Indicates Matter Stricken

Indicates New Matter

Committee Report

March 07, 2024

H. 5164

Introduced by Reps. Erickson, G. M. Smith, Herbkersman, Hartnett, McGinnis, Pope, Schuessler, Bradley, Hager, Long, Vaughan, Bannister, Elliott, Willis, Yow, Hiott, Gilliam, Mitchell, Hardee, Whitmire, W. Newton, B. Newton, Davis, Gagnon, Hixon, Lowe, Thayer, West and Taylor

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Read the first time February 28, 2024

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The committee on House Education and Public Works

To whom was referred a Bill (H. 5164) to amend the South Carolina Code of Laws by amending Section 59‑8‑110, relating to definitions concerning the Education Scholarship Trust Fund Program, so as to, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 7, by striking Section 59-8-140(A)(1)(2) and (3) and inserting:

(2) The department must require an independent school that applies to be an education service provider to be located in the State, to have an educational curriculum that includes courses set forth in the state's diploma requirements and to meet the compulsory attendance and State Board of Education approval requirements in Section 59‑65‑10. The curricula and attendance requirements do not apply to home instruction programs under Sections 59-65-45 or 59-65-47.

(3) An education service provider that participated in the program in the previous school year and desires to participate in the program in the current school year shall reapply to the department. The education service provider reapplyingannually shall certify to the department that it continues to meet all program requirements. An education service provider required to administer academic testing shall provide to the department test score data from the previous school year. If individual student test score data is not submitted, then the department shall remove the education service provider from the program. The reporting requirements do not apply to home instruction programs under Sections 59-65-45 or 59-65-47.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 59-8-150 of the S.C. Code is amended by adding:

(K) This section does not apply to home instruction programs under Sections 59-65-45 or 59-65-47.

Renumber sections to conform.

Amend title to conform.

SHANNON ERICKSON for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill makes changes to the ESTF program to expand the students who may participate in the program, change the allocation amount to students, and change the responsibilities for SCDE in overseeing the program. The bill deletes the requirement that an eligible student must have attended a public school in this state during the previous school year and includes charter schools as eligible schools. The bill also deletes the current household income requirement beginning in school year 2026-27. Additionally, the bill specifies that the allocation must be $6,000 per student for the 2024-25 school year. For all subsequent school years, the allocation must be increased by the percentage increase in State Aid to Classrooms funding in the appropriations act. The bill further makes changes to the student application process that is managed by SCDE and deletes certain regulatory and reporting requirements required by the department. The amount that SCDE is allowed to retain for administering the program is increased from 2 percent to 5 percent of the total program appropriations.

Participation in the program is currently limited to 5,000 students in 2024-25, 10,000 students in 2025-26, and 15,000 students in 2026-27 and thereafter. The bill eliminates the 15,000 student cap beginning in 2027-28 and specifies that SCDE must submit an annual budget request based on the number of current scholarship recipients and previously unmet demand for scholarships as evidenced by the prior year’s applications. The program would then be limited only by the amount of funding appropriated beginning in 2027-28. The table below estimates the funding for the program that will be required each year to fund the number of scholarships allowed and the amount SCDE will be allowed to retain based on 5 percent of the program. Beginning in 2027-28 when there is no cap on the number of eligible students, the number of participants will depend on funding provided. Further, these estimates for the amount per student are based on growth of 8.45 percent in State Aid to Classrooms appropriations for FY 2023-24. The actual scholarship amount per student will depend upon the percentage increase, if any, in State Aid to Classrooms appropriated each year.

