

South Carolina General Assembly
126th Session, 2025-2026

Bill 62

~~Indicates Matter Stricken~~

Indicates New Matter

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)



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AMENDED
February 26, 2025

S. 62

Introduced by Senators Hembree, Rice and Grooms

S. Printed 2/26/25--H.
Read the first time February 6, 2025

STATEMENT OF ESTIMATED FISCAL IMPACT

Explanation of Fiscal Impact

State Expenditure

This bill as amended makes changes to the ESTF program to expand the students who may participate in the program and changes the scholarship amount that students may receive and eligible expenses. Monies deposited in the ESTF may not revert to the General Fund or be appropriated by the General Assembly for any other purpose. If the ESTF program ceases, the money in the fund must be directed to an educational purpose designated by the General Assembly. The bill deletes the requirement that an eligible student must have attended a public school in this state in the during the previous school year. The bill also deletes the household income requirement beginning with school year 2027-28. The bill further makes changes to the scholarship amount for eligible students. Currently, the amount is \$6,000 per eligible student. The bill changes this amount beginning in school year 2026-27 to an amount that is equivalent to the allocation used in the previous year, increased by the percentage increase in the State Aid to Classrooms funding for the current fiscal year, if any. The bill also increases the amount that SCDE may retain for administrative costs from 2 percent to 7 percent.

The bill eliminates the 15,000-student cap beginning in school year 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 school year 2027-28.

Please see the table below for the estimated change in the maximum scholarship funding due to the change in the scholarship amount per eligible student and the change in the number of eligible students. The estimated amount per student for FY 2026-27 is based on growth of 6.54 percent in State Aid to Classrooms appropriations for FY 2024-25. The estimates are for illustration purposes and subject to change with actual funding.

School Year	Number of Students	Current Allocation per Student	Current Maximum Scholarship Funding	Proposed Allocation per Student	Proposed Est. Maximum Scholarship Funding	Difference
2025-26	10,000	\$6,000	\$60,000,000	\$6,000	\$60,000,000	\$0

2026-27	15,000	\$6,000	\$90,000,000	\$6,392	\$95,886,000	\$5,886,000
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Note: Proposed scholarship amount for 2026-27 subject to change based on actual appropriations.

The bill also requires SCDE to create a model interdistrict policy for student transfers. Further, the bill requires the State Superintendent of Education to appoint the Trustee of the ESTF to serve at will. The Trustee must make payments to the individual scholarship student's account on a quarterly basis. SCDE must establish reasonable fees for the Trustee.

SC Department of Education. SCDE indicates that vendor costs for licensure and an electronic system to manage the program will increase from \$90 to \$135 per student in FY 2025-26. The table below provides the total ongoing vendor costs by year. The bill increases the amount that SCDE is allowed to retain from the scholarship funding for administrative costs from 2 percent to 7 percent.

School Year	Number of Students	Vendor Cost per Student of \$135
2025-26	10,000	\$1,350,000
2026-27	15,000	\$2,025,000

Additionally, SCDE anticipates expenses for the model interdistrict policy to total \$29,000. Of this amount, \$9,000 is for personnel costs and \$20,000 will be needed for a vendor or additional temporary staff for data collection and survey analysis. SCDE also expects expenses to increase by an additional \$120,000 annually for the application system. However, SCDE anticipates being able to manage these expenses, along with any expenses associated with the Trustee, with the 7 percent of the scholarship funding the department can retain for administrative costs.

State Law Enforcement Division. This bill as amended requires an education service provider that is not an accredited or licensed school to submit a completed background check to SCDE as part of their initial application. SLED indicates that it can manage any increase in name-based searches and checks within existing appropriations. SLED further indicates that the bill does not authorize fingerprint-based federal background checks.

