must be held by the Office of the State Treasurer and must be used to provide scholarships to qualifying students attending eligible schools to provide for the cost of attendance and qualifying expenses.

(B) The department is responsible for keeping records, managing accounts, and disbursing scholarships awarded pursuant to this chapter. Information contained in or produced from a tax return, document, or magnetically or electronically stored data utilized by the department in the exercise of its duties as provided in this chapter must remain confidential and is exempt from disclosure pursuant to the Freedom of Information Act. Personally identifiable information, as described in the Family Educational Rights and Privacy Act, of children applying for or receiving scholarships must remain confidential and is not subject to disclosure pursuant to the Freedom of Information Act.

(C) By January fifteenth of each year, the department shall report to the General Assembly and the Governor:

(1) the number and total amount of scholarships issued to qualifying students in each year;

(2) programmatic information that includes, but is not limited to, where qualifying students attend eligible schools;

(3) a copy of a compilation, review, or audit of the fund’s financial statements, conducted by a certified public accounting firm; and

(4) the number of applications for scholarships by county.

Section 59-8-130. (A) The department shall ensure that qualifying students participating in the program and their parents annually are informed of which eligible schools are participating in the program. The department shall create a standard application process for parents to establish the eligibility of their student for the program. The department shall ensure that the application is readily available to interested parents through various sources, including the Internet.

(B)(1) The department shall set a deadline for the receipt of applications. In the event the number of eligible students exceeds five thousand by the deadline, the department shall use a lottery system to award scholarships. Students already participating in the program are automatically approved for participation in the immediate subsequent year.

(2) If the number of students is less than five thousand by the deadline, then any student meeting the requirements of Section 59-8-110(6)(A)(ii) or (iii) may apply to the program. however, priority must be given to students who have an adjusted gross family income of four hundred percent or less of the federal poverty guidelines as promulgated annually by the United States Department of Health and Human Services.

(C) The department shall provide the parent of a qualifying student participating in the program with a written explanation of the allowable uses of an account, the responsibilities of the parent, and the duties of the department.

(D) Qualifying students participating in the program may return to their resident school districts at any time, providing the least disruptive process.

(E) A school shall report to the department if a student withdraws from the program.

(F) The department shall adopt rules and procedures as necessary for the administration of the program.

Section 59-8-140. An eligible school may not refund, rebate, or share the scholarship account of a qualifying student participating in the program with his parent or with the qualifying student.

Section 59-8-150. Funds received pursuant to this chapter do not constitute taxable income to the parent of a qualifying student participating in the program.

Section 59-8-160. (A) In the first year in which the account is funded, scholarships may be awarded in an amount not exceeding five thousand dollars to a qualifying student at an eligible school to be disbursed up to two thousand five hundred dollars each semester. The department may not issue debit cards, but shall distribute funds through an online system directly to a qualifying student. The department shall procure a system that can create the scholarship accounts and process cost of attendance and qualifying expenses.

(B)(1) Before awarding a scholarship, the department shall document the student’s eligibility with the following documentation:

(a) a card issued in the student’s name from the Department of Health and Human Services for Medicaid eligibility or Children’s Health Insurance Program (CHIP) eligibility;

(b) other documentation as the department may require to demonstrate that the family income is equal to the poverty level of Medicaid eligibility;

(c) a record to provide that the student’s parent is an active member of the Armed Forces of the United States; or

(d) documentation that the child was enrolled in the South Carolina Early Reading Development and Education program.

(2) Upon approving the application, the department shall create an online account for the qualifying student that the parent or legal guardian can access using a secure portal. The individual student account must be created within thirty days of approval of the application.

(3) If a qualifying student leaves or withdraws from the eligible school for any reason before the end of the semester or school year and does not reenroll within thirty days, or if the qualifying student graduates from or chooses to permanently leave a qualifying school, then the balance in the scholarship account must be credited to the Parental Choice in Education Scholarship Fund.

(4) Any funds not expended in an individual student’s scholarship account at the end of the school year will be carried forward into the next school year and expended for the same purposes.

Section 59-8-170. (A) The Education Oversight Committee will approve independent schools for participation in the program that meet all program requirements. Once a school is found eligible to participate in the program, it is presumed eligible for the remaining two years unless the Education Oversight Committee finds otherwise. The independent school shall certify to the Education Oversight Committee that it continues to meet all program requirements. The Education Oversight Committee shall develop an application to be completed by the independent schools.

(B) By March first of each year the Education Oversight Committee shall publish on its website a comprehensive list of independent and public schools certified as eligible schools. The list must include each eligible school’s name, addresses, telephone numbers, and, if available, website addresses.

(C) An independent school that is denied certification pursuant to this chapter may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court’s rules of procedure.

(D) The Education Oversight Committee shall grant an exemption to an eligible school from participating in the program if the eligible school can show that it has space limitations and is unable to accept additional students.

(E) The Education Oversight Committee may prohibit a school from participating in the program if the Education Oversight Committee finds that the participating school has:

(1) routinely failed to comply with the accountability standards established in this chapter; or

(2) failed to provide the eligible student participating in the program with the educational services funded by the account.

(F) If the Education Oversight Committee decides to prohibit an eligible school from participating in the program, then the Education Oversight Committee shall notify qualifying students participating in the program and their parents of this decision as quickly as possible.

(G) The Education Oversight Committee shall approve a list of fee-for-service transportation providers that a qualifying student may utilize.

Section 59-8-180. Except as otherwise provided, the Department of Education and the Education Oversight Committee, or any other state agency, may not regulate the educational program of an independent school that accepts students receiving scholarship grants pursuant to this chapter.

Section 59-8-190. The Education Oversight Committee and the department shall collaborate to develop and administer an annual program survey to all parents of qualifying students regarding the effectiveness of the fund. Results must be provided to the General Assembly by December thirty-first of each year.

Section 59-8-200. Unless reauthorized by the General Assembly, the provisions of this act only apply to school year 2022‑2023 through school year 2025‑2026. Any funds remaining in the Parental Choice in Education Scholarship Fund after school year 2025‑2026, must be credited to the contingency reserve fund and the newly created fund must be dissolved.”

SECTION 3. There is allocated seventy-five million dollars from the contingency reserve fund to the Parental Choice in Education Fund to be used as described in this act.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every 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 hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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