

**REPORT OF THE
GENERAL GOVERNMENT,
PERSONNEL & BENEFITS SUBCOMMITTEE**

(Herbkersman, White, J.H. Neal, Pitts & Umphlett - Staff Contact: Emily Heatwole)

HOUSE BILL 3407

H. 3407 -- Reps. Herbkersman, Owens, Quinn, Simrill, Stringer, Bedingfield, Barfield, Bowen, Clemmons, Corbin, Delleney, Hamilton, Hardwick, Harrison, Henderson, Hixon, Limehouse, Loftis, Long, Lowe, McCoy, D.C. Moss, Murphy, Nanney, Patrick, Pitts, Ryan, G.M. Smith, G.R. Smith, J.R. Smith, Sottile, Taylor, Viers, Willis and Crawford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "EDUCATIONAL OPPORTUNITY ACT" BY ADDING ARTICLE 6 TO CHAPTER 63, TITLE 59 SO AS TO PROVIDE THAT A QUALIFYING STUDENT IS ELIGIBLE TO RECEIVE A SCHOLARSHIP TO ATTEND AN INDEPENDENT SCHOOL IF HE MEETS CERTAIN CONDITIONS, AND TO PROVIDE THE VALUE OF THOSE SCHOLARSHIPS; TO ALLOW A TAX CREDIT TO BE TAKEN BY A PERSON WHO FILES STATE INCOME TAX FOR TUITION PAID FOR A QUALIFYING STUDENT TO ATTEND AN INDEPENDENT SCHOOL UPON CERTAIN CONDITIONS, TO PROVIDE THE VALUE OF THE TAX CREDIT, TO PROVIDE THAT THE TAX CREDIT MAY BE TAKEN IN FUTURE YEARS UPON CERTAIN CONDITIONS, TO REQUIRE A RECEIPT TO CLAIM THE TAX CREDIT, AND TO PROVIDE THAT A TAX CREDIT MAY NOT BE TAKEN IF THE STUDENT'S ENROLLMENT IN THE INDEPENDENT SCHOOL IS TERMINATED; TO REQUIRE THE STATE BUDGET AND CONTROL BOARD TO CALCULATE THE SAVINGS TO THE STATE GENERAL FUND DERIVED FROM THE PROVISIONS OF THIS ARTICLE, TO PROVIDE THE MECHANISM FOR THAT CALCULATION, TO PROVIDE FOR TAX CREDITS TO BE TAKEN FOR TUITION PAID FOR OTHER STUDENTS TO ATTEND INDEPENDENT SCHOOLS, AND TO PROVIDE FOR THE TOTAL AND INDIVIDUAL AMOUNTS OF THOSE TAX CREDITS; TO PROVIDE FOR A TAX CREDIT FOR A PERSON WHO TEACHES A QUALIFYING STUDENT AT HOME, AND TO PROVIDE THAT THE TAX CREDIT MAY BE TAKEN IN FUTURE YEARS UPON CERTAIN CONDITIONS; TO ALLOW A CORPORATION OR PERSON TO CLAIM A CREDIT AGAINST STATE INCOME TAX OR FRANCHISE FEES FOR A CONTRIBUTION MADE TO A STUDENT SCHOLARSHIP ORGANIZATION; TO PROVIDE DUTIES FOR INDEPENDENT SCHOOLS AND STUDENT SCHOLARSHIP ORGANIZATIONS WITH REGARD TO THIS ARTICLE; TO PROVIDE TESTING REQUIREMENTS; TO ALLOW THE DEPARTMENT OF REVENUE TO PROMULGATE NECESSARY REGULATIONS AND TO CONDUCT NECESSARY EXAMINATIONS AND INVESTIGATIONS; TO PROVIDE REPORTING REQUIREMENTS BY THE STATE BUDGET AND CONTROL BOARD AND THE LEGISLATIVE AUDIT COUNCIL; TO PROVIDE DUTIES OF THE EDUCATION OVERSIGHT COMMITTEE AND THE DEPARTMENT OF EDUCATION WITH REGARD TO THIS ARTICLE; TO PROVIDE THAT AN INDEPENDENT SCHOOL IS NOT AN AGENT OR ARM OF THE STATE OR FEDERAL GOVERNMENT WITH RESPECT TO THIS ARTICLE; TO PROVIDE THAT OTHER STATE AGENCIES MAY NOT REGULATE THE EDUCATIONAL PROGRAM OF AN INDEPENDENT SCHOOL; AND BY ADDING SECTION 12-6-3383 SO AS TO ALLOW AN INDIVIDUAL TO CLAIM AN INCOME TAX CREDIT PURSUANT TO THE PROVISIONS OF ARTICLE 6, CHAPTER 63, TITLE 59.

Summary of Bill:

The bill provides for tax credits to be taken by an individual for tuition paid to an independent school and for students who are homeschooled. Further it allows for the creation of a scholarship organization to offer scholarships for qualified students to attend an independent school and for a donor to receive a tax credit for a donation to said organization.

Introduced: 1/20/2011

Received by Ways and Means: 1/20/2011

Estimated Fiscal Impact:

Attached

Subcommittee Recommendation:

Favorable with Amendments

Full Committee Recommendation:

Pending

Other Notes/Comments:

[CLICK HERE](#) to Edit Notes/Comments

FISCAL IMPACT STATEMENT ON BILL NO. **H.3407**
(Doc. No. 18339bh11.docx)

TO: The Honorable Daniel T. "Dan" Cooper, Chairperson, House Ways and Means Committee
FROM: Office of State Budget, Budget and Control Board
ANALYSTS: Bryce Wilson, K. Earle Powell, Beth Quick
DATE: April 6, 2011 SBD: 2011181

AUTHOR: Representative Herbkersman PRIMARY CODE CITE: 59-63-610
SUBJECT: Educational Opportunity Act

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
\$0 (No additional expenditures or savings are expected)

BILL SUMMARY:

House Bill 3407 amends the Code of Laws of South Carolina, 1976, to among other things, enact the "Educational Opportunity Act" by adding Article 6 to Chapter 63, Title 59 so as to provide that a student is eligible to receive a scholarship to attend an independent school and allows a tax credit for person who pays tuition for that student.

EXPLANATION OF IMPACT:

State Budget and Control Board

Section 59-63-650 (A) requires the Budget and Control Board to provide for the preparation of an annual report on the fiscal impact of the implementation of the Educational Opportunity Act on school enrollment and state and local funding of public schools for the most recently completed fiscal year. Among other things, the report must include an analysis and statement on the amounts the state spent in public schools compared to the amounts that would have been spent under all education funding formulas in existence on or before enactment of this legislation; and savings to the state general fund as a result of this legislation. The Economic Research section of the Budget and Control Board estimates costs at \$249,306 annually and 3 FTEs to fulfill these responsibilities. This estimate is for the staff services associated with economic research, design, collection, organization and analysis of relevant data. Cost also includes all associated operating expenses. These costs would also cover the Board's requirement to provide members of the General Assembly with interim and final longitudinal reports on the legislation's impact.

Legislative Audit Council (LAC)

If the LAC is responsible for paying for the evaluation required by section 59-63-655 of the Bill, the Council estimates the cost to the State General Fund of at least \$1 million over five years. If the LAC is only responsible for overseeing the contract and its procurement, the cost to the General Fund would be approximately \$100,000 over five years.

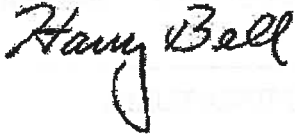
State Department of Education (SDE) and Education Oversight Committee (EOC)

Both agencies indicate any fiscal impact associated with this Bill would be minimal and could be absorbed within existing resources.

Department of Revenue

The Department is in the process of reviewing the Bill for its potential impact on its programs and expenditures. This impact statement will be revised to include this information once the review and analysis is completed.

Approved by:



Harry Bell
Assistant Director, Office of State Budget

Statement of Estimated Revenue Impact

Date: April 12, 2011

Bill Number: H.3407 (as amended by the General Government, Personnel and Benefits Subcommittee on 4/6/2011)

Author: Herbkersman, Owens, Quinn, Simrill, Stringer, Bedingfield, Barfield, Bowen, Clemmons, Corbin, Delleney, Hamilton, Hardwick, Harrison, Henderson, Hixon, Limehouse, Loftis, Long, Lowe, McCoy, D.C. Moss, Murphy, Nanney, Patrick, Pitts, Ryan, G.M. Smith, G.R. Smith, J.R. Smith, Sottile, Taylor, Viers, Crawford, Spires, Tribble, Lucas and Brantley

Committee Requesting Impact: Ways and Means

Bill Summary

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

REVENUE IMPACT ^{1/}

This bill as amended is expected to reduce General Fund income tax, bank tax, corporate license fees, or insurance premium tax revenue by \$64,170,126 in FY 2011-12. By FY 2023-24 when all tax credits are fully implemented, this bill is expected to reduce General Fund revenue by \$248,722,676. State appropriations could potentially be reduced by \$66,246,631 in the first year and by \$115,646,833 in FY 2023-24. The net impact on the state finances would be a net gain of \$2,076,505 in FY 2011-12 and net losses for all other years culminating in an annual net loss of \$133,057,842 in FY 2023-24 when all tax credits are fully implemented. The revenue impact on local school districts corresponds to the estimated potential state appropriation reductions. We expect that reduced state appropriations would

Statement of Estimated Revenue Impact

reduce local school districts revenue by \$66,246,631 in the first year and by \$115,646,833 in FY 2023-24.

Explanation

This bill as amended would create a scholarship tax credit for taxpayers contributing to a student scholarship organization. The scholarship credit is 95% of the value of the contribution and is applied against income tax, bank tax, corporate license fees, or insurance premium tax. Students eligible to receive the scholarships include public school students transferring to an independent school or a student entering kindergarten at an independent school. These students must also have a household income that entitles the student to receive either free or reduced priced meals or Medicaid. The value of the scholarship is the greater of 50% of the state's per-pupil allocation to the student's resident school district or the statewide base student cost. We estimate that statewide total per-student state funding for FY 2011-12 will be \$4,834. One-half of this amount would be \$2,417. The estimated statewide base student cost for FY 2011-12 is \$1,788. We estimate that the proposed scholarship credit would reduce General Fund revenue by \$21,778,983 in FY 2011-12 and by \$38,114,013 in FY 2023-24. Row 1 of the Table on pages 9 and 10 of the attached report provides the estimated revenue reductions for FY 2011-12 through FY 2023-24.

The proposed legislation also creates three new tuition tax credits for public, independent, and home school students beginning in School Year (SY) 2011-12. Under the first credit, families with public school students that transfer to an independent school or a student that enrolls in a kindergarten program at an independent school are eligible for a tuition tax credit in an amount not to exceed the greater of 50% of the state's per-pupil allocation to the student's resident school district or the statewide base student cost. In SY 2012-13 and beyond, the initial students may continue to claim the tax credit along with any student entering kindergarten at an independent school. In other words, after a 13 year phase-in all students at independent schools along with the public school students that transfer to independent schools will be eligible for the credit. Students are eligible for either the tuition tax credit or the scholarship, not both. We expect that state General Fund revenue will be reduced by \$32,278,510 in FY 2011-12 from tax credits claimed by families of the estimated 13,531 public school students that would transfer to independent schools. Our estimate of the General Fund revenue reduction increases to \$53,214,394 in FY 2023-24. The annual estimated revenue reduction for tax credits claimed by families of public school students transferring to independent schools are provided in row 7 of the Table on pages 9 and 10 of the attached report. The estimated revenue reduction for credits claimed by the families of kindergarten students enrolling in an independent school in the first year of the 13 year phase-in is expected to be \$9,353,725. When the phase-in is complete in FY 2023-24, we expect that tuition tax credits for an estimated 58,115 kindergarten through 12th grade independent school students will reduce General Fund revenue by \$148,857,579.