State Revenue

This bill as amended makes changes to the ESTF program to expand the students who may participate in the program and changes the scholarship amount that students may receive and eligible expenses. The bill also increases the amount that SCDE may deduct from the ESTF for administrative costs from 2 percent to 7 percent. Additionally, beginning in school year 2026-27, the bill changes the scholarship amount for eligible students from \$6,000 to an amount that is equivalent to the allocation used in the previous year, increased by the percentage increase in the State Aid to Classrooms funding for the current fiscal year, if any. Please see the table below for the estimated amount that SCDE may retain for administrative purposes.

School Year	Current 2% for SCDE	Proposed 7% for SCDE	Difference
2025-26	\$1,200,000	\$4,200,000	\$3,000,000
2026-27	\$1,800,000	\$6,712,020	\$4,912,020

Local Expenditure

This bill as amended makes changes to the ESTF program to expand the students who may participate in the program and changes the scholarship amount that students may receive and eligible expenses. When participation in the program is unlimited beginning in school year 2027-28, but dependent on funding, the bill may have a greater impact on local districts. Potential savings in future years will depend largely on the number of participants and actions taken by school districts in response to changes in enrollment.

The bill also requires school districts to enact an interdistrict policy for student transfers that is consistent with the model policy developed by SCDE and to post the policy on the district website. RFA anticipates that the interdistrict policy may result in additional changes in student enrollment and expenses for specific districts or schools. SCDE previously surveyed the local school districts regarding the expenditure impact of this bill. While responses from the districts were limited, RFA anticipates that there may be a minimal impact on district expenses to adopt and implement an interdistrict policy for student transfers.

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, SO AS TO DEFINE NECESSARY TERMS; BY AMENDING SECTION 59-8-115, RELATING TO THE STANDARD APPLICATION PROCESS, SO AS TO PROVIDE REQUIREMENTS FOR STUDENTS AND SCHOOLS SEEKING TO PARTICIPATE IN THE PROGRAM; BY AMENDING SECTION 59-8-120, RELATING TO ADMINISTRATION OF THE FUND, SO AS TO PROVIDE FOR THE ADMINISTRATION OF THE K-12 EDUCATION LOTTERY SCHOLARSHIP; BY AMENDING SECTION 59-8-125, RELATING TO FUNDS TO CREATE, OVERSEE, AND ADMINISTER PROGRAM, SUSPENSION OF ACCOUNTS, UNUSED FUNDS, AND TERMINATION OF SCHOLARSHIPS, SO AS TO APPROPRIATE FUNDS FOR THE SCHOLARSHIP PROGRAM FROM THE SOUTH CAROLINA EDUCATION LOTTERY ACCOUNT; BY AMENDING SECTION 59-8-130, RELATING TO TERMINATION OF SCHOLARSHIP STUDENTS' PROGRAMS; AND NOTIFICATION, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 59-8-135, RELATING TO LIMITATIONS ON SCHOLARSHIPS, SO AS TO PROVIDE LIMITATIONS ON THE NUMBER OF SCHOLARSHIPS THAT MAY BE AWARDED; BY AMENDING SECTION 59-8-140, RELATING TO THE APPLICATION APPROVAL PROCESS FOR EDUCATION SERVICE PROVIDERS, SO AS TO PROVIDE THAT AN EDUCATION SERVICE PROVIDER MUST CERTIFY ANNUALLY TO THE DEPARTMENT THAT IT MEETS ALL PROGRAM REQUIREMENTS; BY AMENDING SECTION 59-8-145, RELATING TO PROCEDURES TO INFORM STUDENTS AND THEIR PARENTS OF ELIGIBILITY AND APPROVED EDUCATION SERVICE PROVIDERS, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 59-8-150, RELATING TO REQUIREMENTS FOR EDUCATION SERVICE PROVIDERS, DEPARTMENT, AND EDUCATION OVERSIGHT COMMITTEE, SO AS TO PROVIDE THAT THE SURETY BOND IS REQUIRED OF EDUCATION SERVICE PROVIDERS WHO EXCEED FIFTY THOUSAND DOLLARS IN QUALIFYING EXPENSES AND TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 59-8-160, RELATING TO THE K-12 EDUCATION LOTTERY SCHOLARSHIP REVIEW PANEL, SO AS TO PROVIDE FOR ITS COMPOSITION AND PURPOSES; BY AMENDING SECTION 59-8-165, RELATING TO STUDENT TRANSFER POLICY, SO AS TO CLARIFY STUDENT TRANSFER REQUIREMENTS; BY AMENDING SECTION 59-8-170, RELATING TO IMMEDIATE PARTICIPATION IN A SPORT BY A TRANSFER SCHOLARSHIP STUDENT, SO AS TO MAKE CONFORMING CHANGES; AND BY AMENDING SECTION 59-150-350, RELATING TO EDUCATION LOTTERY ACCOUNT MANAGEMENT, SO AS TO MAKE CONFORMING CHANGES.