School Number of Estimated Estimated Maximum 5 Percent Net ESTF

Year Allowed Allocation Scholarship Funding Retained by Program

Students Per Student SCDE Funds

2024-25 5,000 $6,000 $30,000,000 $1,500,000 $28,500,000

2025-26 10,000 $6,507 $65,070,000 $3,254,000 $61,816,000

2026-27 15,000 $7,057 $105,855,000 $5,293,000 $100,562,000

2027-28 No Limit $7,653 Dependent on Dependent on Dependent on

Forward Funding Funding Funding

For 2027-28, we estimate that approximately 185,000 students may be interested in participating when the program is longer limited to 15,000 students. This figure includes all projected private school students (57,000) and home school students (33,000). Additionally, based upon similar programs in Arizona and Florida, we estimate that 12 percent of the projected public school students (95,000) may be interested in participating in the program. The bill expands the list of qualifying expenses, which may also increase the number of students who choose to participate in the program. Based on this information, we anticipate that participation will only be limited by funding appropriated. At a scholarship amount of 7,653, funding for each 10,000 students will cost approximately $76,530,000 for 2027-28.

S.C. Department of Education. This bill makes changes to the application process that is administered by SCDE and increases the number of students that are allowed to participate in the program beginning with school year 2027-28. SCDE indicates that the department received $1,000,000 in FY 2022-23 in nonrecurring funds for various costs related to the ESTF pilot program. These funds covered expenses such as staff costs, linking studies for summative assessments, and marketing. Also, the department received approximately $2,000,000 in nonrecurring funds in FY 2023-24 for startup expenses related to the ESTF program. Of this amount, approximately $1,500,000 was paid to a vendor for the application system and the parent and student portal. The remaining funds of approximately $500,000 will be used for linking studies for alternative assessments. Additionally, SCDE indicates that $90 per student will go to the vendor for costs associated with the portal. The table below provides the on-going vendor costs by year per student. Any remaining funds will be retained by SCDE to fund staff and any program activities that are not covered by the vendor contract. Further, SCDE does not anticipate any cost savings as a result of this bill since vendor contracts for the first several years of implementation have been established.

School Year Number of Students Vendor Cost Per Student of $90

(in addition to start-up costs)

2024-25 5,000 $450,000

2025-26 10,000 $900,000

2026-27 15,000 $1,350,000

2027-28 No Limit - Dependent on Funding Dependent on Participation

forward

State Revenue

This bill increases the amount that SCDE may deduct from the ESTF for administering the program from 2 percent to 5 percent. Please see the table below for the estimated increase in Other Funds revenue of SCDE by year. The amount for 2027-28 and thereafter will depend on funding.

School Year 2% for SCDE Increase to 5% for SCDE Difference

(under current legislation)