The second credit begins in SY 2014-15 for students not qualified for the scholarship credit or the tuition tax credit above. These students include all remaining independent school students in the grades not eligible for the tuition tax credit. This credit is capped at 80% of the amount of the per-pupil state funding that is directly related to the number of students which would otherwise go to the student's resident school district less the value of the scholarship or tuition tax credits. We estimate that the 35,624 parents of independent school

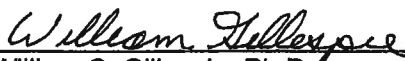
Statement of Estimated Revenue Impact

students would benefit from this credit in SY 2014-15, reducing General Fund revenue by an estimated \$9,840,026. The number of students eligible for this credit will decline in future years until SY 2023-24 when the credit would be phased-out. In FY 2022-23 we expect this tax credit would reduce General fund revenue by \$9,968,228. Estimates of the revenue reductions for FY 2014-15 through FY 2022-23 are provided in row 16 of the Table on pages 9 and 10 of the attached report.

The third credit is for parents who teach one or more students at home. This credit is up to \$1,000 annually per student for instruction related expenses. Students eligible for the credit will be entering kindergarten in SY 2011-12 or homeschool students that attended a public school the previous year. The remaining grades would be phased-in at one additional grade per year to cover all homeschool students by SY 2023-24. We expect that families of 1,088 students will claim the credit, amounting to \$758,909 in the first year. When fully implemented in FY 2023-24, we expect 11,874 home school students will be eligible, and their tuition tax credits will total \$8,536,690. Estimates for each year are provided in row 21 of the Table on pages 9 and 10 of the attached report.

Potentially offsetting these General Fund revenue reductions are state expenditure reductions for students that transfer from public schools to independent schools. We estimate that per-pupil state expenditures directly related to the number of students amount to \$2,878 in FY 2011-12. Multiplying this \$2,878 per-pupil amount times the number of students moving to independent schools yields an estimated \$66,246,631 in reduced state appropriations to local school districts for FY 2011-12. This appropriation reduction offsets the \$64,170,126 decline in General Fund revenue from the tax credits. In FY 2011-12 the net impact to the state (appropriation reductions less tax credit revenue reduction) is \$2,076,505. In FY 2012-13 and all subsequent years, the potential state appropriation reductions are less than the revenue declines from the tax credits resulting in annual net losses to state finances. By FY 2023-24 when the legislation is fully implemented, the potential state appropriation reduction is estimated at \$115,646,833. However, the estimated General Fund revenue reduction from the tax credits totals \$248,722,676 generating an annual net loss in state revenue of \$133,075,842. The Table on page 12 of the attached report summarizes the net gain or loss to the state by fiscal year over the 13 year timeframe.

The attached report contains our detailed analysis of this legislation and the methodology we used to estimate the revenue impact. Comments made by interested parties on an earlier advisory letter on this legislation have been incorporated into the analysis.



William C. Gillespie, Ph.D.
Chief Economist

Analyst: Shuford

¹ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact, or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

Estimated Revenue Impact of 2011 Education Opportunity Act
Updated for Subcommittee Amendment

William C. Gillespie, Ph.D.
Chief Economist

Gordon O. Shuford
Economist

April 12, 2011

South Carolina
Budget and Control Board
Office of Research and Statistics
Economic Research Section
(803) 734-3805

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

HAY/MORGAN
APRIL 15, 2011

CLERK OF THE HOUSE

THE GENERAL GOVERNMENT, PERSONNEL AND BENEFITS
SUBCOMMITTEE PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 3407 (COUNCIL\AGM\19027BH11):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

**/SECTION 1. THIS ACT MAY BE CITED AS THE
“SOUTH CAROLINA EDUCATIONAL
OPPORTUNITY ACT”.**

**SECTION 2. (A) THE GENERAL ASSEMBLY
FINDS:**

(1) IT HAS THE INHERENT POWER TO DETERMINE SUBJECTS OF TAXATION FOR GENERAL OR PARTICULAR PUBLIC PURPOSES;

(2) EXPANDING EDUCATIONAL OPPORTUNITIES AND IMPROVING THE QUALITY OF EDUCATIONAL SERVICES WITHIN THE STATE ARE VALID PUBLIC PURPOSES THAT THE GENERAL ASSEMBLY MAY PROMOTE USING ITS SOVEREIGN POWER TO DETERMINE SUBJECTS OF TAXATION AND EXEMPTIONS FROM TAXATION;

(3) ENSURING THAT ALL PARENTS, REGARDLESS OF MEANS, MAY EXERCISE AND ENJOY THEIR BASIC RIGHT TO EDUCATE THEIR CHILDREN AS THEY SEE FIT IS A VALID PUBLIC PURPOSE THAT THE GENERAL ASSEMBLY MAY PROMOTE USING ITS SOVEREIGN POWER TO DETERMINE SUBJECTS OF TAXATION AND EXEMPTIONS FROM TAXATION;

(4) EXPANDING EDUCATIONAL OPPORTUNITIES AND THE HEALTHY COMPETITION THEY PROMOTE ARE CRITICAL TO IMPROVING THE QUALITY OF EDUCATION IN THE

STATE AND ENSURING THAT ALL CHILDREN RECEIVE THE HIGH-QUALITY EDUCATION TO WHICH THEY ARE ENTITLED; AND

(B) THE PURPOSE OF THIS ARTICLE IS TO:

(1) ALLOW MAXIMUM FREEDOM TO PARENTS AND INDEPENDENT SCHOOLS TO RESPOND TO AND PROVIDE FOR THE EDUCATIONAL NEEDS OF CHILDREN WITHOUT GOVERNMENTAL CONTROL, AND THIS ACT MUST BE LIBERALLY CONSTRUED TO ACHIEVE THAT PURPOSE;

(2) ENABLE TAXPAYERS TO MAKE PRIVATE, VOLUNTARY CONTRIBUTIONS TO NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS IN ORDER TO PROMOTE THE GENERAL WELFARE;

(3) PROVIDE TAXPAYERS WHO WISH TO HELP PARENTS WITH LIMITED RESOURCES EXERCISE THEIR BASIC RIGHT TO EDUCATE THEIR CHILDREN AS THEY SEE FIT WITH A MEANS TO DO SO;

(4) PROMOTE GENERAL WELFARE BY EXPANDING EDUCATIONAL OPPORTUNITIES FOR CHILDREN OF FAMILIES THAT HAVE LIMITED FINANCIAL RESOURCES;

(5) ENABLE CHILDREN IN THIS STATE TO ACHIEVE A GREATER LEVEL OF EXCELLENCE IN THEIR EDUCATION;

(6) IMPROVE THE QUALITY OF EDUCATION IN THIS STATE, BOTH BY EXPANDING EDUCATIONAL OPPORTUNITIES FOR CHILDREN AND BY CREATING INCENTIVES FOR SCHOOLS TO ACHIEVE EXCELLENCE; AND

(7) ENABLE TAXPAYERS TO RECEIVE AN INCOME TAX CREDIT FOR A PORTION OF TUITION PAID FOR A QUALIFYING STUDENT TO ATTEND AN INDEPENDENT SCHOOL.

SECTION 3. CHAPTER 63, TITLE 59 OF THE 1976 CODE IS AMENDED BY ADDING:

“ARTICLE 6

EDUCATIONAL OPPORTUNITY ACT

SECTION 59-63-610. AS USED IN THIS ARTICLE:

(1) ‘DEPARTMENT’ MEANS THE DEPARTMENT OF REVENUE.

(2) ‘INDEPENDENT SCHOOL’ MEANS A SCHOOL, OTHER THAN A PUBLIC SCHOOL, AT WHICH THE COMPULSORY ATTENDANCE REQUIREMENTS OF SECTION 59-65-10 MAY BE MET AND THAT DOES NOT DISCRIMINATE BASED ON THE GROUNDS OF RACE, COLOR, OR NATIONAL ORIGIN. FOR PURPOSES OF THIS ARTICLE, ‘INDEPENDENT SCHOOL’ DOES NOT INCLUDE A HOME WHERE A PARENT OR LEGAL GUARDIAN TEACHES ONE OR MORE CHILDREN AS AUTHORIZED PURSUANT TO SECTIONS 59-65-40, 59-65-45, OR 59-65-47.

(3) ‘NONSTUDENT-BASED PER-PUPIL STATE FUNDING’ MEANS ALL PROJECTED STATE EXPENDITURES TO LOCAL PUBLIC SCHOOL DISTRICTS NOT DIRECTLY RELATED TO THE NUMBER OF STUDENTS, DIVIDED BY THE TOTAL PROJECTED PUPIL COUNT IN THOSE DISTRICTS.

(4) ‘OWNER OR OPERATOR’ INCLUDES:

(A) AN OWNER, PRESIDENT, OFFICER, OR DIRECTOR OF AN ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION OR A PERSON WITH EQUIVALENT DECISION MAKING AUTHORITY OVER AN ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION; AND

(B) AN OWNER, OPERATOR, SUPERINTENDENT, OR PRINCIPAL OF AN ELIGIBLE INDEPENDENT SCHOOL OR A PERSON WITH EQUIVALENT DECISION MAKING AUTHORITY OVER AN ELIGIBLE INDEPENDENT SCHOOL.

(5) 'PARENT' MEANS THE NATURAL OR ADOPTIVE PARENT OR LEGAL GUARDIAN OF A CHILD.

(6) 'PUBLIC SCHOOL' MEANS A PUBLIC SCHOOL IN THE STATE AS DEFINED IN SECTION 59-1-120.

(7) 'QUALIFYING STUDENT' MEANS A STUDENT WHO IS A SOUTH CAROLINA RESIDENT AND WHO WAS ENROLLED IN A SOUTH CAROLINA SECONDARY OR ELEMENTARY PUBLIC SCHOOL AT THE KINDERGARTEN OR LATER YEAR LEVEL FOR THE PRECEDING SCHOOL YEAR OR WHO IS ELIGIBLE TO ENROLL IN A QUALIFIED FIVE-YEAR-OLD KINDERGARTEN PROGRAM. QUALIFYING STUDENT, FOR PURPOSES OF SCHOLARSHIP ELIGIBILITY PURSUANT TO THE PROVISIONS OF THIS CHAPTER, ALSO MEANS A STUDENT WHO RECEIVED A SCHOLARSHIP PURSUANT TO SECTION 59-63-620 FOR THE PREVIOUS ACADEMIC YEAR AND WHO CONTINUES TO MEET THE ELIGIBILITY REQUIREMENTS IN SECTION 59-63-620(A)(1)-(2).

(8) 'RECEIPT' MEANS A DOCUMENT DEVELOPED BY THE DEPARTMENT OF REVENUE THAT IS ISSUED BY THE RECEIVING SCHOOL TO A PERSON WHO MAKES A TUITION PAYMENT ON BEHALF OF A QUALIFYING STUDENT AND THAT CONTAINS, AT A MINIMUM:

(A) THE NAME AND ADDRESS OF THE SCHOOL;

(B) THE NAME, SOCIAL SECURITY NUMBER, AND ADDRESS OF THE QUALIFYING STUDENT FOR WHOM THE TUITION HAS BEEN PAID; AND

(C) THE NAME OF THE PAYER AND THE DATE AND AMOUNT OF TUITION PAID.

(9) 'RECEIVING SCHOOL' MEANS AN INDEPENDENT SCHOOL WHICH THE QUALIFYING STUDENT SEEKS TO ATTEND.

(10) 'RESIDENT PUBLIC SCHOOL DISTRICT' MEANS THE PUBLIC SCHOOL DISTRICT IN WHICH A STUDENT RESIDES.