Amend Title To Conform

Whereas, providing parents with more options for educating their children is in the best interest of students, parents, and the State of South Carolina; and

Whereas, South Carolina has long embraced school choice in other areas, including higher education and early childhood education; and

Whereas, this act is modeled on existing school choice programs, including Higher Education Tuition Grants, Section 59-113-10, et seq., the South Carolina Education Lottery Act, Section 59-150-10 et seq., and the Child Early Reading Development and Education Program in the South Carolina Read to Succeed Act, Section 59-156-110 et seq., all of the S.C. Code; and

Whereas, the General Assembly has carefully and respectfully crafted this act to comply with the South Carolina Supreme Court's interpretation of Article XI, Section 4 of the South Carolina Constitution in *Eidson v. S.C. Dep't of Education*, 906 S.E.2d 345 (S.C. 2024), and specifically finds that Chief Justice Kittredge's description of the Education Scholarship Trust Fund program represents how the program created by this act is structured; and

Whereas, based on this the South Carolina Supreme Court's decision in *Hartness v. Patterson*, 255 S.C. 503, 179 S.E.2d 907 (1971), and the subsequent constitutional amendment that adopted Article XI, Section 4, the General Assembly finds that the funds deposited in the South Carolina Education Scholarship Trust Fund cease to be public funds upon that deposit and any benefit conferred on any religious or other private educational institution is indirect only. The scholarships provide educational services that directly benefit school-aged children and where the funds go stems immediately from the parent's decision. Now, therefore,

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 ~~ana nonprofit~~ independent school that chooses to participate in the program. "Eligible school" does not include a ~~charter school~~ school in which a member of the General Assembly or an immediate family member of a member of the General Assembly has any ownership. For purposes of this section, "immediate family member" means as defined in Section 8-13-100(18).

(4) "Eligible student" means a student who:

(a) is a resident of this State; and

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

~~—(ii) had not yet 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; or~~

~~—(iii) 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 guidelines.~~

—(b)(i) has attained the age of five on or before September first of the year in which scholarship funds are awarded; or

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

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

_____ (iv) in School Year 2026-2027, has a household income that does not exceed four hundred percent of the federal poverty guidelines; and

_____ (v) in School Year 2027-2028, and all subsequent years, no income threshold may exist but early application windows must be extended to identified groups pursuant to Section 59-8-115(B); and

(c) Notwithstanding any other provision of this chapter, a student attending his resident school may be an eligible student if he meets all other eligibility criteria and the Department of Education has certified the district in which the resident school is located cannot adequately provide for an essential service to the student.

"Eligible student" does not include students participating in the Educational Credit for Exceptional Needs Children's Fund program, as provided in Section 12-6-3790 or a student who is not subject to the compulsory attendance requirements of Section 59-65-10.

(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~~ zoned for attendance.

(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) "Trustee" means the individual or entity appointed by the Superintendent pursuant to Section 59-8-120(A)(2).