2024-25 $600,000 $1,500,000 $900,000

2025-26 $1,200,000 $3,254,000 $2,054,000

2026-27 $1,800,000 $5,293,000 $3,493,000

2027-28 $1,800,000 Dependent Dependent

forward on Funding on Funding

Local Expenditure

The overall expenditure impact of this bill on local school districts is undetermined. The potential reduction in school district expenditures due to students enrolling in the program will vary depending on the degree to which districts can consolidate resources by reducing the number of teachers or classrooms. Assuming the students are spread throughout the state, each school district would see only a reduction in the variable costs per student. School districts may be able to realign resources to realize savings, but this will take time to implement. When the participation is unlimited beginning in 2027-28, the bill may have a greater impact on local districts. Potential savings in future years will be largely dependent on the number of participants and actions taken by school districts in response to changes in enrollment.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59‑8‑110, RELATING TO DEFINITIONS CONCERNING THE EDUCATION SCHOLARSHIP TRUST FUND PROGRAM, SO AS TO REVISE SEVERAL DEFINITIONS; BY AMENDING SECTION 59‑8‑115, RELATING TO THE APPLICATION PROCESS FOR SCHOLARSHIPS, SO AS TO PROVIDE ADDITIONAL APPLICATION PROCESSES, AMONG OTHER THINGS; BY AMENDING SECTION 59‑8‑120, RELATING TO THE ESTABLISHMENT AND ADMINISTRATION OF THE TRUST FUND, SO AS TO PROVIDE CONFIDENTIALITY REQUIREMENTS FOR CERTAIN RELATED INFORMATION, TO REVISE THE FUNDING FORMULA, AND TO REVISE RELATED ADMINISTRATIVE PROCEDURES; BY AMENDING SECTION 59‑8‑125, RELATING TO FUNDING AND ADMINISTRATION OF THE PROGRAM, SO AS TO REVISE ADMINISTRATIVE FEES, AND TO REMOVE PROVISIONS ALLOWING THE USE OF QUALIFIED THIRD PARTIES TO MANAGE ACCOUNTS AND ADMINISTER RELATED FUNCTIONS, AMONG OTHER THINGS; BY AMENDING SECTION 59‑8‑130, RELATING TO REVERSION OF SCHOLARSHIP FUNDS UPON TERMINATION OF A SCHOLARSHIP, SO AS TO PROVIDE FOR THE RETURN OF REVERTED FUNDS IN CERTAIN CIRCUMSTANCES; BY AMENDING SECTION 59‑8‑135, RELATING TO LIMITATIONS ON SCHOLARSHIPS, SO AS TO REVISE THE LIMITATIONS, REQUIRE THE STATE DEPARTMENT OF EDUCATION TO SUBMIT AN ANNUAL BUDGET REQUEST BASED ON CERTAIN SCHOLARSHIP DEMAND AND USE INFORMATION, AND TO REMOVE OBSOLETE REVIEW REQUIREMENTS, AMONG OTHER THINGS; BY AMENDING SECTION 59‑8‑140, RELATING TO THE EDUCATION SERVICE PROVIDER APPLICATION REVIEW AND APPROVAL PROCESSES, SO AS TO REVISE CERTIFICATION RENEWAL REQUIREMENTS; BY AMENDING SECTION 59‑8‑145, RELATING TO THE STUDENT ELIGIBILITY NOTIFICATION PROCESS, SO AS TO PROVIDE THE DEPARTMENT MAY DECLARE A STUDENT INSTEAD OF A PARENT INELIGIBLE, AMONG OTHER THINGS; AND BY AMENDING SECTION 59‑8‑150, RELATING TO EDUCATION SERVICE PROVIDER REQUIREMENTS, SO AS TO REQUIRE PROVIDERS GIVE PARENTS SPECIFIC DOCUMENTATION FOR QUALIFIED GOODS AND SERVICES ACQUIRED, TO PROVIDE SURETY BOND REQUIREMENTS, AND TO REVISE ACCOUNTABILITY MEASURE REQUIREMENTS.

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

SECTION 1. Section 59‑8‑110 of the S.C. Code is amended to read:

Section 59‑8‑110. For purposes of this chapter:

(1) “Department” means the South Carolina Department of Education.

(2) “Education Scholarship Trust Fund”, “ESTF”, or “fund” means the individual account that is administered by the department to which funds are allocated to the parent of an eligible student to pay for qualifying expenses.

(3) “Eligible school” means a South Carolina public school or an independent school that chooses to participate in the program. “Eligible school” does not include a charter school.

(4) “Eligible student” means a student who:

(a) is a resident of this State;

(b)(i) attended a public school in this State during the previous school year;

(ii) had not yethas attained the age of five on or before September first of the previous school year but who has attained the age of five on or before September of the current school year in which scholarship funds are awarded; or

(iii)(ii) received a scholarship pursuant to this chapter for the previous school year; and

(c)(i) in School Year 2024‑2025, has a household income that does not exceed two hundred percent of the federal poverty guidelines;

(ii) in School Year 2025‑2026, has a household income that does not exceed three hundred percent of the federal poverty guidelines; and

(iii) in School Year 2026‑2027, and all subsequent years, has a household income that does not exceed four hundred percent of the federal poverty guidelinesno income threshold may exist, but early application windows must be extended to identified groups pursuant to Section 59-8-115(B).

“Eligible student” does notmay include students participating in the Educational Credit for Exceptional Needs Children's Fund program, as provided in Section 12‑6‑3790.

Notwithstanding the provisions of item (b), “eligible student” also includes the child of an active‑duty member of the Armed Forces of the United States who has received permanent change of station orders to a military base and who, as a result, will reside in South Carolina for the current or upcoming school year; provided, however, the child must have attained the age of five on or before September first of the school year in which scholarship funds are awarded.