(11) 'RELEASE OF INFORMATION FORM' MEANS A DOCUMENT DEVELOPED BY A RECEIVING SCHOOL WHICH IS SIGNED BY THE PARENT OR GUARDIAN OF A QUALIFYING STUDENT AND WHICH ACKNOWLEDGES THE CONSENT OF THE PARENT OR GUARDIAN TO RELEASE OF INFORMATION CONTAINED IN THE RECEIPT.

(12) 'SCHOLARSHIP RECEIPT' MEANS A DOCUMENT DEVELOPED BY THE DEPARTMENT OF REVENUE THAT IS ISSUED BY THE STUDENT SCHOLARSHIP ORGANIZATION TO A CORPORATION OR A PERSON WHO MAKES A CONTRIBUTION TO A STUDENT SCHOLARSHIP ORGANIZATION.

(13) 'STATE' MEANS THE STATE OF SOUTH CAROLINA.

(14) 'STUDENT-BASED PER-PUPIL STATE FUNDING' MEANS THE SUM OF PROJECTED ALLOCATIONS FROM ALL STATE SOURCES TO LOCAL DISTRICTS THAT ARE DIRECTLY RELATED TO THE NUMBER OF STUDENTS, DIVIDED BY THE TOTAL PROJECTED PUPIL COUNT IN THOSE DISTRICTS.

(15) 'STUDENT SCHOLARSHIP ORGANIZATION' MEANS A CHARITABLE ORGANIZATION INCORPORATED OR QUALIFIED TO DO BUSINESS IN THIS STATE THAT:

(A) IS EXEMPT FROM FEDERAL INCOME TAXATION PURSUANT TO SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE;

(B) COMPLIES WITH THE APPLICABLE STATE AND FEDERAL ANTIDISCRIMINATION PROVISIONS; AND

(C) IS REGISTERED WITH THE OFFICE OF THE SECRETARY OF STATE.

(16) 'TOTAL PER-PUPIL STATE FUNDING' MEANS THE TOTAL PROJECTED STATE EXPENDITURES TO LOCAL PUBLIC SCHOOL

DISTRICTS DIVIDED BY THE TOTAL PROJECTED PUPIL COUNT IN THOSE DISTRICTS.

(17) TUITION MEANS THE TOTAL AMOUNT OF MONEY CHARGED FOR THE COST OF A QUALIFYING STUDENT TO ATTEND AN INDEPENDENT SCHOOL INCLUDING, BUT NOT LIMITED TO, FEES FOR ATTENDING THE SCHOOL AND SCHOOL-RELATED TRANSPORTATION.

SECTION 59-63-620. (A) A QUALIFYING STUDENT IS ELIGIBLE TO RECEIVE A SCHOLARSHIP TO ATTEND AN INDEPENDENT SCHOOL IN THIS STATE IF THE STUDENT TRANSFERS TO AN INDEPENDENT SCHOOL OR ENTERS KINDERGARTEN AT AN INDEPENDENT SCHOOL AND:

(1) HAS A HOUSEHOLD INCOME THAT QUALIFIES THE STUDENT TO RECEIVE FREE OR REDUCED MEALS PURSUANT TO THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT, 7 C.F.R. PART 245, OR THAT QUALIFIES THE STUDENT'S FAMILY TO RECEIVE MEDICAID; AND

(2) IS NOT A STUDENT FOR WHOM A TAXPAYER HAS RECEIVED A TAX CREDIT PURSUANT TO SECTION 59-63-623.

(B) THE VALUE OF SCHOLARSHIPS GIVEN TO A QUALIFYING STUDENT WHO MEETS THE CRITERIA PROVIDED IN SUBSECTION (A) MAY NOT EXCEED THE GREATER OF:

(1) FIFTY PERCENT OF THE STATE'S TOTAL PROJECTED ALLOCATION TO THE RESIDENT PUBLIC SCHOOL DISTRICT OF THE STUDENT, DIVIDED BY THE PROJECTED AVERAGE DAILY MEMBERSHIP OF THE RESIDENT PUBLIC SCHOOL DISTRICT; OR

(2) THE STATEWIDE BASE STUDENT COST AS DEFINED IN SECTION 59-20-20.

(C) FOR PURPOSES OF THIS SECTION, THE STATE'S TOTAL PROJECTED ALLOCATION TO THE LOCAL PUBLIC SCHOOL DISTRICT INCLUDES BOTH GENERAL FUND AND NONGENERAL FUND ALLOCATIONS, INCLUDING, BUT NOT LIMITED TO, RESTRICTED STATE GRANTS, UNRESTRICTED GRANTS, THE EDUCATION FINANCE ACT (EFA), THE EDUCATION IMPROVEMENT ACT (EIA), EDUCATION

LOTTERY REVENUE, STATE REVENUE IN LIEU OF TAXES, AND OTHER STATE REVENUE.

SECTION 59-63-623. (A) BEGINNING IN THE 2011-2012 SCHOOL YEAR, A PERSON WHO FILES A STATE INCOME TAX RETURN AND WHO IS NOT A DEPENDENT OF ANOTHER TAXPAYER MAY CLAIM A TAX CREDIT FOR THE TUITION PAID BY THAT PERSON FOR A QUALIFYING STUDENT WHO IS NOT RECEIVING A SCHOLARSHIP PURSUANT TO SECTION 59-63-620 TO ATTEND AN INDEPENDENT SCHOOL IN AN AMOUNT NOT TO EXCEED THE GREATER OF:

(1) FIFTY PERCENT OF THE STATE'S TOTAL PROJECTED ALLOCATION TO THE RESIDENT PUBLIC SCHOOL DISTRICT OF THE STUDENT, DIVIDED BY THE PROJECTED AVERAGE DAILY STUDENT MEMBERSHIP OF THAT SCHOOL DISTRICT; OR

(2) THE STATEWIDE BASE STUDENT COST.

(B) FOR PURPOSES OF THIS SECTION, THE STATE'S TOTAL PROJECTED ALLOCATION TO THE LOCAL PUBLIC SCHOOL DISTRICT INCLUDES BOTH GENERAL FUND AND NONGENERAL FUND ALLOCATIONS, INCLUDING, BUT NOT LIMITED TO, RESTRICTED STATE GRANTS, UNRESTRICTED GRANTS, THE EDUCATION FINANCE ACT (EFA), THE EDUCATION IMPROVEMENT ACT (EIA), EDUCATION LOTTERY REVENUE, STATE REVENUE IN LIEU OF TAXES, AND OTHER STATE REVENUE.

(C) IN NO EVENT MAY THE TOTAL AMOUNT OF THE TAX CREDIT EXCEED THE AMOUNT OF ACTUAL TUITION PAID ON BEHALF OF THE QUALIFYING STUDENT.

(D) BEGINNING WITH THE 2012-2013 SCHOOL YEAR AND FOR EVERY SCHOOL YEAR THEREAFTER, A PERSON WHO FILES A STATE INCOME TAX RETURN AND WHO IS NOT A DEPENDENT OF ANOTHER TAXPAYER MAY CLAIM A TAX CREDIT AS PROVIDED IN SUBSECTION (A) FOR TUITION PAID BY THAT PERSON FOR THE QUALIFYING STUDENT FOR WHOM THE TAX CREDIT WAS INITIALLY TAKEN PURSUANT TO

SUBSECTION (A) WHO CONTINUES TO BE ENROLLED IN AN INDEPENDENT SCHOOL AND WHO IS NOT RECEIVING A SCHOLARSHIP PURSUANT TO SECTION 59-63-620.

(E) A TAX CREDIT MAY NOT BE CLAIMED WITHOUT A RECEIPT ISSUED BY THE DEPARTMENT.

(F) FOR A STUDENT FOR WHOM TUITION IS PAID TO ATTEND AN INDEPENDENT SCHOOL FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO THIS SECTION AND WHOSE ENROLLMENT IN THE INDEPENDENT SCHOOL IS TERMINATED FOR ANY REASON DURING THE ACADEMIC YEAR, THE INDEPENDENT SCHOOL SHALL NOTIFY THE DEPARTMENT SO THAT NO TAX CREDIT MAY BE TAKEN FOR ANY TUITION PAID ON BEHALF OF THE STUDENT.

(G) A TAX CREDIT MAY NOT BE CLAIMED FOR A STUDENT WHO IS RECEIVING A SCHOLARSHIP PURSUANT TO SECTION 59-63-620.

SECTION 59-63-624. (A) THE STATE BUDGET AND CONTROL BOARD, OFFICE OF RESEARCH AND STATISTICS ANNUALLY SHALL CALCULATE THE SAVINGS TO THE STATE DERIVED FROM THE PROVISIONS OF THIS ARTICLE. THE AMOUNT OF SAVINGS PER QUALIFYING STUDENT IS EQUAL TO THE AMOUNT OF THE STUDENT-BASED PER-PUPIL STATE FUNDING WHICH WOULD OTHERWISE GO TO THAT QUALIFYING STUDENT'S RESIDENT PUBLIC SCHOOL DISTRICT, LESS THE VALUE OF THE TAX CREDITS TAKEN PURSUANT TO SECTION 59-63-623 OR THE VALUE OF THE SCHOLARSHIP GIVEN PURSUANT TO SECTION 59-63-620 ISSUED TO THE QUALIFYING STUDENT.

(B) BEGINNING WITH THE 2014-2015 SCHOOL YEAR AND THEREAFTER, A CREDIT PROVIDED IN THIS SECTION MUST BE AVAILABLE TO ALL PERSONS NOT OTHERWISE ELIGIBLE UNDER SECTION 59-63-623 FOR ANY STUDENT WHO IS NOT ELIGIBLE FOR A SCHOLARSHIP UNDER SECTION 59-63-620 OR WHO IS NOT A QUALIFYING STUDENT FOR WHOM A TAXPAYER HAS RECEIVED A TAX

CREDIT UNDER SECTION 59-63-623 TO ATTEND AN INDEPENDENT SCHOOL NOTWITHSTANDING THE LIMITATION CONTAINED IN SECTION 59-63-610(7). THE TOTAL AMOUNT OF FUNDS AVAILABLE FOR TAXPAYERS TO TAKE ADVANTAGE OF THIS CREDIT PURSUANT TO THIS SUBSECTION MUST BE CAPPED AT EIGHTY PERCENT OF THE AGGREGATE AMOUNT OF THE SAVINGS FOR ALL QUALIFYING STUDENTS, AS CALCULATED IN SUBSECTION (A), AND DETERMINED BY THE STATE BUDGET AND CONTROL BOARD OFFICE OF RESEARCH AND STATISTICS PURSUANT TO SECTION 59-63-650(A)(5). THE AMOUNT OF THE CREDIT AVAILABLE FOR EACH STUDENT UNDER THIS SECTION MAY NOT EXCEED FIFTY PERCENT OF THE STATE'S TOTAL PROJECTED ALLOCATION TO THE RESIDENT PUBLIC SCHOOL DISTRICT OF THE STUDENT, DIVIDED BY THE PROJECTED AVERAGE DAILY MEMBERSHIP OF THE RESIDENT PUBLIC SCHOOL DISTRICT.

(C) THE STATE BUDGET AND CONTROL BOARD OFFICE OF RESEARCH AND STATISTICS ANNUALLY SHALL CERTIFY THE AMOUNT OF THE CREDIT PER STUDENT BASED UPON THE AMOUNT OF SAVINGS AS CALCULATED IN SUBSECTIONS (A) AND (B), DIVIDED BY THE NUMBER OF ELIGIBLE STUDENTS THEN ENROLLED IN INDEPENDENT SCHOOLS WHO ARE NOT ALREADY RECEIVING A TAX CREDIT UNDER SECTION 59-63-623 OR A SCHOLARSHIP UNDER SECTION 59-63-620.