~~(13)~~ (14) "Qualifying expense" means:

(a) tuition and fees of an education service provider or eligible school, including out-of-district tuition charged by a public school district;

(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;

~~(e)~~ (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 three thousand dollars for each school year;

~~_____ (k) fees for ESTF account management by private financial management firms approved by the department; or~~

~~(l) any other educational expense approved by the department~~ fees for interdistrict public school transfers;

~~_____ (m) cost of school uniforms which are required for attendance;~~

~~_____ (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;~~

~~_____ (o) payment to an educational consultant or compliance organization approved by the department; or~~

~~_____ (p) any other educational expense approved by the department.~~

A qualifying expense does not mean a duplicate service already offered as part of a student's enrollment in school.

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 reenroll in the program to any existing participant who continues to reside in the State. Reenrollment 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) ~~process applications 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 documentation~~

~~_____ (2) after 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 household income that does not exceed three hundred percent of the federal poverty guidelines;~~

~~_____ (c) 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)~~(C) 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 department~~annually 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;~~

~~(e)~~(b) 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~~the scholarship 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)~~(e) not to participate in a home instruction program under Sections 59-65-40, 59-65-45, or 59-65-47; and

~~_____ (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)~~(f) 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)(E)~~ 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 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.

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

~~(H)(I)~~ The State Board of Education ~~shall~~ may 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)(1) 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. Monies deposited in the South Carolina Education Scholarship Trust Fund may not revert to the general fund or be appropriated by the General Assembly for any other purpose. If the South Carolina Education Scholarship Trust Fund program ceases for any reason, then the money in the fund shall be directed to an educational purpose designated by the General Assembly.

(2)(i) The State Superintendent of Education shall appoint the Trustee of the South Carolina Education Scholarship Trust Fund to serve at will. The Trustee may not be a public entity or an employee of any public entity. The Trustee may be either an individual or entity and shall have, in the Superintendent's sole discretion, the necessary expertise and good reputation to serve as the Trustee. The Trustee must have, at a minimum, at least five years' experience as a trustee, a master's degree in accounting or be currently licensed as a South Carolina certified public accountant. The Trustee must not have filed for bankruptcy pursuant to Title 11, chapters 7 or 13 of the United States Bankruptcy Code or been convicted of criminal fraud, tax fraud, embezzlement, conversion, money laundering, or theft crimes. The Trustee shall be bound by all duties of trustees under South Carolina law, unless such duties conflict with the requirements of this chapter, in which case the requirements of this chapter control. The State Superintendent shall have the authority to remove the Trustee.

(B) The ~~department~~ Trustee 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 dollars per scholarship student for the 2025-2026 School Year to the Education Scholarship Trust Fund as directed by the General Assembly. ~~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 an increased or decreased limit is authorized 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~~ Trustee shall make payments to an individual scholarship student's account from the ESTF on a ~~quarterly~~ semi-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, the department shall compare the list of scholarship students with the public school enrollment lists to avoid duplicate payments. Prior to depositing each semi-annual payment into the student's online account, the department shall verify that the student is not enrolled in the public school as a full-time student in the zone in which the student is zoned for attendance and provide that information to the Trustee.~~

(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.~~

~~(H)~~ Neither the South Carolina Education Scholarship Trust Fund nor an individual student's account constitutes a debt of the State or any political subdivision thereof, including school districts. The South Carolina Education Scholarship Trust Fund and individual student accounts must be held and apply. 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~~ The department ~~Trustee shall transfer to the department~~ deduct an amount from the ESTF to cover the costs of overseeing the accounts and administering the program up to a limit of ~~two~~ seven 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 ~~school~~ fiscal 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. The department shall establish reasonable fees for the Trustee.~~

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

~~(E)(D)~~ 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)(E)~~ The ~~department~~ Trustee 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)(E)~~ 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)(G)~~ 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.

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 eligible students is limited by the following capacity:

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

~~(2)(1)~~ in School Year 2025-2026, the program is limited to ten thousand scholarship students; and

~~(3)(2) in School Year 2026-2027, and for all subsequent school years, the program is limited to fifteen thousand scholarship students; and~~

(3) 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. The number of program participants shall be determined based upon funding as determined on a yearly basis by the General Assembly.

