

Reps. WALKER, W. D. SMITH, TALLEY, LITTLEJOHN, DAVENPORT, MAHAFFEY, KELLY and PINSON proposed the following Amendment No. 5 (Doc Name COUNCIL\GJK\ 20257SD07), which was tabled:

Amend the bill, as and if amended, by adding and appropriately numbered SECTION to read:

/ SECTION _____. A. Chapter 63, Title 59 of the 1976 Code is amended by adding:

"Article 6
Educational Opportunity Scholarship

59-63-610. As used in this article:

(1) 'Unsatisfactory public school' means a public school in the State that has received a rating of unsatisfactory as its absolute grade on its most recent annual report card pursuant to the Education Accountability Act.

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

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

(4) 'Independent school' means a school, other than a public school, at which the compulsory attendance requirements of Section 59-56-10 may be met and that does not discriminate based on the grounds of race, color, or national origin.

Section 59-63-620. (A) A student whose family income is one hundred eighty-five percent or less of the federal poverty guidelines as promulgated annually by the U.S. Department of Health and Human Services, making him eligible for free or reduced-price lunches is eligible to transfer to another public school that is not rated unsatisfactory or to an independent school if the student:

(1) has spent the prior school year in attendance at an unsatisfactory public school;

(2) attended another public school and has been assigned to attend an unsatisfactory public school;

(3) is entering kindergarten or first grade and has been assigned to an unsatisfactory public school;

(4) resides in an area zoned for an unsatisfactory school; or

(5) is determined by a school individual education plan (IEP) Team to be physically or mentally handicapped.

(B) A student who meets the criteria provided in subsection (A) may contact the Department of Education for a list of independent schools choosing to participate in the Educational Opportunity Scholarship Program and public schools.

Section 59-63-625. (A) If a student meets the criteria in Section 59-63-620 and chooses to transfer from an unsatisfactory public school:

(1) to another public school with capacity, the parent of the student shall apply to enroll the child in the school by submitting a written application, on a form provided by the State Department of Education, to the public school in which the child wishes to enroll and to the child's resident school. The application must be postmarked not later than January fifteenth for enrollment during the following school year for grades kindergarten through twelve; or

(2) to an independent school, the Department of Education shall issue a check to the independent school selected for the lesser of four thousand five hundred dollars indexed each year to the consumer price index or the cost of tuition and fees at the independent school.

(B) Notwithstanding the provisions of subsection (A) or Section 59-63-620, if the student is determined by a school IEP Team to be physically or mentally handicapped and the special needs student chooses to transfer from his school district to:

(1) another public school with program capacity, the parent of the student shall apply to enroll the child in the school by submitting a written application, on a form provided by the State Department of Education, to the public school in which the child wishes to enroll and to the child's resident school. The application must be postmarked not later than January fifteenth for enrollment during the following school year for grades kindergarten through twelve; or

(2) an independent school, the Department of Education shall issue a check to the independent school selected for the lesser of an amount equal to the appropriate pupil classification weighting for that student pursuant to Section 59-20-40 multiplied by seventy-five percent of the projected state base student cost as promulgated by the Office of Research and Statistics or the cost of tuition and fees at the independent school.

(C) A student is not eligible to receive a scholarship pursuant to this article for purposes of participation in a home-schooling program.

Section 59-63-630. An independent school that accepts scholarship students pursuant to this article:

(1) shall comply with the federal anti-discrimination law, pursuant to 42 U.S.C. Section 2000(d);

(2) shall meet state and local health and safety laws and codes;

(3) shall comply with state statutes relating to independent schools;

(4) may employ, in its discretion, noncertified teachers in a ratio of up to twenty-five percent of its entire teacher staff; a teacher teaching scholarship students in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach;

(5) must be academically accountable to the parent or guardian for meeting the education needs of the student;

(6) shall administer to all students in the same grade level as the scholarship student state assessments approved by the us department of education for south carolina to administer for meeting the assessment requirements of no child left behind, and provide to each parent their child's individual score report;

(7) shall adhere to the tenets of the school's published disciplinary procedures prior to the expulsion of an educational opportunity scholarship program participant;

(8) shall accept all scholarship students on a random, religious neutral basis, without regard to the student's past academic history, with preference given to siblings of other scholarship students; if insufficient seats are available to accommodate all scholarship students desiring enrollment, scholarship students' admission must be determined by a publicly held and advertised drawing;

(9) may not charge additional tuition or fees above the amount of the educational opportunity scholarship solely for the purpose of a scholarship student enrolling in or attending the school; however, nothing in this article prohibits charging fees for childcare that may be provided outside the times of the instructional day provided by the school.