SECTION 59-63-625. (A) BEGINNING WITH THE 2011-2012 SCHOOL YEAR, A PARENT OR LEGAL GUARDIAN WHO TEACHES ONE OR MORE QUALIFYING STUDENTS AT HOME AS AUTHORIZED PURSUANT TO SECTION 59-65-40, 59-65-45, OR 59-65-47 MAY TAKE A TAX CREDIT OF UP TO ONE THOUSAND DOLLARS PER HOME SCHOOL STUDENT FOR INSTRUCTION-RELATED EXPENDITURES. FOR THE FIRST YEAR A TAX CREDIT IS CLAIMED PURSUANT TO THIS SECTION, THE TAXPAYER SHALL ATTACH TO HIS STATE TAX RETURN THE PREVIOUS YEAR'S ATTENDANCE RECORD AT A SOUTH CAROLINA PUBLIC SCHOOL OR THE RECORD OF BIRTH FOR THE STUDENT FOR WHOM THE CREDIT IS CLAIMED.

(B) BEGINNING WITH THE 2012-2013 SCHOOL YEAR AND FOR EVERY SCHOOL YEAR THEREAFTER, A PERSON WHO FILES A STATE INCOME TAX RETURN AND WHO IS NOT A DEPENDENT OF ANOTHER TAXPAYER MAY CLAIM A TAX CREDIT AS PROVIDED IN SUBSECTION (A) FOR INSTRUCTION-RELATED EXPENDITURES PAID BY THAT PERSON FOR THE QUALIFYING STUDENT FOR WHOM THE TAX CREDIT WAS INITIALLY TAKEN PURSUANT TO SUBSECTION (A) WHO CONTINUES TO BE TAUGHT AT HOME. FOR ANY YEAR AFTER THE FIRST YEAR A TAXPAYER CLAIMS A CREDIT PURSUANT TO THIS SECTION, THE TAXPAYER SHALL ATTACH THE SCHOOL ATTENDANCE OR BIRTH RECORD DESCRIBED IN SECTION 59-63-625(A) AND THE PREVIOUS YEAR'S STATE TAX RETURN INDICATING THE CLAIM FOR CREDIT TO THE CURRENT YEAR'S TAX RETURN.

SECTION 59-63-630. (A) AN INDEPENDENT SCHOOL THAT ACCEPTS STUDENTS PURSUANT TO THIS ARTICLE SHALL:

(1) BE INCLUDED ON A LIST OF ELIGIBLE SCHOOLS PUBLISHED BY THE EDUCATION OVERSIGHT COMMITTEE;

(2) COMPLY WITH STATE AND FEDERAL ANTIDISCRIMINATION LAWS;

(3) MEET STATE AND LOCAL HEALTH AND SAFETY LAWS AND CODES;

(4) COMPLY WITH STATE STATUTES RELATING TO INDEPENDENT SCHOOLS, INCLUDING THE COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS PROVIDED IN SECTION 59-65-10;

(5) EMPLOY OR CONTRACT WITH TEACHERS WHO HOLD A BACCALAUREATE OR HIGHER DEGREE, HAVE AT LEAST THREE YEARS OF TEACHING EXPERIENCE IN A PUBLIC OR INDEPENDENT SCHOOL, OR HAVE SPECIAL SKILLS, KNOWLEDGE, OR EXPERTISE THAT QUALIFY THEM TO PROVIDE INSTRUCTION IN SUBJECTS TAUGHT;

(6) BE ACADEMICALLY ACCOUNTABLE TO THE PARENT OR GUARDIAN FOR MEETING THE EDUCATION NEEDS OF THE STUDENT;

(7) ADMINISTER TO STUDENTS A NATIONALLY RECOGNIZED ACHIEVEMENT TEST AND REPORT THE SCHOOL'S AGGREGATE SCORE TO ALL PARENTS IN ACCORDANCE WITH SECTION 59-63-633;

(8) ACCEPT SCHOLARSHIP STUDENTS WHO MEET THE ADMISSIONS CRITERIA OF THE SCHOOL WITHIN THE SCHOOL'S CAPACITY TO ACCEPT ADDITIONAL STUDENTS;

(9) HAVE A PHYSICAL LOCATION IN THE STATE IN WHICH THE STUDENTS ATTEND CLASSES;

(10) VERIFY STUDENT ENROLLMENT AND ATTENDANCE FOR THE PREVIOUS YEAR PURSUANT TO THE ISSUANCE OF A TAX CREDIT RECEIPT;

(11) BE IN OPERATION FOR THREE YEARS OR POST A SURETY BOND OR LETTER OF CREDIT EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS;

(12) BE A MEMBER IN GOOD STANDING OF SOUTH CAROLINA ASSOCIATION OF CHRISTIAN SCHOOLS, SOUTH CAROLINA INDEPENDENT SCHOOLS ASSOCIATION, OR SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS;

(13) ANNUALLY CONTRACT WITH AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT TO PERFORM THE ACCOUNTING PROCEDURES AS REQUIRED BY THIS SECTION;

(14) PARTICIPATE, THROUGH THE INDEPENDENT SCHOOLS ASSOCIATIONS, WITH STUDENT SCHOLARSHIP ORGANIZATIONS, IN THE JOINT DEVELOPMENT OF PROCEDURES TO BE PERFORMED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AS REQUIRED BY THIS SECTION, IF THE SCHOOL RECEIVED MORE THAN ONE HUNDRED THOUSAND DOLLARS IN SCHOLARSHIP FUNDS FROM STUDENT SCHOLARSHIP ORGANIZATIONS IN THE PRECEDING FISCAL YEAR. THESE PROCEDURES UNIFORMLY MUST APPLY TO ALL INDEPENDENT SCHOOLS AND MUST DETERMINE, AT A MINIMUM, WHETHER THE INDEPENDENT SCHOOL HAS BEEN VERIFIED AS ELIGIBLE BY THE EDUCATION OVERSIGHT COMMITTEE PURSUANT TO SECTION 59-63-661; HAS AN

ADEQUATE ACCOUNTING SYSTEM, SYSTEM OF FINANCIAL CONTROLS, AND PROCESS FOR DEPOSIT AND CLASSIFICATION OF SCHOLARSHIP FUNDS; AND HAS PROPERLY EXPENDED SCHOLARSHIP FUNDS FOR EDUCATION-RELATED EXPENSES. DURING THE DEVELOPMENT OF THE PROCEDURES, THE PARTICIPATING SCHOLARSHIP FUNDING ORGANIZATIONS SHALL SPECIFY GUIDELINES GOVERNING THE MATERIALITY OF EXCEPTIONS THAT MAY BE FOUND DURING THE ACCOUNTANT'S PERFORMANCE OF THE PROCEDURES. THE PROCEDURES AND GUIDELINES MUST BE PROVIDED TO INDEPENDENT SCHOOLS AND THE EDUCATION OVERSIGHT COMMITTEE BY JUNE FIRST OF EACH YEAR;

(15) PARTICIPATE IN A JOINT REVIEW OF THE PROCEDURES AND GUIDELINES DEVELOPED PURSUANT TO ITEM (14) BY AUGUST 1, 2012, AND BIENNIALLY THEREAFTER, IF THE SCHOOL RECEIVED MORE THAN ONE HUNDRED THOUSAND DOLLARS IN SCHOLARSHIP FUNDS PURSUANT TO THIS SECTION DURING THE STATE FISCAL YEAR PRECEDING THE BIENNIAL REVIEW. IF THE PROCEDURES AND GUIDELINES ARE REVISED, THE REVISIONS MUST BE PROVIDED TO INDEPENDENT SCHOOLS AND THE EDUCATION OVERSIGHT COMMITTEE BY AUGUST 15, 2012, AND BIENNIALLY THEREAFTER; AND

(16) PRODUCE A REPORT OF THE RESULTS OF THE PROCEDURES REQUIRED IN ITEM (14) IF THE INDEPENDENT SCHOOL RECEIVES MORE THAN ONE HUNDRED THOUSAND DOLLARS IN FUNDS FROM SCHOLARSHIPS AWARDED PURSUANT TO THIS SECTION IN THE PRECEDING STATE FISCAL YEAR OR A STATE FISCAL YEAR THEREAFTER. AN INDEPENDENT SCHOOL SUBJECT TO THE PROVISIONS OF THIS ITEM SHALL SUBMIT THE REPORT BY JULY FIRST OF THE FIRST FULL YEAR OF PARTICIPATION AND ANNUALLY THEREAFTER TO THE SCHOLARSHIP FUNDING ORGANIZATION THAT AWARDED THE MAJORITY OF THE SCHOOL'S SCHOLARSHIP FUNDS. THE PROCEDURES MUST BE CONDUCTED IN ACCORDANCE WITH ATTESTATION STANDARDS

ESTABLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS.

(B) THE INABILITY OF AN INDEPENDENT SCHOOL TO MEET THE REQUIREMENTS OF THIS SECTION CONSTITUTES A BASIS FOR THE INELIGIBILITY OF THE INDEPENDENT SCHOOL TO PARTICIPATE IN THE SCHOLARSHIP PROGRAM AS DETERMINED BY THE EDUCATION OVERSIGHT COMMITTEE.

SECTION 59-63-633. TO ENSURE THAT SCHOOLS PROVIDE ACADEMIC ACCOUNTABILITY TO PARENTS OF STUDENTS, RECEIVING SCHOOLS ANNUALLY SHALL ADMINISTER THE PALMETTO ASSESSMENT OF STATE STANDARDS (PASS) TEST OR ITS EQUIVALENT OR A NATIONALLY RECOGNIZED NORM- REFERENCED TEST INCLUDING, BUT NOT LIMITED TO, THE STANFORD ACHIEVEMENT TEST OR THE IOWA TEST OF BASIC SKILLS OR OTHER TEST CERTIFIED BY ANY OTHER STATE TO MEET PUBLIC SCHOOL TESTING REQUIREMENTS UNDER FEDERAL LAW, IN THE AREAS OF MATHEMATICS AND LANGUAGE ARTS TO EACH STUDENT PARTICIPATING IN THE PROGRAM. RECEIVING SCHOOLS PUBLICLY SHALL DISCLOSE THE AGGREGATE RESULTS OF THE TESTS BY GRADE LEVEL, BUT ONLY IF THE DISCLOSURE OF THE AGGREGATE RESULTS COMPLIES WITH 20 U.S.C. SECTION 1232G, FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974, AND SHALL PROVIDE THE PARENTS OF EACH STUDENT WITH A COPY OF THE RESULTS. RECEIVING SCHOOLS ALSO SHALL PROVIDE AGGREGATE RESULTS BY GRADE LEVEL TO THE CHAIRMAN OF THE HOUSE EDUCATION AND PUBLIC WORKS COMMITTEE, THE SENATE EDUCATION COMMITTEE, THE EDUCATION OVERSIGHT COMMITTEE, AND THE GOVERNOR NO LATER THAN AUGUST THIRTY-FIRST OF THE SCHOOL YEAR IN WHICH THE TESTS ARE ADMINISTERED.

SECTION 59-63-647. THE DEPARTMENT MAY PROMULGATE REGULATIONS TO AID IN THE PERFORMANCE AND ASSESSMENT OF ITS

DUTIES PURSUANT TO THIS ARTICLE; HOWEVER, ITS POWER DOES NOT EXTEND TO MATTERS OF SCHOOL GOVERNANCE, CURRICULUM, HIRING OR FIRING, OR RELIGIOUS BELIEFS OR PRACTICES.

SECTION 59-63-648. THE DEPARTMENT MAY CONDUCT EXAMINATIONS AND INVESTIGATIONS WHEN IT BELIEVES THAT THE PROVISIONS OF THIS ARTICLE HAVE BEEN EVADED OR VIOLATED. ALL POWERS POSSESSED BY THE DEPARTMENT PROVIDED IN TITLE 12 TO CONDUCT EXAMINATIONS AND INVESTIGATIONS APPLY TO EXAMINATIONS AND INVESTIGATIONS CONDUCTED PURSUANT TO THIS SECTION.

