

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 32
Committee Substitute Favorable 3/23/21
Committee Substitute #2 Favorable 4/1/21

Short Title: Equity in Opportunity Act.

(Public)

Sponsors:

Referred to:

February 2, 2021

A BILL TO BE ENTITLED
AN ACT TO ENACT THE EQUITY IN OPPORTUNITY ACT.
The General Assembly of North Carolina enacts:

PART I. OPPORTUNITY SCHOLARSHIP GRANT PROGRAM

SECTION 1.1.(a) G.S. 115C-562.1(3)a.3. reads as rewritten:

"3. Is ~~entering either kindergarten or the~~ eligible to enter kindergarten, first ~~grade-grade~~, or second grade pursuant to Article 25 of this Chapter. A child who is the age of four on or before April 16 is eligible to attend the following school year if the principal, or equivalent, of the school in which the child seeks to enroll finds that the student meets the requirements of G.S. 115C-364(d) and those findings are submitted to the Authority with the child's application."

SECTION 1.1.(b) G.S. 115C-562.1(3)a.6. reads as rewritten:

"6. Is a child whose parent or legal guardian (i) is on full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301, et seq., and 10 U.S.C. § 12401, et seq., or (ii) receives an honorable discharge as an active duty member from the uniformed service of the United States within 18 months prior to application."

SECTION 1.1.(c) Subsections (a) and (b) of this section apply beginning with applications for scholarship funds for the spring semester of the 2021-2022 school year.

SECTION 1.1.(d) Any student who meets the following requirements shall qualify as an eligible student and shall be eligible to receive a scholarship for the 2021-2022 school year pursuant to Part 2A of Article 39 of Chapter 115C of the General Statutes:

- (1) Was enrolled in a North Carolina public school or a Department of Defense Elementary and Secondary School located in North Carolina for the fall semester of the 2019-2020 school year.
- (2) Was enrolled in a nonpublic school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter for the spring semester of the 2019-2020 school year and the entire 2020-2021 school year.
- (3) Meets the eligibility requirements of G.S. 115C-562.1(3)a1. and b.
- (4) Submits a scholarship application for the 2021-2022 school year.



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A student who becomes eligible for a scholarship in the 2021-2022 school year solely due to this subsection shall receive first priority in award of scholarships in the same manner as those previously awarded scholarships.

SECTION 1.2.(a) G.S. 115C-562.1(3)a. is amended by adding a new sub-sub-subdivision to read:

"7. Is a child who meets both of the following:

I. Was enrolled in a nonpublic school that meets the requirements of Part 1 and Part 2 of this Article during the spring semester prior to the school year for which the student is applying.

II. Was enrolled for the fall semester prior to the spring semester of the school year in which the student enrolled in the nonpublic school in one of the following:

A. A North Carolina public school.

B. A Department of Defense Elementary and Secondary School established pursuant to 10 U.S.C. § 2164 and located in North Carolina."

SECTION 1.2.(b) G.S. 115C-562.1(3)b. reads as rewritten:

"b. Meets one of the following criteria:

1. Resides in a household with an income level not in excess of one hundred fifty percent (150%) of the amount required for the student to qualify for the federal free or reduced-price lunch program. The Authority shall not count any distribution from the estate of a decedent in calculating the income level of the applicant's household for the purposes of determining eligibility for a scholarship under this sub-subdivision.

2. Is a child in foster care as defined in G.S. 131D-10.2. The Authority shall not consider the household income of the foster parent, as defined in G.S. 131D-10.2, in determining the eligibility of a foster care child."

SECTION 1.2.(c) G.S. 115C-562.2(b) reads as rewritten:

"(b) Scholarship grants awarded to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall ~~be for amounts of up to four thousand two hundred dollars (\$4,200) per year.~~ be, per year per eligible student, in an amount of up to seventy percent (70%) of the average State per pupil allocation in the prior fiscal year. Scholarship grants awarded to eligible students residing in households with an income level in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for amounts of not more than ninety percent (90%) of the required tuition and fees for the nonpublic school the eligible child will attend. Tuition and fees for a nonpublic school may include tuition and fees for books, transportation, equipment, or other items required by the nonpublic school. No scholarship grant shall ~~exceed four thousand two hundred dollars (\$4,200) exceed,~~ per year per eligible student, an amount equal to seventy percent (70%) of the average State per pupil allocation in the prior fiscal year and no scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend."

SECTION 1.2.(d) G.S. 115C-562.3 reads as rewritten:

"§ 115C-562.3. Verification of eligibility; information from other State agencies.

...

(b) Household members of applicants for scholarship grants shall authorize the Authority to access information needed for verification efforts held by other State agencies, including the Department of Revenue, the Department of Health and Human Services, and the Department of Public Instruction. The Department of Public Instruction shall provide the Authority with public school enrollment information to establish eligibility pursuant to G.S. 115C-562.1(3)a. as needed.