(10) may not compel a scholarship student to profess a specific ideological belief, to pray, or to worship; and

(11) shall demonstrate their financial viability by showing they can repay funds that might be owed to the State, if they are to receive more than fifty thousand dollars in scholarship payments during the school year by filing with the Department of Revenue, before the beginning of the school year:

(a) a surety bond payable to the State in an amount equal to the aggregate amount of scholarship revenue expected to be paid to the school during the school year; or

(b) financial information that demonstrates that the school has the ability to pay an aggregate amount equal to the amount of scholarship revenue expected to be paid to the school during the school year.

Section 59-63-633. To ensure that schools provide academic accountability to parents of students in the educational opportunity scholarship program, participating schools annually shall administer the required state assessments in math and language arts to each

student participating in the program. Participating schools publicly shall disclose the aggregate results of the tests by grade level and provide the parents of each student with a copy of the results.

Section 59-63-635. (A) An unsatisfactory public school shall:

(1) notify the parent of a student if the school is considered an unsatisfactory public school pursuant to Section 59-63-610; and

(2) present the parent with his options of:

(a) sending the student to another public school;

(b) sending the student to an independent school; or

(c) continuing the student's enrollment at the unsatisfactory school.

(B) The parent of the student shall:

(1) notify the Department of Education and the school district of the decision to transfer the student from an unsatisfactory public school to another public school or an independent school, or from a public school or independent school back to another public or independent school ; and

(2) have access to the aggregate testing information for the school in which the parent seeks to enroll the child.

(C) The student shall remain in attendance throughout the school year, unless excused for illness or good cause, and shall comply with the school's code of conduct. For purposes of this section, 'good cause' means:

(1) a change in a child's residence due to a change in parent or guardian's residence;

(2) a change in a child's parent's marital status;

(3) a change caused by a guardianship or custody proceeding;

(4) placement of a child in foster care;

(5) adoption;

(6) participation by a child in a foreign exchange program;

(7) participation by a child in a substance abuse or mental health treatment program;

(8) revocation of a charter school contract; or

(9) another set of circumstances consistent with this definition of 'good cause'.

(D) Both public and independent schools are required to provide, at no charge, transportation services to scholarship students in the same manner as such services are provided to other currently enrolled students.

Section 59-63-637. The Department of Education shall make scholarship payment by check payable to the school at which the scholarship is to be used in the same manner as payments are made by the department to public schools. The check may be delivered or mailed by the department to the school at which the scholarship is to be used.

Section 59-63-640. Once a student transfers from an unsatisfactory school pursuant to this article, the student is eligible for the scholarship program until he graduates from high school regardless of a subsequent change in the rating of the school from which he transferred.

Section 59-63-645. If a qualifying student's enrollment in an independent school is terminated before the end of the school year, the independent school shall pay to the State Department of Education on a pro rata basis any excess tuition paid.

Section 59-63-650. (A) Annually, the State Budget and Control Board shall provide for the preparation of a report on the 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 is not limited to, an analysis of and statement on the:

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

(2) amount of funds the State would have expended for public schools under the education funding formula in existence on or before the enactment of this article and the amount actually expended by the State in public schools.

(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, and the State Superintendent of Education.