SECTION 59-63-650. (A) THE STATE BUDGET AND CONTROL BOARD, OFFICE OF RESEARCH AND STATISTICS ANNUALLY SHALL PROVIDE FOR THE PREPARATION OF A REPORT ON THE FISCAL IMPACT OF THE IMPLEMENTATION OF THIS ARTICLE ON SCHOOL ENROLLMENT AND STATE AND LOCAL FUNDING OF PUBLIC SCHOOLS FOR THE FISCAL YEAR MOST RECENTLY COMPLETED. THE REPORT MUST INCLUDE, BUT MAY NOT BE LIMITED TO, AN ANALYSIS OF AND STATEMENT ON THE:

(1) CHANGE IN PUBLIC SCHOOL ENROLLMENT, BY SCHOOL DISTRICT, ATTRIBUTABLE TO THIS ARTICLE;

(2) AMOUNT OF FUNDS THE STATE WOULD HAVE HAD TO EXPEND FOR PUBLIC SCHOOLS UNDER ALL EDUCATION FUNDING FORMULAS IN EXISTENCE ON OR BEFORE THE ENACTMENT OF THIS ARTICLE AND THE AMOUNT ACTUALLY EXPENDED BY THE STATE IN PUBLIC SCHOOLS;

(3) AMOUNT OF ALL FEDERAL AND LOCALLY RAISED REVENUE, CALCULATED ON A PER STUDENT BASIS, RETAINED BY THE LOCAL SCHOOL DISTRICT FOR EACH STUDENT PARTICIPATING IN THE SCHOLARSHIP PROGRAM WHO IS NOT ATTENDING A PUBLIC SCHOOL;

(4) IMPACT OF THE PROVISIONS OF THIS ARTICLE ON TEACHER/PUPIL RATIOS IN SCHOOLS IN WHICH STUDENTS HAVE

TRANSFERRED AS WELL AS THE NEED FOR CONSTRUCTION OF NEW SCHOOLS; AND

(5) CALCULATION OF SAVINGS TO THE STATE GENERAL FUND AS A RESULT OF THE IMPLEMENTATION OF THIS ARTICLE ACCORDING TO THE PROVISIONS OF SECTION 59-63-623.

(B) THE REPORT MUST BE SUBMITTED BY DECEMBER FIRST OF EACH YEAR TO THE GOVERNOR, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, THE CHAIRMAN OF THE SENATE EDUCATION COMMITTEE, THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE, THE CHAIRMAN OF THE HOUSE EDUCATION AND PUBLIC WORKS COMMITTEE, THE BOARD OF ECONOMIC ADVISORS, THE EDUCATION OVERSIGHT COMMITTEE, AND THE SCHOOL CHOICE TRUST FUND.

SECTION 59-63-655. SECTION 59-63-655. (A)(1) THE EDUCATION OVERSIGHT COMMITTEE, IN COORDINATION WITH THE DEPARTMENT OF EDUCATION, SHALL PROVIDE FOR A LONG-TERM EVALUATION OF THE IMPACT OF THIS ARTICLE. THE EVALUATION MUST BE CONDUCTED BY CONTRACT WITH ONE OR MORE QUALIFIED PERSONS OR ENTITIES WITH PREVIOUS EXPERIENCE EVALUATING SCHOOL CHOICE PROGRAMS. THE EVALUATION MUST BE CONDUCTED EVERY FIVE YEARS; HOWEVER, THE FIRST EVALUATION MUST BE CONDUCTED TO STUDY THE FIRST THREE YEARS OF THE IMPACT OF THIS ARTICLE AND MUST BE COMPLETED BY DECEMBER 15, 2014. THE EVALUATION MUST INCLUDE AN ASSESSMENT OF THE:

(A) LEVEL OF SATISFACTION OF PARENTS OF STUDENTS PARTICIPATING IN THE SCHOLARSHIP PROGRAM PROVIDED IN THIS ARTICLE;

(B) LEVEL OF SATISFACTION OF PARENTS OF STUDENTS IN DEMOGRAPHICALLY SIMILAR PUBLIC SCHOOLS;

(C) ACADEMIC PERFORMANCE OF RECEIVING INDEPENDENT SCHOOLS AND DEMOGRAPHICALLY SIMILAR PUBLIC SCHOOLS;

(D) LEVEL OF STUDENT SATISFACTION WITH THE SCHOLARSHIP PROGRAM PROVIDED IN THIS ARTICLE;

(E) LEVEL OF STUDENT SATISFACTION FOR STUDENTS ATTENDING DEMOGRAPHICALLY SIMILAR PUBLIC SCHOOLS;

(F) IMPACT OF THE PROVISIONS OF THIS ARTICLE ON PUBLIC SCHOOL DISTRICTS, PUBLIC SCHOOL STUDENTS, INDEPENDENT SCHOOLS, AND INDEPENDENT SCHOOL STUDENTS;

(G) IMPACT OF THE PROVISIONS OF THIS ARTICLE ON INDEPENDENT SCHOOL AND PUBLIC SCHOOL CAPACITY, AVAILABILITY, AND QUALITY; AND

(H) CUMULATIVE SAVINGS TO THE STATE AS CALCULATED PURSUANT TO SECTION 59-63-624.

(2) THE EVALUATION MUST BE CONDUCTED USING APPROPRIATE ANALYTICAL AND BEHAVIORAL SCIENCE METHODOLOGIES AND MUST PROTECT THE IDENTITY OF PARTICIPATING SCHOOLS AND STUDENTS BY, AT A MINIMUM, KEEPING ANONYMOUS ALL DISAGGREGATED DATA OTHER THAN THAT FOR THE CATEGORIES OF GRADE, GENDER, RACE, AND ETHNICITY. THE EVALUATION OF PUBLIC AND INDEPENDENT SCHOOL STUDENTS MUST COMPUTE THE RELATIVE EFFICIENCY OF PUBLIC AND INDEPENDENT SCHOOLS, THE VALUE ADDED TO EDUCATIONAL PERFORMANCE BY INDEPENDENT SCHOOLS RELATIVE TO FAILING PUBLIC SCHOOLS, AND A COMPARISON OF ACCEPTANCE RATES INTO COLLEGE, WHILE ADJUSTING OR CONTROLLING FOR STUDENT AND FAMILY BACKGROUND.

(B) STATE AND LOCAL GOVERNMENT ENTITIES SHALL COOPERATE WITH THE PERSONS OR ENTITIES CONDUCTING THE EVALUATION PROVIDED IN SUBSECTION (A). COOPERATION INCLUDES PROVIDING

AVAILABLE STUDENT ASSESSMENT RESULTS AND OTHER INFORMATION NEEDED TO COMPLETE THE EVALUATION.

(C) UPON COMPLETION OF THE EVALUATION, THE EDUCATION OVERSIGHT COMMITTEE SHALL PROVIDE COPIES OF THE REPORT TO EACH MEMBER OF THE GENERAL ASSEMBLY. AT THE SAME TIME AS THE REPORT IS MADE PUBLIC, THE PERSONS OR ENTITIES WHO CONDUCTED THE EVALUATION MUST MAKE THEIR DATA AND METHODOLOGY AVAILABLE FOR PUBLIC REVIEW AND INSPECTION, BUT ONLY IF THE RELEASE OF THE DATA AND METHODOLOGY COMPLIES WITH 20 U.S.C. SECTION 1232G, FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974.

SECTION 59-63-660. THE PROVISIONS OF THIS ARTICLE REGARDING INDEPENDENT SCHOOLS AND THEIR RELATION TO STUDENT SCHOLARSHIP ORGANIZATIONS APPLY ONLY TO INDEPENDENT SCHOOLS THAT CHOOSE TO ACCEPT SCHOLARSHIP STUDENTS.

SECTION 59-63-661. THE EDUCATION OVERSIGHT COMMITTEE SHALL:

(1) SUBMIT ANNUALLY, BY MARCH FIFTEENTH, A LIST OF ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS THAT MEET THE REQUIREMENTS OF SECTION 59-63-631;

(2) VERIFY ANNUALLY THE ELIGIBILITY OF NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS THAT MEET THE REQUIREMENTS OF SECTION 59-63-631;

(3) VERIFY ANNUALLY THE ELIGIBILITY OF INDEPENDENT SCHOOLS THAT MEET THE REQUIREMENTS OF SECTION 59-63-630;

(4) VERIFY ANNUALLY THE ELIGIBILITY OF EXPENDITURES AS PROVIDED IN SECTION 59-63-631 USING THE AUDIT REQUIRED BY SECTION 59-63-631(10);

(5) REQUIRE AN ANNUAL, NOTARIZED, SWORN COMPLIANCE STATEMENT BY PARTICIPATING INDEPENDENT SCHOOLS CERTIFYING COMPLIANCE WITH STATE LAWS AND RETAIN THOSE RECORDS;

(6) SELECT AN INDEPENDENT RESEARCH ORGANIZATION, WHICH MAY BE A PUBLIC OR PRIVATE ENTITY OR UNIVERSITY, TO WHICH PARTICIPATING INDEPENDENT SCHOOLS SHALL REPORT THE SCORES OF PARTICIPATING STUDENTS ON THE NATIONALLY NORM-REFERENCED TEST ADMINISTERED BY THE INDEPENDENT SCHOOL IN GRADES THREE THROUGH TEN;

(A) THE INDEPENDENT RESEARCH ORGANIZATION ANNUALLY SHALL REPORT TO THE EDUCATION OVERSIGHT COMMITTEE AND THE DEPARTMENT OF EDUCATION ON THE YEAR-TO-YEAR LEARNING GAINS OF PARTICIPATING STUDENTS:

(I) ON A STATEWIDE BASIS, THE REPORT ALSO MUST INCLUDE, TO THE EXTENT POSSIBLE, A COMPARISON OF THESE LEARNING GAINS TO THE STATEWIDE LEARNING GAINS OF PUBLIC SCHOOL STUDENTS WITH SOCIOECONOMIC BACKGROUNDS SIMILAR TO THOSE OF STUDENTS PARTICIPATING IN THE SCHOLARSHIP PROGRAM; AND

(II) ACCORDING TO EACH PARTICIPATING INDEPENDENT SCHOOL IN WHICH THERE ARE AT LEAST THIRTY PARTICIPATING STUDENTS WHO HAVE SCORES FOR TESTS ADMINISTERED DURING OR AFTER THE 2011-2012 SCHOOL YEAR FOR TWO CONSECUTIVE YEARS AT THE INDEPENDENT SCHOOL;

(B) THE SHARING AND REPORTING OF STUDENT LEARNING GAIN DATA PURSUANT TO THIS SUBITEM MUST BE IN ACCORDANCE WITH REQUIREMENTS OF 20 U.S.C. 1232G, THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974, AND MUST BE FOR THE SOLE PURPOSE OF CREATING THE ANNUAL REPORT REQUIRED BY ITEM (6)(A)(I). ALL PARTIES MUST PRESERVE THE CONFIDENTIALITY OF THIS INFORMATION AS REQUIRED BY LAW. THE ANNUAL REPORT MAY NOT DISAGGREGATE DATA TO A LEVEL THAT WILL IDENTIFY INDIVIDUAL

PARTICIPATING SCHOOLS, EXCEPT AS REQUIRED PURSUANT TO ITEM (6)(A)(II), OR DISCLOSE THE ACADEMIC LEVEL OF INDIVIDUAL STUDENTS; AND

(C) THE ANNUAL REPORT REQUIRED IN THIS ITEM MUST BE PUBLISHED BY THE EDUCATION OVERSIGHT COMMITTEE ON ITS WEBSITE.