(5) “IDEA” means the Individuals with Disabilities Education Act found in 20 U.S.C. Section 1400, et seq.

(6) “Parent” means a resident of this State who is the natural or adoptive parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(7) “Education service provider” means a person or organization approved by the department that receives payments from ESTF to provide educational goods and services to scholarship students.

(8) “Program” means the ESTF program created by this chapter.

(9) “Resident school district” means the public school district in which the student is domiciled.

(10) “Scholarship” means education funding allocated from an account established pursuant to this chapter.

(11) “Scholarship student” means an eligible student who is participating in the Education Scholarship Trust Fund program.

(12) “Substantial misuse” means wilfully and knowingly receiving or spending any portion of a scholarship for any purpose other than a qualifying expense.

(13) “Qualifying expense” means:

(a) tuition and fees of an education service provider;

(b) textbooks, curriculum, or other instructional materials including, but not limited to, any supplemental materials or associated online instruction required by either a curriculum or an education service provider;

(c) tutoring services approved by the department;

(d) computer hardware or other technological devices that are used primarily for a scholarship student's educational needs and approved by the department or a licensed physician;

(e) fees paid for Internet connection;

(f) tuition and fees for an approved nonpublic online education service provider or course;

(f)(g) fees for approved:

(1) national norm‑referenced examinations, advanced placement examinations, or similar assessments;

(2) industry certification exams; or

(3) examinations related to college or university admission;

(g)(h) educational services for pupils with disabilities from a licensed or accredited practitioner or provider including, but not limited to, occupational, behavioral, physical, and speech‑language therapies;

(h)(i) approved contracted services from a public school district or a public charter school, including individual classes, after school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(i)(j) contracted teaching services and education classes approved by the department;

(j)(k) fees for transportation paid to a fee‑for‑service transportation provider for the scholarship student to travel to and from an eligible provider as defined in this section, but not to exceed seven hundred fifty dollars for each school year;

(k)(l) fees for ESTF account management by private financial management firms approved by the departmentinterdistrict transfer fees, if applicable; or

(l)(m) fees for school‑required uniforms;

(n) any consumables and items necessary to complete a curriculum or that are otherwise applicable to a course of study that has been approved by the department; or

(o) any other educational expense approved by the department.

SECTION 2. Section 59‑8‑115 of the S.C. Code is amended to read:

Section 59‑8‑115. (A) The department shall create a standard application process and establish the timeline for parents to establish the eligibility of their student for the Education Scholarship Trust Fund program. The application window established shall last at least forty‑five days, opening no earlier than January fifteenth and closing no later than March fifteenth each calendar year.The department shall begin accepting applications for new program participants no earlier than January fifteenth each year. The department shall extend the opportunity to re‑enroll in the program to any existing participant who continues to reside in the State. Re‑enrollment may be completed either in conjunction with the regular application cycle or in advance of its opening. The department shall continue to accept applications for the ESTF program on a rolling basis until capacity is met and then shall maintain a waitlist to maximize program participation.

(B) Pursuant to the timeline established pursuant to subsection (A), the department shall ensure the following:

(1) processapplications must be processed in the order in which they are received, after a preference has been extended to all prior‑year participants and their respective siblings within each of the priority and general application windows; and

(2) enroll and issue award letters within thirty days of the deadline for receipt of completed applications and all required documentationafter allowing current participants the opportunity to continue in the program for the upcoming school year, an early application window of not less than seven calendar days must be extended to their siblings;

(3) after the conclusion of the early application window for siblings, a secondary early application window for new program participants must be open for not less than thirty calendar days for students who meet the following criteria:

(a) has a parent or guardian who is an active duty member of the Armed Forces of the United States and will be living in South Carolina as a result of their duty station;

(b) has a Medicaid card or other supporting documentation from the South Carolina Department of Health and Human Services in the student’s name;

(c) who is in the custody or guardianship of the Department of Social Services. A foster parent, pre‑adoptive parent, or person responsible for the welfare of the child who resides in a childcare facility or residential group care home may apply on the student’s behalf; and

(d) meets the definition of “exceptional needs child” in Section 12-6-3790(A)(2);

(4) once the secondary early application window has closed, the general application window must open for any student who did not meet the early application window criteria; and

(5) within thirty days of submission of all required documentation, award letters must be enrolled and issued, and the student’s online account must be created.