~~—(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, including eligible schools.

(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 reapplying annually~~ 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, new~~New 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)(E)~~ 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 ~~parent student~~ 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)(E)~~ 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)(E)~~ 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 of the S.C. Code is amended to read:

Section 59-8-150. (A) To ensure equitable treatment and personal safety of all scholarship students, all education service providers shall:

(1) comply with all applicable health and safety laws or codes;

(2) hold a valid occupancy permit if required by the municipality in which the education service provider is located;

(3) not unlawfully discriminate on the basis of race, color, or national origin. This item shall not be interpreted to preclude any independent or religious educational provider from exercising an exemption allowed under federal law; ~~and~~

(4) conduct and maintain records of completed criminal background checks on employees. An education service provider that is not an accredited or licensed school must submit documentation of completed background checks to the department as part of their initial application. All education service providers must ~~and~~ exclude from employment anyone who:

(a) is not permitted by state law to work in a school;

(b) reasonably might pose a threat to the safety of students; or

(c) is listed on federal, state, or other central child abuse registries; and

(5) maintain a working publicly accessible website that provides information on the educational services available to families.

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

(1) provide parents with ~~a receipt 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 qualifying expenses 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~~ annual state summative assessment or 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 SC Pass or SC Pass alternative summative assessment required of students in public schools in this State;~~

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

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

~~(f)(e)~~ 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.

(D) The department shall:

(1) comply with all student privacy laws;

(2) collect all test results; and

(3) annually provide individual student assessment results and information to the Education Oversight Committee. The transmission of the information must be made in a manner that safeguards the data to ensure student privacy.

(E) The Education Oversight Committee shall:

(1) comply with all student privacy laws;

(2) report on and publish associated learning gains and graduation rates to the public by means of a state website with data aggregated by grade level, gender, family income level, number of years participating in the program, and race and a report for any participating school if at least fifty-one percent of the total enrolled students in the private school participated in the ~~ESTF~~ program in the prior school year or if there are at least thirty participating students who have scores for tests administered. If the Education Oversight Committee determines that the thirty participating-student cell size may be reduced without disclosing the personally identifiable information of a participating student, the Education Oversight Committee may reduce the participating-student cell size, but the cell size may not be reduced to fewer than ten participating students;

(3) evaluate and report the academic performance of scholarship students compared to similar public school populations; and

(4) collaborate with the department to develop and administer an annual parental satisfaction survey for all parents of scholarship students on issues relevant to the ~~ESTF~~ program, to include effectiveness and length of the program participation. Results of this survey must be provided to the General Assembly by December thirty-first of each year.

(F) An education service provider, not a public school, is ~~autonomous and~~ not an agent of the state or federal government, therefore:

(1) the department or any other state agency may not regulate the educational program beyond what is set forth in this chapter of an approved education provider that accepts funds from an account;

(2) the creation of the program does not expand the regulatory authority of the State, its officers, or a school district to impose regulation of education service providers beyond those necessary to enforce the requirements of the program;

(3) the freedom of education service providers to provide for the educational needs of scholarship students without governmental control must not be abridged;

(4) an education service provider that accepts payment ~~by a parent~~ from an ESTF account pursuant to this chapter is not an agent of the state or federal government; and

(5) education service providers shall not be required to alter their creeds, practices, admissions policy, or curriculum in order to accept payments ~~by a parent~~ from an ESTF account.

(G) A person paid by, contracted with, employed by, or having a financial interest in an education service provider shall not be allowed to serve on the board of an organization contracting for services with the department as defined in Section 59-8-115(J), serve on the board of a vendor or private management firm contracted to manage accounts as defined in Section 59-8-125(C), on the board of any other provider of contracted-for services under Section 59-8-110(12) or under Section 59-8-120(H), or on the ESTF ~~Review Panel~~. Any education service provider violating this subsection shall be barred from participating in the program for two years and shall return any funds received under the program to the ESTF.