(7) ESTABLISH A HEARING PROCESS FOR INDEPENDENT SCHOOLS WHO HAVE BEEN REMOVED FROM THE LIST OF ELIGIBLE SCHOOLS OR WHO WERE NOT INCLUDED ON THE ANNUALLY PUBLISHED LIST WITH AN APPEAL TO THE ADMINISTRATIVE LAW JUDGE DIVISION;

(8) ESTABLISH AND MAINTAIN AN INTERNET WEBSITE INCLUDING INFORMATION ON SCHOLARSHIP GRANTING ORGANIZATIONS AND THEIR POLICIES AND GUIDELINES AND INFORMATION REGARDING OPTIONS PROVIDED PURSUANT TO THIS ARTICLE FOR SCHOOL CHOICE IN SOUTH CAROLINA;

(9) CONTRACT FOR AND ASSIST IN THE DESIGN AND REPORTING OF THE EVALUATION PROVIDED IN SECTION 59-63-655.

SECTION 59-63-662. THE SOUTH CAROLINA DEPARTMENT OF EDUCATION SHALL:

(1) CROSS-CHECK THE LIST OF PARTICIPATING INDEPENDENT SCHOOLS WITH THE PUBLIC SCHOOL ENROLLMENT LISTS TO AVOID DUPLICATION;

(2) NOTIFY AN ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION OF ANY OF THE ORGANIZATION'S IDENTIFIED STUDENTS WHO ARE RECEIVING TAX CREDIT SCHOLARSHIPS FROM OTHER ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS;

(3) ESTABLISH A PROCESS BY WHICH INDIVIDUALS MAY NOTIFY THE DEPARTMENT OF EDUCATION OF ANY VIOLATION BY A PARENT, INDEPENDENT SCHOOL, OR SCHOOL DISTRICT OF STATE LAWS RELATING TO PROGRAM PARTICIPATION. THE DEPARTMENT OF EDUCATION SHALL CONDUCT AN INQUIRY OF ANY WRITTEN COMPLAINT

OF A VIOLATION OF THIS SECTION, OR MAKE A REFERRAL TO THE APPROPRIATE AGENCY FOR AN INVESTIGATION, IF THE COMPLAINT IS SIGNED BY THE COMPLAINANT AND IS LEGALLY SUFFICIENT. A COMPLAINT IS LEGALLY SUFFICIENT IF IT CONTAINS ULTIMATE FACTS THAT SHOW THAT A VIOLATION OF THIS SECTION OR ANY RULE ADOPTED BY THE STATE BOARD OF EDUCATION HAS OCCURRED. IN ORDER TO DETERMINE LEGAL SUFFICIENCY, THE DEPARTMENT OF EDUCATION MAY REQUIRE SUPPORTING INFORMATION OR DOCUMENTATION FROM THE COMPLAINANT;

(4) MAINTAIN A LIST OF NATIONALLY NORM-REFERENCED TESTS IDENTIFIED FOR PURPOSES OF SATISFYING THE TESTING REQUIREMENT IN SECTION 59-63-630(7). THE TESTS MUST MEET INDUSTRY STANDARDS OF QUALITY IN ACCORDANCE WITH STATE BOARD OF EDUCATION RULE;

(5) REQUIRE QUARTERLY REPORTS BY AN ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION REGARDING THE NUMBER OF STUDENTS PARTICIPATING IN THE SCHOLARSHIP PROGRAM, THE INDEPENDENT SCHOOLS AT WHICH THE STUDENTS ARE ENROLLED, AND OTHER INFORMATION DEEMED NECESSARY BY THE DEPARTMENT OF EDUCATION; AND

(6) ANNUALLY, BY DECEMBER FIFTEENTH, REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES THE ACTIONS OF THE DEPARTMENT OF EDUCATION WITH RESPECT TO IMPLEMENTING ACCOUNTABILITY IN THE SCHOLARSHIP PROGRAM PURSUANT TO THIS SECTION, ANY SUBSTANTIATED ALLEGATIONS OR VIOLATIONS OF LAW OR RULE BY AN ELIGIBLE INDEPENDENT SCHOOL UNDER THIS PROGRAM CONCERNING THE ENROLLMENT AND ATTENDANCE OF STUDENTS, THE CREDENTIALS OF TEACHERS, BACKGROUND SCREENING OF TEACHERS, AND THE CORRECTIVE ACTION TAKEN BY THE DEPARTMENT OF EDUCATION.

SECTION 59-63-663. (A) A RECEIVING INDEPENDENT SCHOOL THAT ACCEPTS STUDENTS BENEFITING FROM SCHOLARSHIPS, GRANTS, OR TAX CREDITS IS NOT AN AGENT OR ARM OF THE STATE OR FEDERAL GOVERNMENT.

(B) EXCEPT AS PROVIDED BY THIS ARTICLE, THE DEPARTMENT OF EDUCATION, DEPARTMENT OF REVENUE, STATE BUDGET AND CONTROL BOARD, OR ANY OTHER STATE AGENCY MAY NOT REGULATE THE EDUCATIONAL PROGRAM OF A RECEIVING INDEPENDENT SCHOOL THAT ACCEPTS STUDENTS PURSUANT TO THIS ARTICLE.”

SECTION 4. ARTICLE 25, CHAPTER 6, TITLE 12 OF THE 1976 CODE IS AMENDED BY ADDING:

“SECTION 12-6-3383. AN INDIVIDUAL MAY CLAIM AN INCOME TAX CREDIT FOR TUITION PAID FOR A CHILD TO ATTEND A QUALIFYING INDEPENDENT SCHOOL PURSUANT TO THE TERMS AND CONDITIONS PROVIDED IN ARTICLE 6, CHAPTER 63, TITLE 59.”

SECTION 5. IF A SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, OR WORD OF THIS ACT IS FOR ANY REASON HELD TO BE UNCONSTITUTIONAL OR INVALID, THIS HOLDING DOES NOT AFFECT THE CONSTITUTIONALITY OR THE VALIDITY OF THE REMAINING PORTIONS OF THIS ACT, THE GENERAL ASSEMBLY HEREBY DECLARING THAT IT WOULD HAVE PASSED THIS ACT, AND EACH SECTION, SUBSECTION, PARAGRAPH, SUBPARAGRAPH, SENTENCE, CLAUSE, PHRASE, AND WORD THEREOF, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER SECTIONS, SUBSECTIONS, PARAGRAPHS, SUBPARAGRAPHS, SENTENCES, CLAUSES, PHRASES, OR WORDS THEREOF MAY BE DECLARED TO BE UNCONSTITUTIONAL, INVALID, OR OTHERWISE INEFFECTIVE.

SECTION 6. (A) A CORPORATION OR A PERSON MAY CLAIM A CREDIT AGAINST STATE INCOME TAX IMPOSED BY CHAPTER 6, TITLE 12, BANK TAX IMPOSED BY CHAPTER 11, TITLE 12, LICENSE FEES IMPOSED BY CHAPTER 20, TITLE 12, OR INSURANCE PREMIUM TAXES IMPOSED BY CHAPTER 7, TITLE 38 OR ANY COMBINATION OF THEM FOR NINETY-FIVE PERCENT OF THE VALUE OF A CONTRIBUTION MADE TO A STUDENT SCHOLARSHIP ORGANIZATION.

(B) A TAX CREDIT MAY NOT BE CLAIMED WITHOUT A SCHOLARSHIP RECEIPT.

(C) IF THE AMOUNT OF THE TAX CREDIT EXCEEDS THE TAXPAYER'S INCOME TAX LIABILITY OR FRANCHISE FEE TAX LIABILITY FOR THAT TAXABLE YEAR, THE TAXPAYER MAY CARRY FORWARD THE EXCESS FOR UP TO THREE YEARS.

(D) A STUDENT SCHOLARSHIP ORGANIZATION SHALL:

(1) ALLOCATE NINETY-FIVE PERCENT OF ITS ANNUAL REVENUE RECEIVED FROM DONORS WHO WERE ISSUED SCHOLARSHIP RECEIPTS TO SCHOLARSHIPS OR TUITION GRANTS FOR QUALIFYING STUDENTS TO ATTEND INDEPENDENT SCHOOLS;

(2) NOT HAVE AN OWNER OR OPERATOR WHO IN THE LAST SEVEN YEARS HAS FILED FOR PERSONAL BANKRUPTCY OR CORPORATE BANKRUPTCY IN A CORPORATION OF WHICH HE OR SHE OWNED MORE THAN TWENTY PERCENT;

(3) NOT HAVE AN OWNER OR OPERATOR WHO OWNS OR OPERATES AN ELIGIBLE INDEPENDENT SCHOOL THAT PARTICIPATES IN THE SCHOLARSHIP PROGRAM;

(4) PROVIDE SCHOLARSHIPS, FROM ELIGIBLE CONTRIBUTIONS, TO QUALIFYING STUDENTS TO DEFRAY THE COST OF TUITION AND FEES FOR AN ELIGIBLE INDEPENDENT SCHOOL LOCATED IN SOUTH CAROLINA;

(5) NOT RESTRICT OR RESERVE SCHOLARSHIPS FOR USE AT A SINGLE INDEPENDENT SCHOOL OR PROVIDE SCHOLARSHIPS TO A CHILD OF AN OWNER OR OPERATOR;

(6) VERIFY THE ELIGIBILITY THROUGH TRANSCRIPTS AND ATTENDANCE RECORDS OF A QUALIFYING STUDENT WHO APPLIES FOR A SCHOLARSHIP;

(7) NOT USE MORE THAN FIVE PERCENT OF ELIGIBLE CONTRIBUTIONS RECEIVED DURING THE STATE FISCAL YEAR IN WHICH THE CONTRIBUTIONS ARE COLLECTED, AND FOR WHICH SCHOLARSHIP RECEIPTS WERE ISSUED FOR TAX CREDIT PURPOSES, FOR ADMINISTRATIVE EXPENSES. THESE ADMINISTRATIVE EXPENSES MUST BE REASONABLE AND NECESSARY FOR THE ORGANIZATION'S MANAGEMENT AND DISTRIBUTION OF ELIGIBLE CONTRIBUTIONS PURSUANT TO THIS SECTION. NO MORE THAN ONE-THIRD OF THE FUNDS AUTHORIZED FOR ADMINISTRATIVE EXPENSES PURSUANT TO THIS ITEM MAY BE USED FOR EXPENSES RELATED TO THE RECRUITMENT OF CONTRIBUTIONS FROM TAXPAYERS;

(8) EXPEND AN AMOUNT EQUAL TO OR GREATER NINETY-FIVE PERCENT OF THE NET ELIGIBLE CONTRIBUTIONS REMAINING AFTER ADMINISTRATIVE EXPENSES ARE EXPENDED FOR ANNUAL OR PARTIAL-YEAR SCHOLARSHIPS DURING THE STATE FISCAL YEAR IN WHICH THESE CONTRIBUTIONS ARE COLLECTED. NO MORE THAN FIVE PERCENT OF THESE NET ELIGIBLE CONTRIBUTIONS REMAINING AFTER ADMINISTRATIVE EXPENSES DURING THE STATE FISCAL YEAR IN WHICH SUCH CONTRIBUTIONS ARE COLLECTED MAY BE CARRIED FORWARD TO THE FOLLOWING STATE FISCAL YEAR. ANY AMOUNTS CARRIED FORWARD MUST BE EXPENDED FOR ANNUAL OR PARTIAL-YEAR SCHOLARSHIPS IN THE FOLLOWING STATE FISCAL YEAR. NET ELIGIBLE CONTRIBUTIONS REMAINING ON JUNE THIRTIETH OF EACH YEAR THAT ARE IN EXCESS OF THE FIVE PERCENT THAT MUST BE CARRIED FORWARD MUST BE RETURNED TO THE STATE TREASURY FOR DEPOSIT IN THE GENERAL REVENUE FUND;

(9) MAINTAIN SEPARATE ACCOUNTS FOR SCHOLARSHIP FUNDS AND OPERATING FUNDS;