(c) By December 1 of each year, the Department of Public Instruction shall provide the Authority the average State per pupil allocation for that fiscal year to determine the maximum scholarship amount for eligible students to be awarded in the following fiscal year in accordance with G.S. 115C-562.2(b)."

SECTION 1.2.(e) Subsections (a), (b), (c), and (d) of this section apply beginning with applications for scholarship funds for the 2022-2023 school year.

SECTION 1.3.(a) G.S. 115C-562.2(b), as amended by Section 1.2(c) of this section, reads as rewritten:

"(b) Scholarship grants awarded to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be, per year per eligible student, in an amount of up to ~~seventy percent (70%)~~ eighty percent (80%) of the average State per pupil allocation in the prior fiscal year. Scholarship grants awarded to eligible students residing in households with an income level in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for amounts of not more than ninety percent (90%) of the required tuition and fees for the nonpublic school the eligible child will attend. Tuition and fees for a nonpublic school may include tuition and fees for books, transportation, equipment, or other items required by the nonpublic school. No scholarship grant shall exceed, per year per eligible student, an amount equal to ~~seventy percent (70%)~~ eighty percent (80%) of the average State per pupil allocation in the prior fiscal year and no scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend."

SECTION 1.3.(b) This section applies beginning with applications for scholarship funds for the 2023-2024 school year.

SECTION 1.4.(a) G.S. 115C-562.8 reads as rewritten:

"§ 115C-562.8. The Opportunity Scholarship Grant Fund Reserve.

(a) The Opportunity Scholarship Grant Fund Reserve is established as a reserve to be administered by the Board of Governors of The University of North Carolina for the purpose of allocating funds to the Authority for the award of scholarship grants in accordance with this Part. The Reserve shall consist of monies appropriated from the General Fund to the Reserve by the General Assembly and any interest accrued to it thereon. These funds shall be used to award scholarship grants to eligible students for the school year that begins in the fiscal year following the fiscal year in which the appropriation is made to the Reserve. The Board of Governors shall only use monies in the Reserve in accordance with the purposes set forth in this section. Funds appropriated in a particular fiscal year to be used for the award of scholarships in the following fiscal year that are unexpended at the end of the fiscal year after the fiscal year in which the funds were appropriated shall be first used for the purpose set forth in subdivision (1) of subsection (d) of this section. After funds are used for this purpose, any unexpended funds from the funds appropriated in a particular fiscal year to be used for the award of scholarships in the following fiscal year shall be carried forward for one fiscal year and may be used for the purposes set forth in this section. Funds carried forward pursuant to this section that have not been spent within one fiscal year shall revert to the General Fund.

...

(d) Any unexpended funds at the end of a fiscal year from the funds appropriated in a particular fiscal year to be used for the award of scholarships in the following fiscal year shall be used as follows:

(1) Up to five hundred thousand dollars (\$500,000) shall be used by the Authority to contract with a nonprofit corporation representing parents and families for outreach and scholarship education and application assistance for parents and students pursuant to Part 5 of this Article.

(2) Any remaining funds shall be carried forward for one fiscal year pursuant to subsection (a) of this section."

SECTION 1.4.(b) Article 39 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 4A. Information for Parents and Students on Nonpublic School Scholarship Programs.

"§ 115C-567.1. Outreach and assistance for parents and students.

(a) The State Education Assistance Authority, in its administration of scholarship programs for eligible students pursuant to Part 2A of this Article, Article 41 of this Chapter, and Part 1H of Article 9 of this Chapter may contract with a nonprofit corporation representing parents and families for outreach and scholarship education, program promotion, and application assistance for parents and students. The Authority shall issue a request for proposals in order to enter into a contract with a nonprofit corporation that meets the following requirements during the term of the contract:

(1) Be a nonprofit corporation organized pursuant to Chapter 55A of the General Statutes and comply at all times with the provisions of section 501(c)(3) of the Internal Revenue Code.

(2) Employ sufficient staff who have demonstrated a capacity of direct parent and family outreach, program promotion, and procedural knowledge to assist parents through scholarship application processes and implement a scholarship grant program, including by doing the following:

a. One-on-one parent and family engagement.

b. Scholarship education and public awareness.

(3) Comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.

(4) Have no State officer or employee serving on the board of the nonprofit.

(5) Conduct at least quarterly meetings of the board of directors of the nonprofit at the call of its chair.

(b) The terms of the contract between the Authority and a nonprofit corporation shall require that the nonprofit (i) maintain the confidentiality of any information provided by the Authority for parents and students as directed by the Authority and (ii) not disseminate information to third parties without written parental consent. During the term of the contract provided for in this section, the Authority shall include on scholarship applications a statement for parents to indicate nonconsent for sharing information with a nonprofit corporation.