(H) A person serving as a board member or director of an education service provider shall have a fiduciary duty to the provider and shall avoid any conflicts of interest with the provider.

(I) No member of the General Assembly or their immediate family, as defined by Section 8-13-100(18), may have a financial interest in an education service provider. This does not prevent a member or their immediate family from qualifying under the provisions of this chapter to participate in the ESTF program.

(J) A person shall not serve in a position of leadership with an education service provider who has been convicted of a financial crime.

SECTION 10. Section 59-8-160 of the S.C. Code is amended to read:

Section 59-8-160. (A) There is created the "ESTF Review Panel" that shall serve as an advisory panel to the department.

(B) The review panel shall consist of ten members, pursuant to the following:

- (1) the Governor, or his designee, who shall serve as the chair of the panel;
- (2) three members to be appointed by the Governor;
- (3) one member appointed by the Speaker of the House of Representatives;
- (4) one member appointed by the President of the Senate;

(5) one member appointed by the Chairman of the House of Representatives Education and Public Works Committee;

(6) one member appointed by the Chairman of the Senate Education Committee; and

(7) two parents of scholarship students to be appointed by the Governor.

(C) The review panel may advise the department on whether certain expenses meet the requirements to be considered a qualified expense under this chapter when requested by the department. The review panel periodically may make recommendations to the General Assembly about improving the program.

(D) Members shall serve at the pleasure of their appointing authority. In making appointments to the panel, the appointing authorities, as appropriate, shall consider legal, financial, accounting, and marketing experience and race, gender, and other demographic factors to ensure nondiscrimination, inclusion, and representation of all segments of the State to the greatest extent possible.

(E) Members may not receive mileage or per diem.

SECTION 11. Section 59-8-165 of the S.C. Code is amended to read:

Section 59-8-165. ~~The provisions of the chapter do not restrict a school district's ability to enact or enforce a district's student transfer policy. The department shall develop a model policy for interdistrict transfers to assist local boards of trustees in establishing an interdistrict enrollment policy. The model policy shall serve as the minimum standard, ensuring a baseline of expectations for all districts. Each local policy shall be based on an evaluation of available data reflecting student, school, district, and community needs to ensure access and efficient resource allocation. The policy must include and describe the application requirements, timelines, communication plans, capacity standards, approval and denial criteria, priorities of acceptance, and transportation. Capacity standards are required to be based on objective measures such as facility constraints, staffing levels, and class size limits. A school district may, but is not required to, expand capacity at a school or in a program to accommodate increased demand for interdistrict transfers. Each district shall review and publicly post available capacity for interdistrict student transfers on its website and update this information at least annually. School districts are not required to provide transportation but must disclose their transportation policy. Districts may establish cost-sharing agreements for interdistrict students~~

who require transportation. All school districts must have an interdistrict policy in place within one hundred twenty days of the publication of the model policy by the department. Any school district with an existing interdistrict policy must review and ensure compliance with this section within 90 days of its enactment. The department shall review all local interdistrict transfer policies to ensure alignment with the model policy. If a district fails to meet minimum standards, the department may withhold administrative funding until the district demonstrates full compliance. The provisions of this chapter do not restrict a school district's ability to enact or enforce an intradistrict student transfer policy.

SECTION 12. Section 59-8-170 of the S.C. Code is amended to read:

Section 59-8-170. A ~~scholarship~~ student transferring from one public high school to another public high school in grades nine through eleven or from one public middle school to another public middle school in grades six through eight pursuant to this program is not subject to any prohibition by the South Carolina High School League on a transfer student from participating in ~~a sport~~ an interscholastic sport ~~immediately~~ upon transfer. After the initial transfer, any subsequent transfer by a student to another public school shall be subject to the South Carolina High School League eligibility rules.

SECTION 13. 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 14. This act takes effect upon approval by the Governor. Current eligible participants may continue receiving benefits under the Education Scholarship Trust Fund, until the end of the 2024-2025 School Year.

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