(10) PROVIDE TO THE EDUCATION OVERSIGHT COMMITTEE AN ANNUAL FINANCIAL AND COMPLIANCE AUDIT OF ITS ACCOUNTS AND RECORDS CONDUCTED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AND IN COMPLIANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS. IT ALSO MUST INCLUDE A REPORT ON FINANCIAL STATEMENTS PRESENTED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES PROVIDED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR NOT-FOR-PROFIT ORGANIZATIONS AND A DETERMINATION OF COMPLIANCE WITH STATUTORY ELIGIBILITY AND EXPENDITURE REQUIREMENTS PROVIDED IN THIS SECTION. AUDITS MUST BE PROVIDED TO THE EDUCATION OVERSIGHT COMMITTEE WITHIN ONE HUNDRED EIGHTY DAYS AFTER COMPLETION OF THE ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION'S FISCAL YEAR;

(11) PREPARE AND SUBMIT QUARTERLY REPORTS TO THE DEPARTMENT OF EDUCATION. IN ADDITION, AN ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING ORGANIZATION MUST SUBMIT IN A TIMELY MANNER ANY INFORMATION REQUESTED BY THE EDUCATION OVERSIGHT COMMITTEE RELATING TO THE SCHOLARSHIP PROGRAM;

(12) PARTICIPATE IN THE JOINT DEVELOPMENT, WITH INDEPENDENT SCHOOLS ASSOCIATIONS AND OTHER STUDENT SCHOLARSHIP ORGANIZATIONS, OF PROCEDURES TO BE PERFORMED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AS REQUIRED PURSUANT TO SECTION 59-63-630(14) IF THE STUDENT SCHOLARSHIP ORGANIZATION PROVIDED THE MAJORITY OF THE SCHOLARSHIP FUNDS RECEIVED BY A RECEIVING SCHOOL. THE PROCEDURES UNIFORMLY MUST APPLY TO ALL INDEPENDENT SCHOOLS AND MUST DETERMINE, AT A MINIMUM, WHETHER THE INDEPENDENT SCHOOL HAS BEEN VERIFIED AS ELIGIBLE BY THE DEPARTMENT OF EDUCATION PURSUANT TO SECTION 59-63-661; HAS AN ADEQUATE ACCOUNTING SYSTEM, SYSTEM OF FINANCIAL CONTROLS, AND PROCESS FOR DEPOSIT AND CLASSIFICATION OF SCHOLARSHIP FUNDS; AND HAS PROPERLY

EXPENDED SCHOLARSHIP FUNDS FOR EDUCATION-RELATED EXPENSES. DURING THE DEVELOPMENT OF THE PROCEDURES, THE PARTICIPATING SCHOLARSHIP FUNDING ORGANIZATIONS SHALL SPECIFY GUIDELINES GOVERNING THE MATERIALITY OF EXCEPTIONS THAT MAY BE FOUND DURING THE ACCOUNTANT'S PERFORMANCE OF THE PROCEDURES. THE PROCEDURES AND GUIDELINES MUST BE PROVIDED TO INDEPENDENT SCHOOLS AND THE EDUCATION OVERSIGHT COMMITTEE;

(13) PARTICIPATE IN A JOINT REVIEW OF THE PROCEDURES AND GUIDELINES DEVELOPED PURSUANT TO SECTION 59-63-630(14) BY AUGUST 1, 2012, AND BIENNIALLY THEREAFTER. IF THE PROCEDURES AND GUIDELINES ARE REVISED, THE REVISIONS MUST BE PROVIDED TO INDEPENDENT SCHOOLS AND THE EDUCATION OVERSIGHT COMMITTEE BY AUGUST 15, 2012, AND BIENNIALLY THEREAFTER;

(14) MONITOR THE COMPLIANCE OF AN INDEPENDENT SCHOOL WITH SECTION 59-63-630 IF THE SCHOLARSHIP FUNDING ORGANIZATION PROVIDED THE MAJORITY OF THE SCHOLARSHIP FUNDING TO THE SCHOOL. FOR EACH INDEPENDENT SCHOOL SUBJECT TO SECTION 59-63-630(14), THE APPROPRIATE SCHOLARSHIP FUNDING ORGANIZATION SHALL NOTIFY THE EDUCATION OVERSIGHT COMMITTEE BY AUGUST 15, 2012, AND ANNUALLY THEREAFTER OF:

(A) AN INDEPENDENT SCHOOL'S FAILURE TO SUBMIT THE REPORT REQUIRED PURSUANT TO SECTION 59-63-630; OR

(B) ANY MATERIAL EXCEPTIONS SET FORTH IN THE REPORT REQUIRED PURSUANT TO SECTION 59-63-630; AND

(15) SEEK INPUT FROM STATE RECOGNIZED INDEPENDENT SCHOOL ACCREDITATION ORGANIZATIONS OR OTHER INDEPENDENT SCHOOL ASSOCIATIONS WHEN JOINTLY DEVELOPING THE PROCEDURES AND GUIDELINES PROVIDED IN SECTION 59-63-630 AND CONDUCTING A REVIEW OF THOSE PROCEDURES AND GUIDELINES PURSUANT TO SECTION 59-63-630.

SECTION 7. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR AND APPLIES AT THE START OF THE FIRST SCHOOL YEAR BEGINNING AFTER APPROVAL OF THIS ACT. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.

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9

A BILL

10

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, TO ENACT THE "EDUCATIONAL OPPORTUNITY
13 ACT" BY ADDING ARTICLE 6 TO CHAPTER 63, TITLE 59
14 SO AS TO PROVIDE THAT A QUALIFYING STUDENT IS
15 ELIGIBLE TO RECEIVE A SCHOLARSHIP TO ATTEND AN
16 INDEPENDENT SCHOOL IF HE MEETS CERTAIN
17 CONDITIONS, AND TO PROVIDE THE VALUE OF THOSE
18 SCHOLARSHIPS; TO ALLOW A TAX CREDIT TO BE
19 TAKEN BY A PERSON WHO FILES STATE INCOME TAX
20 FOR TUITION PAID FOR A QUALIFYING STUDENT TO
21 ATTEND AN INDEPENDENT SCHOOL UPON CERTAIN
22 CONDITIONS, TO PROVIDE THE VALUE OF THE TAX
23 CREDIT, TO PROVIDE THAT THE TAX CREDIT MAY BE
24 TAKEN IN FUTURE YEARS UPON CERTAIN CONDITIONS,
25 TO REQUIRE A RECEIPT TO CLAIM THE TAX CREDIT,
26 AND TO PROVIDE THAT A TAX CREDIT MAY NOT BE
27 TAKEN IF THE STUDENT'S ENROLLMENT IN THE
28 INDEPENDENT SCHOOL IS TERMINATED; TO REQUIRE
29 THE STATE BUDGET AND CONTROL BOARD TO
30 CALCULATE THE SAVINGS TO THE STATE GENERAL
31 FUND DERIVED FROM THE PROVISIONS OF THIS
32 ARTICLE, TO PROVIDE THE MECHANISM FOR THAT
33 CALCULATION, TO PROVIDE FOR TAX CREDITS TO BE
34 TAKEN FOR TUITION PAID FOR OTHER STUDENTS TO
35 ATTEND INDEPENDENT SCHOOLS, AND TO PROVIDE
36 FOR THE TOTAL AND INDIVIDUAL AMOUNTS OF THOSE
37 TAX CREDITS; TO PROVIDE FOR A TAX CREDIT FOR A
38 PERSON WHO TEACHES A QUALIFYING STUDENT AT
39 HOME, AND TO PROVIDE THAT THE TAX CREDIT MAY
40 BE TAKEN IN FUTURE YEARS UPON CERTAIN
41 CONDITIONS; TO ALLOW A CORPORATION OR PERSON
42 TO CLAIM A CREDIT AGAINST STATE INCOME TAX OR

1 FRANCHISE FEES FOR A CONTRIBUTION MADE TO A
2 STUDENT SCHOLARSHIP ORGANIZATION; TO PROVIDE
3 DUTIES FOR INDEPENDENT SCHOOLS AND STUDENT
4 SCHOLARSHIP ORGANIZATIONS WITH REGARD TO THIS
5 ARTICLE; TO PROVIDE TESTING REQUIREMENTS; TO
6 ALLOW THE DEPARTMENT OF REVENUE TO
7 PROMULGATE NECESSARY REGULATIONS AND TO
8 CONDUCT NECESSARY EXAMINATIONS AND
9 INVESTIGATIONS; TO PROVIDE REPORTING
10 REQUIREMENTS BY THE STATE BUDGET AND CONTROL
11 BOARD AND THE LEGISLATIVE AUDIT COUNCIL; TO
12 PROVIDE DUTIES OF THE EDUCATION OVERSIGHT
13 COMMITTEE AND THE DEPARTMENT OF EDUCATION
14 WITH REGARD TO THIS ARTICLE; TO PROVIDE THAT AN
15 INDEPENDENT SCHOOL IS NOT AN AGENT OR ARM OF
16 THE STATE OR FEDERAL GOVERNMENT WITH RESPECT
17 TO THIS ARTICLE; TO PROVIDE THAT OTHER STATE
18 AGENCIES MAY NOT REGULATE THE EDUCATIONAL
19 PROGRAM OF AN INDEPENDENT SCHOOL; AND BY
20 ADDING SECTION 12-6-3383 SO AS TO ALLOW AN
21 INDIVIDUAL TO CLAIM AN INCOME TAX CREDIT
22 PURSUANT TO THE PROVISIONS OF ARTICLE 6,
23 CHAPTER 63, TITLE 59.

24

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

27

28 SECTION 1. This act may be cited as the "South Carolina
29 Educational Opportunity Act".

30

31 SECTION 2. (A) The General Assembly finds:

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

34 (2) expanding educational opportunities and improving the
35 quality of educational services within the State are valid public
36 purposes that the General Assembly may promote using its
37 sovereign power to determine subjects of taxation and exemptions
38 from taxation;

39 (3) ensuring that all parents, regardless of means, may
40 exercise and enjoy their basic right to educate their children as they
41 see fit is a valid public purpose that the General Assembly may
42 promote using its sovereign power to determine subjects of
43 taxation and exemptions from taxation;

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

5 (B) The purpose of this article is to:

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

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

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

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

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

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

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

27
28 SECTION 3. Chapter 63, Title 59 of the 1976 Code is amended
29 by adding:

30
31 "Article 6

32
33 Educational Opportunity Act

34
35 Section 59-63-610. As used in this article:

36 (1) 'Department' means the Department of Revenue.

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

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

5 (4) 'Owner or operator' includes:

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

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

13 (5) 'Parent' means the natural or adoptive parent or legal
14 guardian of a child.

15 (6) 'Public school' means a public school in the State as
16 defined in Section 59-1-120.

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

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

26 (a) the name and address of the school;

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

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

31 (9) 'Receiving school' means an independent school which the
32 qualifying student seeks to attend.

33 (10) 'Resident public school district' means the public school
34 district in which a student resides.

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

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

1 (13) 'State' means the state of South Carolina.

2 (14) 'Student-based per-pupil state funding' means the sum of
3 projected allocations from all state sources to local districts that are
4 directly related to the number of students, divided by the total
5 projected pupil count in those districts.

6 (15) 'Student scholarship organization' means a charitable
7 organization incorporated or qualified to do business in this State
8 that:

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

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

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

14 (16) 'Total per-pupil state funding' means the total projected
15 state expenditures to local public school districts divided by the
16 total projected pupil count in those districts.

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

21
22 Section 59-63-620. (A) A qualifying student is eligible to
23 receive a scholarship to attend an independent school in this State
24 if the student transfers to an independent school or enters
25 kindergarten at an independent school and:

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

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

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

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

39 (2) the statewide base student cost as defined in Section
40 59-20-20.