(c) Notwithstanding any other provision of law, during the term of the contract provided for in this section, the Authority may share the name, address, email, and telephone number of the parent of any student applicant, unless the parent indicates that the information should not be shared."

SECTION 1.4.(c) Subsection (a) of this section becomes effective June 30, 2021.

SECTION 1.5. G.S. 115C-562.8(c) reads as rewritten:

"(c) Of the funds allocated to the Authority to award scholarship grants under this Part, the Authority may retain ~~the lesser of up to four-two and one-half percent (4%)~~ (2.5%) of the funds appropriated ~~or one million five hundred thousand dollars (\$1,500,000)~~ each fiscal year for administrative costs associated with the scholarship grant program."

PART II. PERSONAL EDUCATION STUDENT ACCOUNTS FOR CHILDREN WITH DISABILITIES

SECTION 2.1.(a) Article 41 of Chapter 115C of the General Statutes reads as rewritten:

"Article 41.

"Personal Education ~~Savings Accounts~~. Student Accounts for Children with Disabilities.

"§ 115C-590. North Carolina Personal Education ~~Savings Account~~ Student Accounts for Children with Disabilities Program established.

There is established the North Carolina Personal Education ~~Savings~~ Student Accounts for Children with Disabilities Program to provide the option for a parent to better meet the individual educational needs of the parent's child.

"§ 115C-591. Definitions.

The following definitions apply in this Article:

(1) Authority. – Defined in G.S. 116-201.

(1a) Child with a disability. – Meets at least one of the following criteria:

a. A child who meets the definition in G.S. 115C-106.3(1).

b. A child who was enrolled in a public school during the previous semester and was provided a section 504 (29 U.S.C. § 794) plan by the public school. The Authority shall not count actual days of attendance to determine whether a child was enrolled in a public school for the previous semester for the purposes of eligibility under sub-subdivision c. of subdivision (3) of this section.

(2) Division. – The Division of Nonpublic Education, Department of Administration.

(2a) Educational technology. – As defined annually by the Authority, an item, piece of equipment, material, product, or system which may be purchased commercially off the shelf, modified, or customized and that is used primarily for educational purposes for a child with a disability.

(3) Eligible student. – A student residing in North Carolina who has not yet received a high school diploma and who meets all of the following requirements:

a. Is eligible to attend a North Carolina public school pursuant to G.S. 115C-366. Article 25 of this Chapter. A child who is the age of four on or before April 16 is eligible to attend the following school year if the principal, or equivalent, of the school in which the child seeks to enroll finds that the student meets the requirements of G.S. 115C-364(d) and those findings are submitted to the Authority with the child's application.

b. Has not been enrolled in a postsecondary institution in a matriculated status eligible for enrollment for as a full-time student taking at least 12 hours of academic credit.

c. Is a child with a disability, as defined in G.S. 115C-106.3(1), including, for example, intellectual disability, hearing impairment, speech or language impairment, visual impairment, serious emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairments, specific learning disability, or disability as may be required to be included under IDEA disability.

d. Has not been placed in a nonpublic school or facility by a public agency at public expense.

(3a) G.S. 115C-562.5 compliant school. – A Part 1 or 2 nonpublic school that consents to comply with the requirements of G.S. 115C-562.5.

(4) Nonpublic school. – A school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter, as identified by the Division.

(5) Parent. – A parent, legal guardian, or legal custodian of an eligible student.

(5a) Part 1 or 2 nonpublic school. – A nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39 of this Chapter, as identified by and deemed eligible by the Division.

~~(5a)~~(5b) Part-time student. – A child enrolled part time in a public school and part time in a nonpublic school that exclusively provides services for children with disabilities.

(6) ~~Personal Education Savings–Student Account or PESA. – A bank–An~~
electronic account provided to a parent for the purpose of holding scholarship funds awarded by the Authority for an eligible student to be used for qualifying education expenses under G.S. 115C-595.

"§ 115C-592. Award of scholarship funds for a personal education ~~savings–student~~ account.

(a) Application Selection. – The Authority shall make available no later than February 1 of each year applications to eligible students for the award of scholarship funds for a personal education ~~savings–student~~ account to be used for qualifying education expenses to attend a nonpublic school. Information about scholarship funds and the application process shall be made available on the Authority's Web site. Applications shall be submitted electronically. ~~Beginning March 15, the~~ The Authority shall begin selecting recipients for award scholarships according to the following ~~criteria: criteria~~ for applications received by March 1 of each year:

(1) First priority shall be given to eligible students who were awarded scholarship funds for a PESA during the previous school year ~~if those students have applied by March 1-year.~~

(2) After funds have been awarded to prior recipients as provided in subdivision (1) of this subsection, any remaining funds shall be used to award scholarship funds for a PESA for all other eligible students.