(C) Before awarding a scholarship, the department shall have obtained evidence of the student's eligibility through the card issued in the student's name from the Department of Health and Human Services for Medicaid eligibility included as applicable with application documentation.

(D) Before awarding a scholarship, the department must obtain evidence of all other student eligibility criteria set forth in Section 59‑8‑110.

(E)(D) The department shall approve an initial application for scholarship if:

(1) the parent submits an annual application for a scholarship in accordance with the application and procedures established by the department;

(2) the student on whose behalf the parent is applying is an eligible student;

(3) funds are available for the ESTF; and

(4) the parent signs an annual agreement with the departmentannually attests to the following:

(a) to provide, at a minimum, a program of academic instruction for the eligible student in at least the subjects of English/language arts to include writing, mathematics, social studies, and science;

(b) to acknowledge and agree to comply with the education service provider's prescribed curriculum, dress code, and other requirements of enrolled students;

(c) to ensure the scholarship student takes assessments as referenced in Section 59‑8‑150 or provides assessments in a similar manner through other means if the scholarship student does not receive full‑time instruction from an education service provider;

(d)(c) to use program funds for qualifying expenses only for an approved provider to educate the scholarship student, subject to penalty;

(e)(d) not to enroll their scholarship student in a public school as a full‑time student in the resident school district, as defined in this chapter;

(f) not to participate in a home instruction program under Sections 59‑65‑40, 59‑65‑45, or 59‑65‑47;

(g) that includes documentation of the consultation process between the parent, the resident school district, the education service provider, and any school district that the education service provider contracts with under an IEP or services plan, for each scholarship student with a disability regarding the special education and related services, and the manner by which these services as listed in the student's IEP or services plan, will be provided to a scholarship student with a disability; and

(h)(e) to confirm that, if the parent's child is a student with disabilities, the parent has received notice from the department that participation in the ESTF program is a parental placement of the scholarship student under IDEA, along with an explanation of the rights that parentally placed students possess under IDEA and any applicable state laws and regulations, including the consultation process provided for in 20 U.S.C. Section 1412(a)(10) and the Individual Education Program requirements described in Section 1414(d) of IDEA.

(F)(E) The department shall make available on its website in a conspicuous location information in conformity with 34 C.F.R. Sections 300.130 through 300.144, Assistance to States for the Education of Children with Disabilities, explaining to parents the rights of children with disabilities under IDEA both in public schools and as parentally placed students in private schools.

(G)(F) A parent will be allowed to make payments for the cost of educational goods and services not covered by the funds in their student's ESTF; however, personal Personal deposits into an ESTF account are prohibited.

(H)(G) Funds received pursuant to this section do not constitute taxable income to the parent of the scholarship student or to the student.

(I)(H) A parent's signed agreement under subsection (E)(4) satisfies the state's compulsory attendance law pursuant to Section 59‑65‑10.

(J)(I) The State Board of Education shallmay promulgate regulations for the administration of the program as may be applicable.

(K)(J) The department may contract with qualified organizations to administer the program application process or specific functions, maintenance, and monitoring of the program application process as required above.

(K) Students must be considered enrolled in the program until the parent notifies the department of a decision to terminate participation or the department determines that the student is no longer eligible.

SECTION 3. Section 59‑8‑120 of the S.C. Code is amended to read:

Section 59‑8‑120. (A) There is established at the department, the “South Carolina Education Scholarship Trust Fund” that is separate and distinct from the general fund, consisting of monies appropriated to the department to provide scholarships to eligible students for qualifying expenses. The fund must receive and hold all monies allocated for it as well as all earnings until disbursed as provided in this section.