41 (C) For purposes of this section, the state's total projected
42 allocation to the local public school district includes both general
43 fund and nongeneral fund allocations, including, but not limited to,

1 restricted state grants, unrestricted grants, the Education Finance
2 Act (EFA), the Education Improvement Act (EIA), education
3 lottery revenue, state revenue in lieu of taxes, and other state
4 revenue.

5

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

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

15 (2) the statewide base student cost.

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

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

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

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

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

41

42 Section 59-63-624. (A) The State Budget and Control Board
43 annually shall calculate the savings to the state general fund

1 derived from the provisions of this article. The amount of savings
2 per school district is equal to the amount of the student-based
3 per-pupil state funding to each district less the value of tax credits
4 taken pursuant to Section 59-63-623 and scholarships given
5 pursuant to Section 59-63-620 issued to qualifying students in the
6 district.

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

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

21

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

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

34

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

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

39

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

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

- 1 (2) comply with state and federal antidiscrimination laws;
- 2 (3) meet state and local health and safety laws and codes;
- 3 (4) comply with state statutes relating to independent
- 4 schools, including the compulsory school attendance requirements
- 5 provided in Section 59-65-10;
- 6 (5) employ or contract with teachers who hold a
- 7 baccalaureate or higher degree, have at least three years of
- 8 teaching experience in a public or independent school, or have
- 9 special skills, knowledge, or expertise that qualify them to provide
- 10 instruction in subjects taught;
- 11 (6) be academically accountable to the parent or guardian for
- 12 meeting the education needs of the student;
- 13 (7) administer to students a nationally recognized
- 14 achievement test and report the school's aggregate score to all
- 15 parents in accordance with Section 59-63-633;
- 16 (8) accept scholarship students who meet the admissions
- 17 criteria of the school within the school's capacity to accept
- 18 additional students;
- 19 (9) have a physical location in the State in which the
- 20 students attend classes;
- 21 (10) verify student enrollment and attendance for the previous
- 22 year pursuant to the issuance of a tax credit receipt;
- 23 (11) be in operation for three years or post a surety bond or
- 24 letter of credit equal to two hundred fifty thousand dollars;
- 25 (12) be a member in good standing of South Carolina
- 26 Association of Christian Schools, South Carolina Independent
- 27 Schools Association, or Southern Association of Colleges and
- 28 Schools;
- 29 (13) annually contract with an independent certified public
- 30 accountant to perform the accounting procedures as required by
- 31 this section;
- 32 (14) participate, through the independent schools associations,
- 33 with student scholarship organizations, in the joint development of
- 34 procedures to be performed by an independent certified public
- 35 accountant as required by this section, if the school received more
- 36 than one hundred thousand dollars in scholarship funds from
- 37 student scholarship organizations in the preceding fiscal year.
- 38 These procedures uniformly must apply to all independent schools
- 39 and must determine, at a minimum, whether the independent
- 40 school has been verified as eligible by the Education Oversight
- 41 Committee pursuant to Section 59-63-661; has an adequate
- 42 accounting system, system of financial controls, and process for
- 43 deposit and classification of scholarship funds; and has properly

1 expended scholarship funds for education-related expenses. During
2 the development of the procedures, the participating scholarship
3 funding organizations shall specify guidelines governing the
4 materiality of exceptions that may be found during the
5 accountant's performance of the procedures. The procedures and
6 guidelines must be provided to independent schools and the
7 Education Oversight Committee by June first of each year;

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

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

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

31

32 Section 59-63-631. A student scholarship organization shall:

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

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

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

1 (4) provide scholarships, from eligible contributions, to
2 qualifying students to defray the cost of tuition and fees for an
3 eligible independent school located in South Carolina;
4 (5) not restrict or reserve scholarships for use at a single
5 independent school or provide scholarships to a child of an owner
6 or operator;
7 (6) verify the eligibility through transcripts and attendance
8 records of a qualifying student who applies for a scholarship;
9 (7) not use more than five percent of eligible contributions
10 received during the state fiscal year in which the contributions are
11 collected, and for which scholarship receipts were issued for tax
12 credit purposes, for administrative expenses. These administrative
13 expenses must be reasonable and necessary for the organization's
14 management and distribution of eligible contributions pursuant to
15 this section. No more than one-third of the funds authorized for
16 administrative expenses pursuant to this item may be used for
17 expenses related to the recruitment of contributions from
18 taxpayers;
19 (8) expend an amount equal to or greater ninety-five percent of
20 the net eligible contributions remaining after administrative
21 expenses are expended for annual or partial-year scholarships
22 during the state fiscal year in which these contributions are
23 collected. No more than five percent of these net eligible
24 contributions remaining after administrative expenses during the
25 state fiscal year in which such contributions are collected may be
26 carried forward to the following state fiscal year. Any amounts
27 carried forward must be expended for annual or partial-year
28 scholarships in the following state fiscal year. Net eligible
29 contributions remaining on June thirtieth of each year that are in
30 excess of the five percent that must be carried forward must be
31 returned to the State Treasury for deposit in the general revenue
32 fund;
33 (9) maintain separate accounts for scholarship funds and
34 operating funds;
35 (10) provide to the Education Oversight Committee an annual
36 financial and compliance audit of its accounts and records
37 conducted by an independent certified public accountant and in
38 compliance with generally accepted auditing standards. It also
39 must include a report on financial statements presented in
40 accordance with generally accepted accounting principles provided
41 by the American Institute of Certified Public Accountants for
42 not-for-profit organizations and a determination of compliance
43 with statutory eligibility and expenditure requirements provided in

1 this section. Audits must be provided to the Education Oversight
2 Committee within one hundred eighty days after completion of the
3 eligible nonprofit scholarship funding organization's fiscal year;

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

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

27 (13) participate in a joint review of the procedures and
28 guidelines developed pursuant to Section 59-63-630(14) by August
29 1, 2012, and biennially thereafter. If the procedures and guidelines
30 are revised, the revisions must be provided to independent schools
31 and the Education Oversight Committee by August 15, 2012, and
32 biennially thereafter;

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

40 (a) an independent school's failure to submit the report
41 required pursuant to Section 59-63-630; or

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

1 (15) seek input from state recognized independent school
2 accreditation organizations or other independent school
3 associations when jointly developing the procedures and guidelines
4 provided in Section 59-63-630 and conducting a review of those
5 procedures and guidelines pursuant to Section 59-63-630.

6
7 Section 59-63-633. To ensure that schools provide academic
8 accountability to parents of students, receiving schools annually
9 shall administer the Palmetto Assessment of State Standards
10 (PASS) test or its equivalent or a nationally recognized norm-
11 referenced test including, but not limited to, the Stanford
12 Achievement Test or the Iowa Test of Basic Skills or other test
13 certified by any other state to meet public school testing
14 requirements under federal law, in the areas of mathematics and
15 language arts to each student participating in the program.
16 Receiving schools publicly shall disclose the aggregate results of
17 the tests by grade level, but only if the disclosure of the aggregate
18 results complies with 20 U.S.C. Section 1232g, Family
19 Educational Rights and Privacy Act of 1974, and shall provide the
20 parents of each student with a copy of the results. Receiving
21 schools also shall provide aggregate results by grade level to the
22 Chairman of the House Education and Public Works Committee,
23 the Senate Education Committee, the Education Oversight
24 Committee, and the Governor no later than August thirty-first of
25 the school year in which the tests are administered.

26
27 Section 59-63-647. The department may promulgate regulations
28 to aid in the performance and assessment of its duties pursuant to
29 this article; however, its power does not extend to matters of
30 school governance, curriculum, hiring or firing, or religious beliefs
31 or practices.

32
33 Section 59-63-648. The department may conduct examinations
34 and investigations when it believes that the provisions of this
35 article have been evaded or violated. All powers possessed by the
36 department provided in Title 12 to conduct examinations and
37 investigations apply to examinations and investigations conducted
38 pursuant to this section.

39
40 Section 59-63-650. (A) The State Budget and Control Board
41 annually shall provide for the preparation of a report on the fiscal
42 impact of the implementation of this article on school enrollment
43 and state and local funding of public schools for the fiscal year

1 most recently completed. The report must include, but may not be
2 limited to, an analysis of and statement on the:

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

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

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

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

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

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

26
27 Section 59-63-655. (A)(1) The Legislative Audit Council, in
28 conjunction with the Education Oversight Committee and the
29 Department of Education, shall provide for a long-term evaluation
30 of the impact of this article. The evaluation must be conducted by
31 contract with one or more qualified persons or entities with
32 previous experience evaluating school choice programs and must
33 be conducted for a minimum of five years beginning on July 1,
34 2016. The evaluation must include an assessment of the:

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

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

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

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

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

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

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

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

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

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

25 (C) By January thirty-first of each year, the State Budget and
26 Control Board shall provide to each member of the General
27 Assembly interim reports of the results of the evaluation. Upon
28 completion of the evaluation, the State Budget and Control Board
29 shall provide a final report to each member of the General
30 Assembly. At the same time as the final report is made public, the
31 persons or entities who conducted the evaluation must make their
32 data and methodology available for public review and inspection,
33 but only if the release of the data and methodology complies with
34 20 U.S.C. Section 1232g, Family Educational Rights and Privacy
35 Act of 1974.

36
37 Section 59-63-660. The provisions of this article regarding
38 independent schools and their relation to student scholarship
39 organizations apply only to independent schools that choose to
40 accept scholarship students.

41
42 Section 59-63-661. The Education Oversight Committee shall:

1 (1) submit annually, by March fifteenth, a list of eligible
2 nonprofit scholarship funding organizations that meet the
3 requirements of Section 59-63-631;
4 (2) verify annually the eligibility of nonprofit scholarship
5 funding organizations that meet the requirements of Section
6 59-63-631;
7 (3) verify annually the eligibility of independent schools that
8 meet the requirements of Section 59-63-630;
9 (4) verify annually the eligibility of expenditures as provided
10 in Section 59-63-631 using the audit required by Section
11 59-63-631(10);
12 (5) require an annual, notarized, sworn compliance statement
13 by participating independent schools certifying compliance with
14 state laws and retain those records;
15 (6) select an independent research organization, which may be
16 a public or private entity or university, to which participating
17 independent schools shall report the scores of participating
18 students on the nationally norm-referenced test administered by the
19 independent school in grades three through ten;
20 (a) the independent research organization annually shall
21 report to the Education Oversight Committee and the Department
22 of Education on the year-to-year learning gains of participating
23 students:
24 (i) on a statewide basis, the report also must include, to
25 the extent possible, a comparison of these learning gains to the
26 statewide learning gains of public school students with
27 socioeconomic backgrounds similar to those of students
28 participating in the scholarship program; and
29 (ii) according to each participating independent school in
30 which there are at least thirty participating students who have
31 scores for tests administered during or after the 2011-2012 school
32 year for two consecutive years at the independent school;
33 (b) the sharing and reporting of student learning gain data
34 pursuant to this subitem must be in accordance with requirements
35 of 20 U.S.C. 1232g, the Family Educational Rights and Privacy
36 Act of 1974, and must be for the sole purpose of creating the
37 annual report required by item (6)(a)(i). All parties must preserve
38 the confidentiality of this information as required by law. The
39 annual report may not disaggregate data to a level that will identify
40 individual participating schools, except as required pursuant to
41 item (6)(a)(ii), or disclose the academic level of individual
42 students; and

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

3

4 Section 59-63-662. The South Carolina Department of
5 Education shall:

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

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

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

25 (4) maintain a list of nationally norm-referenced tests identified
26 for purposes of satisfying the testing requirement in Section
27 59-63-630(7). The tests must meet industry standards of quality in
28 accordance with State Board of Education rule;

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

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

43

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

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

9

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

12

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

17

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

29

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

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