(b) Scholarship Awards. – ~~Scholarships–Except for eligible students who qualify for scholarship funds pursuant to subsection (b1) of this section, scholarships shall be awarded each year for an amount not to exceed nine thousand dollars (\$9,000) per eligible student in an amount, per year per eligible student, of up to the sum of the following from the prior fiscal year: the State allocation per funded child with disabilities plus eighty-five percent (85%) of the average State per pupil allocation, except for the allocation for children with disabilities, for the fiscal school year in for which the application is received, except for eligible part-time students, who shall be awarded scholarships each year for an amount not to exceed four thousand five hundred dollars (\$4,500)–fifty percent (50%) of the sum from the prior fiscal year as described in this subsection per eligible student for the fiscal school year in for which the application is received. Any funds remaining on a debit card or in an electronic account provided under subsection (b2) of this section at the end of a school year for eligible students who qualify only under this subsection shall be returned to the Authority.~~

(b1) Scholarship Awards for Students with Certain Disabilities. – An eligible student may be awarded scholarship funds in an amount of up to seventeen thousand dollars (\$17,000) for each school year only if the student has been determined to have one or more of the following disabilities as a primary or secondary disability on the student's eligibility determination form from the local education agency at the time of application for scholarship funds:

(1) Autism.

(2) Hearing impairment.

(3) Moderate or severe intellectual or developmental disability.

(4) Multiple, permanent orthopedic impairments.

(5) Visual impairment.

For eligible students who qualify for scholarship funds under this subsection, no more than four thousand five hundred dollars (\$4,500) of funds remaining on a debit card or in an electronic account at the end of a school year shall be carried forward until expended for each school year

upon renewal of the account under subsection (b2) of this section. In no event shall the total amount of funds carried forward for an eligible student in a personal education student account exceed ten thousand dollars (\$10,000). Any funds remaining on the card or in the electronic account if an agreement is not renewed under G.S. 115C-595 shall be returned to the Authority.

(b2) Disbursement and Deposit of Awards. – Scholarship funds shall be used only for tuition and qualifying education expenses as provided in G.S. 115C-595. Recipients shall receive the scholarship funds deposited in two equal amounts to a PESA in amounts, one-half in each quarter-semester of the fiscal-school year. The first deposit of funds to a PESA shall be subject to the execution of the parental agreement required by G.S. 115C-595. The parent shall then receive a debit card or an electronic account with the prepaid funds loaded on the card or in the electronic account at the beginning of the fiscal-school year. After the initial disbursement of funds, each subsequent, quarterly-semester disbursement of funds shall be subject to the submission by the parent of an expense report. The expense report shall be submitted electronically and shall include documentation that the student received an education, as described in G.S. 115C-595(a)(1), for no less than 35-70 days of the applicable quarter-semester. The debit card or the electronic account shall be renewed upon the receipt of the parental agreement under G.S. 115C-595 for recipients awarded scholarship funds in subsequent fiscal school years. Any funds remaining on the card or in the electronic account at the end of the fiscal year may be carried forward to the next fiscal year if the card or electronic account is renewed. Any funds remaining on the card or in the electronic account if an agreement is not renewed shall be returned to the Authority.

(c) Eligibility for the other scholarship programs is provided for as follows: Eligibility for Other Scholarship Programs. –

(1) An eligible student under this Article may receive, in addition to a PESA, a scholarship under Part 2A of Article 39 of this Chapter.

(2) ~~An eligible student under this Article may receive, in addition to a PESA and a scholarship under Part 2A of Article 39 of this Chapter, a scholarship under the special education scholarship program for children with disabilities pursuant to Part 1H of Article 9 of this Chapter, only if that student has one or more of the following disabilities:~~

- a. ~~Autism.~~
- b. ~~Developmental disability.~~
- c. ~~Hearing impairment.~~
- d. ~~Moderate or severe intellectual disability.~~
- e. ~~Multiple, permanent orthopedic impairments.~~
- f. ~~Visual impairment.~~

(d) Applications Not Public Records. – Applications for scholarship funds and personally identifiable information related to eligible students receiving funds shall not be a public record under Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable information means any information directly related to a student or members of a student's household, including the name, birthdate, address, Social Security number, telephone number, e-mail address, or any other information or identification number that would provide information about a specific student or members of a specific student's household.

(e) Establishment of Initial Eligibility. – An applicant may demonstrate for initial eligibility that the applicant is a child with a disability, as required by G.S. 115C-591(3)c., ~~in either of the following ways:~~

(1) ~~The by having the child has been assessed by a local education agency and determined the local education agency determining the child to be a child with a disability and with that outcome is verified by the local education agency on a form provided to the Authority.~~

(2) ~~The child was initially assessed by a local education agency and determined to be a child with a disability and, following receipt of a scholarship awarded pursuant to Part 1H of Article 9 of this Chapter, was determined to have continuing eligibility, as provided in G.S. 115C-112.6(c)(2), by the assessing psychologist or psychiatrist. Both the initial verification from the local education agency and the continuing verification by the assessing psychologist or psychiatrist shall be provided on a form to the Authority.~~

"§ 115C-593. Student continuing eligibility.