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

(C) Upon request of the parent and approval of an eligible student's application by the department, the State Treasurer shall transfer six thousand dollarsthe following allocation per scholarship student to the Education Scholarship Trust Fund as directed by the General Assembly, unless an increased or decreased limit is authorized in the annual general appropriations act.:

(1) For the 2024‑2025 School Year, the allocation must be $6,000 per scholarship student.

(2) For all subsequent school years, the allocation must be equivalent to the allocation used in the previous year, increased by the percentage increase in the State Aid to Classroom funding for the current Fiscal Year, if any, unless otherwise specified in the annual general appropriations act.

(D) The department shall create an individual online ESTF account for each scholarship student.

(1) The parent must be able to access the individual online account for the scholarship student using a secure portal.

(2) The individual scholarship student's account must be created within thirty days of the application approval.

(E) The department shall make payments to an individual scholarship student's account from the ESTF on a quarterlysemi‑annual basis with the first payment being distributed by July thirty‑first of each year and the second payment by December thirty‑first of each year.

(F) By September first of each school year and again on January fifteenth and March fifteenth of the school year,Prior to depositing each semi‑annual payment into the student’s online account, the department shall compare the list of scholarship students with the public school enrollment lists to avoid duplicate paymentsverify the student is not enrolled in their residential school district as a full‑time student.

(G) Education service providers may not refund, rebate, or share a student's scholarship funds directly with a parent or the scholarship student. The funds in an account may only be used for qualifying expenses as defined in this chapter and provided by the department.

(H) The department may contract with qualified organizations to administer the program.

(I) The trust fund does not constitute a debt of the State or any political subdivision thereof, including school districts. The trust fund must be held and applies solely toward carrying out the purposes of this chapter.

SECTION 4. Section 59‑8‑125 of the S.C. Code is amended to read:

Section 59‑8‑125. (A) The department shall develop an online electronic system for payment for services authorized by participating parents pursuant to this chapter and the guidelines provided by the department. Parents may not be reimbursed for out‑of‑pocket expenses.

(B) The General Assembly shall appropriate funds to the department for initial costs to create the program. Thereafter, the department shall deduct an amount from the ESTF to cover the costs of overseeing the accounts and administering the program up to a limit of twofive percent. Annually, on or before December thirty‑first, the department shall notify the respective chairmen of the Senate Finance Committee and House of Representatives Ways and Means Committee regarding the amount deducted for administrative costs and an itemization of the costs incurred to administer the program for the previous schoolfiscal year.

(C) The department may contract with qualified vendors to manage accounts and shall establish reasonable fees for private financial management firms participating in the program based upon market rates.

(D) The department may contract with qualified organizations to administer the program or specific functions of the program.

(E) Payments made by the department must remain in force until a parent or scholarship student is proven to have participated in a prohibited activity specified in this chapter, a scholarship student returns to a public school in his resident public school district, a scholarship student no longer resides in this State, or a scholarship student graduates from high school or attains twenty‑two years of age, whichever occurs first. A scholarship student who enrolls in his resident public school district is considered to have returned to a public school for the purpose of determining the end of the term.

(F) The department may suspend or deactivate an account for substantial misuse or the scholarship student leaves the program for any reason, at which time any remaining funds must revert to the ESTF.

(G) Unused funds must be rolled over to the following school year for a scholarship student who applies and continues to meet eligibility requirements to participate in the program.

(H) A scholarship terminates automatically if the student is no longer domiciled in this State, and any money remaining in the account reverts to the ESTF.

(I) Only one account may be established for a scholarship student.

SECTION 5. Section 59‑8‑130 of the S.C. Code is amended to read:

Section 59‑8‑130. If a scholarship student's program of academic instruction is terminated for any reason before the end of the semester or school year and the student does not resume instruction within thirty days, then the parent shall notify the department and remaining funds in the account revert to the ESTF. If a student returns as a full‑time student in their resident school district, remaining funds in their account must be returned to the ESTF.