Section 59-63-655. (A)(1) In addition to the annual report as provided in Section 59-63-650, the State Budget and Control Board 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 for a minimum of five years, with annual updates provided, beginning with the enactment of this article. The evaluation must include a survey of parents and students using the survey instrument as specified in Section 59-18-

900(D) of the Education Accountability Act of 1998 and must also include an assessment of the:

- (a) impact of the provisions of this article on public school districts, public school students, independent schools, and independent school students; and
 - (b) impact of the provisions of this article on school capacity, availability, and quality.
- (2) The evaluation must protect the identity of students by, at a minimum, keeping anonymous all disaggregated data other than that for the categories of grade, gender, race, and ethnicity. The evaluation must assess the success of the school in moving a student to advanced in language arts and math, as measured by required state assessments.
- (B) State and local government entities and participating schools shall cooperate with the persons or entities conducting the evaluation provided for in subsection (A). Cooperation includes providing available student assessment results and other information needed to complete the evaluation. Failure to provide requested information will result in forfeiture of participation in the Educational Opportunity Scholarship Program.
- (C) The State Budget and Control Board shall pay the cost of the evaluation from funds made available to it for that purpose by the General Assembly.
- (D) By January thirty-first of each year, the State Budget and Control Board shall provide to each member of the General Assembly and to the State Superintendent of Education results of the annual evaluation. Upon completion of the long-term evaluation, the State Budget and Control Board shall provide a final report to each member of the General Assembly and to the State Superintendent of Education. At the same time as the final 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 is in compliance 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 only apply to independent schools that choose to accept scholarship students."

- B. (A) A qualifying independent school that accepts students benefiting from scholarships provided in Article 6, Chapter 63 of Title 59 is not an agent or arm of the state or federal government.
- (B) Except as provided by Article 6, Chapter 63 of Title 59, the Department of Education, Budget and Control Board, or any other state agency may not regulate the educational program of a qualifying independent school that accepts students pursuant to Article 6, Chapter 63 of Title 59.
- C. Implementation of Article 6, Chapter 63 of Title 59 is contingent upon the appropriation of adequate funding as documented by the fiscal impact statement provided by the Office of State Budget of the State Budget and Control Board to the act enacting

Article 6, Chapter 63 of Title 59. There is no mandatory financial obligation to public or independent schools with respect to Article 6, Chapter 63 of Title 59 if state funding is not appropriated for implementation as provided for in the fiscal impact statement of the Office of the State Budget of the State Budget and Control Board.

D. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this section 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 section, the General Assembly hereby declaring that it would have passed this section, 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.

E. This section takes effect upon approval by the Governor and applies at the start of the first school year beginning one year after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. WALKER moved to adjourn debate on the amendment, which was rejected.

Rep. WALKER explained the amendment.

Rep. COBB-HUNTER spoke against the amendment.

Rep. SCOTT moved to table the amendment.

Rep. SCOTT demanded the yeas and nays which were taken, resulting as follows:

Yeas 62; Nays 56

Those who voted in the affirmative are:

Agnew	Alexander	Allen
Anderson	Anthony	Bales
Battle	Bowers	Brady
Branham	Brantley	Breeland
G. Brown	R. Brown	Clyburn
Cobb-Hunter	Cotty	Dantzler
Funderburk	Gambrell	Govan
Gullick	Hart	Harvin
Hayes	Hiott	Hodges
Hosey	Howard	Jefferson
Jennings	Kelly	Kennedy
Kirsh	Knight	Littlejohn
Mack	McLeod	Miller
Mitchell	Moss	J. H. Neal
J. M. Neal	Neilson	Ott
Parks	Perry	Phillips
Pinson	Rutherford	Sandifer
Scott	Sellers	Skelton
F. N. Smith	J. E. Smith	Stavrinakis
Taylor	Vick	Weeks

Whipper

Williams

Total--62

Those who voted in the negative are:

Ballentine
Bedingfield
Cato
Chellis
Crawford
Duncan
Haley
Harrell
Herbkersman
Leach
Lowe
Merrill
E. H. Pitts
Shoopman
G. R. Smith
Spires
Thompson
Viers
Witherspoon

Bannister
Bingham
Ceips
Clemmons
Davenport
Edge
Hamilton
Harrison
Hinson
Limehouse
Lucas
Mulvaney
Rice
Simrill
J. R. Smith
Stewart
Toole
Walker
Young

Barfield
Bowen
Chalk
Cooper
Delleney
Hagood
Hardwick
Haskins
Huggins
Loftis
Mahaffey
Owens
Scarborough
G. M. Smith
W. D. Smith
Talley
Umphlett
White

Total--56