After the initial disbursement of funds, the Authority shall ensure that the student's continuing eligibility is assessed at least every three ~~years~~-years. If the student is a child with a section 504 (29 U.S.C. § 794) plan, the local education agency shall assess if the student continues to be a child with a disability and verify the outcome on a form to be provided to the Authority. If the student is a child who meets the definition in G.S. 115C-106.3(1), the student shall be assessed by one of the following:

- (1) The local education agency. – The local education agency shall assess if the student continues to be a child with a disability and verify the outcome on a form to be provided to the Authority.
- (2) A licensed psychologist with a school psychology focus or a psychiatrist. – The psychologist or psychiatrist shall assess, after review of appropriate medical and educational records, if the education and related services received by the student in the nonpublic school setting have improved the child's educational performance and if the student would continue to benefit from placement in the nonpublic school setting. The psychologist or psychiatrist shall verify the outcome of the assessment on a form to be provided to the Authority.

"§ 115C-594. Verification of ~~eligibility~~-eligibility; information from other State agencies.

(a) Verification of Information. – The Authority may seek verification of information on any application for the award of scholarship funds for a personal education ~~savings~~-student account. ~~The Authority shall select and verify six percent (6%) of applications annually, including those with apparent errors on the face of the application.~~ The Authority shall establish rules for the verification process. If a household fails to cooperate with verification efforts, the Authority shall revoke the award of scholarship funds for a PESA for the eligible student.

(b) Access to Information. – ~~Household members of applicants~~ Applicants for the award of scholarship funds for a PESA shall authorize the Authority to access information needed for verification efforts held by other State agencies, including the Department of Health and Human Services and the Department of Public Instruction.

(c) By December 1 of each year, the Department of Public Instruction shall provide the Authority the State allocation per funded child with disabilities and the average State per pupil allocation for that fiscal year to determine the maximum scholarship amount for eligible students to be awarded in the following fiscal year in accordance with G.S. 115C-592(b).

"§ 115C-595. Parental agreement; use of funds.

(a) Parental Agreement. – The Authority shall provide the parent of a scholarship recipient with a written agreement, applicable for each year the eligible student receives scholarship funds under this Article, to be signed and returned to the Authority prior to receiving the scholarship funds. The agreement shall be submitted to the Authority electronically. The parent shall not designate any entity or individual to execute the agreement on the parent's behalf. A parent or eligible student's failure to comply with this section shall result in a forfeit of scholarship funds and those funds may be awarded to another eligible student. The parent shall agree to the following conditions in order to receive scholarship funds under this Article:

- (1) Use at least a portion of the scholarship funds to provide an education to the eligible student in, at a minimum, the subjects of English language arts, mathematics, social studies, and science.
- (2) Unless the student is a part-time eligible student, release a local education agency in which the student is eligible to attend under G.S. 115C-366 of all obligations to educate the eligible student while the eligible student is receiving scholarship funds under this Article. A parent of a student, other than a part-time eligible student, who decides to enroll the student into the local education agency or other North Carolina public school during the term of the agreement shall notify the Authority to request a release from the agreement and shall return any unexpended funds to the Authority.
- (3) Use the scholarship funds deposited into a personal education ~~savings~~ student account only for the following qualifying education expenses of the eligible student:
- a. Tuition and fees for a ~~nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39 of this Chapter and is subject to the requirements of G.S. 115C-562.5.~~ G.S. 115C-562.5 compliant school, disbursed as provided in subdivision (1) of subsection (a1) of this section.
 - b. Textbooks required by a nonpublic school.
 - c. Tutoring and teaching services provided by an individual or facility accredited by a State, regional, or national accrediting organization.
 - d. Curricula.
 - e. Fees for nationally standardized norm-referenced achievement tests, advanced placement tests, or nationally recognized college entrance exams.
 - f. Fees charged to the account holder for the management of the PESA.
 - g. Fees for services provided by a public school, including individual classes and extracurricular programs.
 - h. Premiums charged to the account holder for any insurance or surety bonds required by the Authority.
 - i. Educational therapies from a licensed or accredited practitioner or provider.
 - j. Educational technology defined by the Authority as approved for use pursuant to ~~Part 1H of Article 9 of this Chapter.~~ G.S. 115C-591(2a).
 - k. Student transportation, pursuant to a contract with an entity that regularly provides student transportation, to and from (i) a provider of education or related services or (ii) an education activity.
 - l. Transaction or merchant fees charged to the account holder, not to exceed two and one-half percent (2.5%) of the cost of the item or service.
- (3a) Use of scholarship funds for reimbursement of tuition. – Notwithstanding sub-subdivision a. of subdivision (3) of this subsection, a parent of an eligible student may pay tuition to Part 1 or 2 nonpublic schools that are not G.S. 115C-562.5 compliant schools with funds other than funds available in the personal education student account and then request reimbursement from the Authority from scholarship funds if the parent complies with the provisions of subdivision (2) of subsection (a1) of this section.
- (4) Not use scholarship funds for any of the following purposes:

- 1 a. Computer hardware or other technological devices not defined by the
2 Authority as educational technology approved for use pursuant to ~~Part~~
3 ~~1H of Article 9 of this Chapter.~~ G.S. 115C-591(2a).
4 b. Consumable educational supplies, including paper, pen, or markers.
5 c. Tuition and fees at an institution of higher education, as defined in
6 G.S. 116-143.1, or a private postsecondary institution.
7 d. Tuition and fees for a nonpublic school that meets the requirements of
8 Part 3 of Article 39 of this Chapter.

9 (a1) Disbursement of Funds for Tuition. – The method by which the Authority shall
10 disburse scholarship funds awarded to eligible students for tuition at a nonpublic school shall be
11 based upon whether the nonpublic school is a G.S. 115C-562.5 compliant school. Scholarship
12 funds for tuition shall be disbursed as follows:

13 (1) Scholarship endorsement for tuition. – The Authority shall remit, at least two
14 times each school year, scholarship funds from the personal education student
15 account for eligible students who attend G.S. 115C-562.5 compliant schools.
16 The funds shall be remitted to the G.S. 115C-562.5 compliant school for
17 endorsement by at least one of the student's parents or guardians. The parent
18 or guardian shall restrictively endorse the scholarship funds awarded to the
19 eligible student for deposit into the account of the G.S. 115C-562.5 compliant
20 school to the credit of the eligible student. The parent or guardian shall not
21 designate any entity or individual associated with the school as the parent's
22 attorney-in-fact to endorse the scholarship funds. A parent's or guardian's
23 failure to comply with this subdivision shall result in forfeiture of the
24 scholarship funds for tuition. Scholarship funds forfeited for failure to comply
25 with this subdivision shall be returned to the Authority to be awarded to
26 another student.

27 (2) Reimbursement for tuition. – The parent or guardian of an eligible student
28 who enrolls in a school that is (i) a North Carolina public school other than
29 the public school to which that student would have been assigned as provided
30 in G.S. 115C-366 or (ii) a Part 1 or 2 nonpublic school that is not a
31 G.S. 115C-562.5 compliant school may pay tuition directly to the school with
32 funds other than scholarship funds and request reimbursement with funds
33 available in the personal education student account under subdivision (3a) of
34 subsection (a) of this section. However, the Authority shall not reimburse the
35 parent or guardian prior to the midpoint of each semester. A parent or guardian
36 may only receive reimbursement for tuition if the parent or guardian provides
37 documentation to the Authority that the student is enrolled in the school.

38 (b) No Refunds to an Account Holder. – A nonpublic school or a provider of services
39 purchased under subsection (a) of this section shall not refund or rebate any scholarship funds to
40 a parent or eligible student in any manner. The parent shall notify the Authority if such a refund
41 is required.

42 (c) Repealed by Session Laws 2018-5, s. 38.10(m), effective for taxable years beginning
43 on or after January 1, 2018.

44 **"§ 115C-596. Identification of nonpublic schools and distribution of personal education**
45 **savings-student account information.**

46 (a) List of Nonpublic Schools. – The Division shall provide annually by February 1 to
47 the Authority a list of all nonpublic schools operating in the State that meet the requirements of
48 Part 1, 2, or 3 of Article 39 of this Chapter.

49 (b) Information on PESAs to the Division. – The Authority shall provide information
50 about personal education savings-student accounts to the Division. The Division shall provide
51 information about PESAs to all qualified nonpublic schools on an annual basis.

"§ 115C-597. Administration.

(a) Rules and Regulations. – The Authority shall establish rules and regulations for the administration of the program, including the following:

- (1) The administration and awarding of scholarship funds, including a lottery process for the selection of recipients within the criteria established by G.S. 115C-592(a), if necessary.
- (2) Requiring a surety bond or insurance to be held by account holders.
- (3) Use of the funds and the reporting of expenditures.
- (4) Monitoring and control of spending scholarship funds deposited in a personal education savings account.

The Authority shall provide recipients of scholarship funds with the annual list of defined educational technology for which scholarship funds may be used.

(b) Contract for Management of PESAs. – The Authority may contract with a private financial management firm or institution to manage PESAs in accordance with this Article.