SECTION 6. Section 59‑8‑135 of the S.C. Code is amended to read:

Section 59‑8‑135. (A) Beginning with the 2024‑2025 School Year, the annual number of ESTF students is limited by the following capacity:

(1) in School Year 2024‑2025, the program is limited to five thousand scholarship students;

(2) in School Year 2025‑2026, the program is limited to ten thousand scholarship students; and

(3) in School Year 2026‑2027, and for all subsequent school years, the program is limited to fifteen thousand scholarship students;

(4) in School Year 2027‑2028, and for all subsequent school years, the department shall submit an annual budget request based on the number of current scholarship recipients and previously unmet demand for scholarships as evidenced by the prior year’s applications.

(B) In 2027, and every five years thereafter, the department shall conduct an eligibility and use review of the program and shall make recommendations to the General Assembly to improve the program.

SECTION 7. Section 59‑8‑140 of the S.C. Code is amended to read:

Section 59‑8‑140. (A)(1) The department must develop an application approval process for participation in the ESTF program for education service providers.

(2) The department must require an independent school that applies to be an education service provider to be located in the State, to have an educational curriculum that includes courses set forth in the state's diploma requirements and to meet the compulsory attendance and State Board of Education approval requirements in Section 59‑65‑10.

(3) An education service provider that participated in the program in the previous school year and desires to participate in the program in the current school year shall reapply to the department. The education service provider reapplyingannually shall certify to the department that it continues to meet all program requirements. An education service provider required to administer academic testing shall provide to the department test score data from the previous school year. If individual student test score data is not submitted, then the department shall remove the education service provider from the program.

(4) By February first of each year, the department will certify the list of approved education service providers for participation in the program that meet all program requirements. The department may waive the deadline requirement upon good cause shown by an education service provider.

(5) (4) An education service provider that is denied approval pursuant to this section may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.

(6)(5) By February fifteenth of each year, the The department shall publish on its website a comprehensive list of approved education service providers. The list must include the name, address, telephone number, and website address for each education service provider.

(B) If approved by the department, newNew education service providers may be added to the list of approved providers on a rolling basis. The providers will be added to the comprehensive list available on the department's website.

(C) The department may bar an education service provider from the program if the department establishes that the education service provider has:

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

(2) failed to provide the scholarship student with the educational services funded by the account.

(D) The department shall create procedures to ensure that a fair process exists to determine whether an education service provider should be barred from receiving payments from accounts.

(1) If the department decides to bar an education service provider from the program, it shall notify affected students and their parents of this decision as quickly as possible.

(2) Education service providers may appeal the department's decision to bar the education service provider from receiving payments from accounts pursuant to the Administrative Procedures Act.

(E) The State Board of Education shall promulgate regulations to allow scholarship students to return to their resident school districts during the course of their participation in the program.

(F)(1) For scholarship students utilizing a scholarship to attend an online education service provider, the department must track data on scholarship student wellness through mandatory in‑person days of attendance at least once per semester at their resident public school. For first semester the in‑person date shall be no later than November fifteenth. For the second semester the in‑person date shall be no later than March fifteenth. During the in‑person attendance, a school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, school nurse, on‑site mental health, or allied health professional, or other appropriately designated mandated reporter at the local public school as defined in Section 63‑7‑310 must complete a comprehensive wellness check to screen for abuse and neglect as defined in Section 63‑7‑20.

(2) All employees at an online education service provider who are employed in same or similar roles as defined in Section 63‑7‑310 shall be considered persons required to report and must complete the training programs required pursuant to Section 63‑7‑310(A) and hold all the same rights, responsibilities, and potential penalties as defined in Sections 63‑7‑315, 63‑7‑320, 63‑7‑350, 63‑7‑360, 63‑7‑370, 63‑7‑380, 63‑7‑390, 63‑7‑400, 63‑7‑430, 63‑7‑440, and receive information pursuant to Section 63‑7‑450.

SECTION 8. Section 59‑8‑145 of the S.C. Code is amended to read:

Section 59‑8‑145. (A) The department shall adopt procedures to inform students and their parents annually of their eligibility for the program.