(c) Annual Audits. – The Authority shall conduct annual audits of PESAs and may audit a random sampling of PESAs as needed to ensure compliance with the requirements of this Article. The Authority may contract with an independent entity to conduct these audits. The Authority may remove a parent or eligible student from the program and close a personal education savings student account for failure to comply with the terms of the parental agreement, for failure to comply with applicable laws, or because the student is no longer an eligible student.

~~(d) Administration Costs. – Of the funds allocated to the Authority to award scholarship funds under this Article, the Authority may retain up to two hundred fifty thousand dollars (\$250,000) each fiscal year for administrative costs associated with the program, including contracting with non-State entities for administration of certain components of the program.~~

"§ 115C-598. Reporting requirements.

The Authority shall report annually, no later than October 15, to the Joint Legislative Education Oversight Committee on the following information from the prior school year:

- (1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship funds.
- (2) Total amount of scholarship funding awarded.
- (3) Number of students previously enrolled in public schools in the prior semester by the previously attended local education agency.
- (4) Nonpublic schools in which scholarship recipients are enrolled, including numbers of scholarship recipients at each nonpublic school.
- (5) The number of substantiated cases of fraud by recipients and the number of parents or students removed from the program for noncompliance with the provisions of this Article.

"§ 115C-599. Duties of State agencies.

(a) The State Board, as part of its duty to monitor all local education agencies to determine compliance with this Article and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq., (2004), as amended, and federal regulations adopted under this act, as provided in G.S. 115C-107.4, shall ensure that local education agencies do the following:

- (1) Conduct evaluations requested by a child's parent or guardian of suspected children with disabilities in a timely manner.
- (2) Provide assessments for continuing eligibility to identified children with disabilities receiving scholarship funds at the request of the parent or guardian to ensure compliance with G.S. 115C-593.

(b) The Authority shall analyze, in conjunction with the Department of Public Instruction, past trends in scholarship data on an annual basis to ensure that the amount of funds transferred each fiscal year by the Authority to the Department for reevaluations by local school

administrative units of eligible students under G.S. 115C-593 are sufficient and based on actual annual cost requirements.

"§ 115C-600. Personal Education Student Account Fund Reserve.

(a) The Personal Education Student Account Fund Reserve (Reserve) is established as a reserve to be administered by the Board of Governors of The University of North Carolina for the purpose of allocating funds to the Authority for the award of scholarship funds in accordance with this Article. The Reserve shall consist of monies appropriated from the General Fund to the Reserve by the General Assembly and any interest accrued to it thereon. These funds shall be used in the fiscal year following the fiscal year in which the funds were appropriated to the Reserve (i) to award scholarship funds to eligible students for the school year that begins in the fiscal year following the fiscal year in which the funds were appropriated, (ii) for administrative costs, and (iii) for reevaluations by local school administrative units of eligible students under G.S. 115C-599. The Board of Governors shall only use monies in the Reserve in accordance with the purposes set forth in this Article. Funds appropriated in a particular fiscal year to be used in the following fiscal year that are unexpended at the end of the fiscal year following the fiscal year in which the funds were appropriated shall be carried forward for one fiscal year and may be used for the purposes set forth in this Article. Funds carried forward pursuant to this section that have not been spent within one fiscal year shall revert to the General Fund.

(b) Appropriations. – The General Assembly finds that due to the continued growth and ongoing need in this State to provide opportunity for school choice for children with disabilities, it is imperative that the State provide an increase in funds of at least one million dollars (\$1,000,000) each fiscal year to the Reserve for 10 years for the Personal Education Student Accounts for Children with Disabilities Program. To that end, there is appropriated from the General Fund to the Board of Governors of The University of North Carolina the following amounts each fiscal year to be allocated to the Authority for the program in accordance with this Article:

<u>Fiscal Year</u>	<u>Appropriation</u>
<u>2022-2023</u>	<u>\$17,043,166</u>
<u>2023-2024</u>	<u>\$18,043,166</u>
<u>2024-2025</u>	<u>\$19,043,166</u>
<u>2025-2026</u>	<u>\$20,043,166</u>
<u>2026-2027</u>	<u>\$21,043,166</u>
<u>2027-2028</u>	<u>\$22,043,166</u>
<u>2028-2029</u>	<u>\$23,043,166</u>
<u>2029-2030</u>	<u>\$24,043,166</u>
<u>2030-2031</u>	<u>\$25,043,166</u>
<u>2031-2032 and each subsequent fiscal year thereafter</u>	<u>\$26,043,166</u>

When developing the base budget, as defined by G.S. 143C-1-1, for each fiscal year specified in this subsection, the Director of the Budget shall include the appropriated amount specified in this subsection for that fiscal year.

(c) Administrative Funds. – Of the funds allocated to the Authority to award scholarships pursuant to this section, the Authority may retain up to four percent (4%) of the funds appropriated each fiscal year for administrative costs associated with the program, including contracting with non-State entities for administration of certain components of the program."