(B) The department shall adopt procedures to annually inform scholarship students and their parents of the approved education service providers.

(C) The department shall provide to parents of a scholarship student written instructions for the allowable uses of an account and the responsibilities of parents and the duties of the department.

(D) The department may declare that a parentstudent is ineligible for continuation in the program due to substantial misuse of their account funds.

(E) The department may conduct or contract for the auditing of accounts, and shall, at a minimum, conduct random audits of education service providers and scholarship accounts on an annual basis.

(F) The department may refer cases of substantial misuse of funds to law enforcement agencies for investigation.

(G) The department may contract with one or more qualified organizations to administer some or all portions of this program.

(H)(F) The department shall maintain a record of the number of applications received annually for the program, the number of students accepted into the program each fiscal year, and the number of students not accepted into the program each fiscal year with a corresponding explanation as to why the student was not accepted into the program. The department shall compile this information and provide a report on the previous fiscal year to the General Assembly by December thirty‑first of each year.

SECTION 9. Section 59‑8‑150(B) and (C) of the S.C. Code is amended to read:

(B) To ensure that funds are spent appropriately, all education service providers shall:

(1) provide parents with an invoice, for services purchased, or a receipt, for goods purchased, for all qualifying expenses; and

(2) demonstrate their financial viability by filing a surety bond with the department prior to the start of the school year if they are to receive fifty thousand dollars or more during the school year. After their first school year of participation, the surety bond is required of education service providers who exceed fifty thousand dollars in ESTF received in the previous school year.

(C) In order to allow parents and the public to measure the achievements of the program, academic progress must be documented annually for each scholarship student. Students with an Individualized Education Plan that cannot be accommodated with standardized testing are excluded from the requirements of item (1). Education service providers that provide academic instruction must monitor the progress of students with significant cognitive disabilities through alternative assessments including portfolios.

(1) Education service providers that provide full‑time academic instruction shall:

(a) ensure that each scholarship student in grades three through eight takes the SC Ready or SC Ready alternative summative assessment required of students in public schools in this State;

(b) ensure that each scholarship student in grades four and six takes the SCPass or SCPass alternative summative assessment required of students in public schools in this State;

(c) in lieu of the assessments required by subitems (a) and (b), ensure that each scholarship recipient in grades three through eight takes a nationally norm‑referenced summative assessment annually or a formative assessment at the beginning of the school year, at the end of the first semester, and at the end of the school year. The assessment must be approved by the department, aligned with state standards, and include a linking study;

(d) ensure that each scholarship student in grades nine through twelve takes a nationally norm‑referenced or formative assessment approved by the department department-approved nationally norm referenced assessment, formative assessment, or assessment that demonstrates the student’s college or career readiness. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement;

(e) collect high school graduation information of scholarship students for reporting to the department as required in this section; and

(f) ensure that the parent or guardian of a scholarship student taking the assessments above receives a written report of the student's performance on each assessment. The report must include the student's score on the assessment and an indication of how the student's assessment performance compares to other South Carolina students.

The department may promulgate regulations to carry out the requirements of this subsection.

(2) The department shall ensure that the education service provider has access to and is trained in administering the state assessments required in subitems (1)(a) and (b). The department shall assume any costs associated with training, administering, or taking assessments with no charges to the provider or ESTF students.

(3) For the purpose of evaluating program effectiveness, education service providers that provide full‑time academic instruction shall ensure that results in item (1) are:

(a) provided to the parent of a scholarship student and must be provided to the department on an annual basis, beginning with the first year of program implementation; and

(b) disaggregated by grade level, gender, family income level, race, and English learner status.

(4) The department, or the appropriate organization chosen by the department, if any, must be informed of the scholarship student's graduation from high school.

SECTION 10. Upon approval of this act by the Governor, the State Department of Education shall begin undertaking and executing responsibilities incidental to the implementation of this act so that the provisions of this act may be fully implemented thirty days after approval by the Governor.

SECTION 11. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 12. This act takes effect upon approval by the Governor.

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