SECTION 2.1.(b) It is the intent of the General Assembly to move the Special Education Scholarships for Children with Disabilities and the Personal Education Savings Account program funding, in addition to any other funds appropriated by the General Assembly for the Personal Education Student Accounts for Children with Disabilities Program, into the Personal Education Student Account Fund Reserve established under G.S. 115C-600, as enacted by this section, so that funds appropriated for scholarships in a fiscal year are awarded to students for the school year in the following fiscal year.

SECTION 2.1.(c) There is appropriated from the General Fund to the Personal Education Student Account Fund Reserve, established pursuant to G.S. 115C-600, as enacted by subsection (a) of this section, the sum of sixteen million forty-three thousand one hundred sixty-six dollars (\$16,043,166) in nonrecurring funds for the 2021-2022 fiscal year to be used for the award of scholarship funds to students and administration of the Personal Education Student Accounts for Children with Disabilities Program for the 2022-2023 school year.

SECTION 2.1.(d) Notwithstanding G.S. 115C-592, as amended by this section, a student who was awarded scholarship funds for a PESA pursuant to Article 41 of Chapter 115C of the General Statutes for the 2021-2022 school year or a student who received a scholarship pursuant to Part 1H of Article 9 of Chapter 115C of the General Statutes for the 2021-2022 school year shall receive priority in the award of scholarship funds under G.S. 115C-592 for a personal education student account for the 2022-2023 school year if the student applies by March 1, 2022.

SECTION 2.1.(e) This section becomes effective July 1, 2021, and applies to applications for scholarship funds beginning with the 2022-2023 school year.

SECTION 2.2.(a) Notwithstanding any other provision of law, beginning with the 2022-2023 fiscal year, of the funds appropriated from the General Fund to the Board of Governors of The University of North Carolina, the sum of (i) thirteen million forty-three thousand one hundred sixty-six dollars (\$13,043,166) in recurring funds for the Special Education Scholarship Program for Children with Disabilities established pursuant to Part 1H of Article 9 of Chapter 115C of the General Statutes and (ii) three million dollars (\$3,000,000) in recurring funds for the Personal Education Savings Account program shall instead be appropriated to the Personal Education Student Account Fund Reserve, as enacted by Section 2.1 of this act.

SECTION 2.2.(b) Part 1H of Article 9 of Chapter 115C of the General Statutes is repealed.

SECTION 2.2.(c) G.S. 115C-555(4) reads as rewritten:

"(4) It receives no funding from the State of North Carolina. For the purposes of this Article, scholarship funds awarded pursuant to Part 2A of this ~~Article, Article or Article 41 of this Chapter, or Part 1H of Article 9 of this Chapter~~ to eligible students attending a nonpublic school shall not be considered funding from the State of North Carolina."

SECTION 2.2.(d) G.S. 115C-567.1(a), as enacted by Section 1.4 of this act, reads as rewritten:

"(a) The State Education Assistance Authority, in its administration of scholarship programs for eligible students pursuant to Part 2A of this ~~Article, Article and Article 41 of this Chapter, and Part 1H of Article 9 of this Chapter~~ may contract with a nonprofit corporation representing parents and families, for outreach and scholarship education, program promotion, and application assistance for parents and students. The Authority shall issue a request for proposals in order to enter into a contract with a nonprofit corporation that meets the following requirements during the term of the contract:

- (1) Be a nonprofit corporation organized pursuant to Chapter 55A of the General Statutes and comply at all times with the provisions of section 501(c)(3) of the Internal Revenue Code.
- (2) Employ sufficient staff who have demonstrated a capacity of direct parent and family outreach, program promotion, procedural knowledge to assist parents through scholarship application process and implement a scholarship grant program, including by doing the following:
 - a. One-on-one parent and family engagement.
 - b. Scholarship education and public awareness.
- (3) Comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.

(4) Have no State officer or employee serving on the board of the nonprofit.

(5) Conduct at least quarterly meetings of the board of directors of the nonprofit at the call of its chair."

SECTION 2.2.(e) Section 5(b) of S.L. 2013-364, as rewritten by Section 3.2 of S.L. 2013-363 and as amended by Section 11.18 of S.L. 2015-241, is repealed.

SECTION 2.2.(f) This section becomes effective July 1, 2022.

SECTION 2.3.(a) G.S. 105-153.5(b)(12) reads as rewritten:

"(12) The amount deposited during the taxable year to a personal education ~~savings~~ student account under Article 41 of Chapter 115C of the General Statutes."

SECTION 2.3.(b) This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended by this section before the effective date of its amendment, nor does it affect the right to any refund or credit of a tax that accrued under the amended statute before the effective date of its amendment.

SECTION 2.3.(c) This section applies to taxable years beginning on or after January 1, 2022.

PART III. AUTHORIZE COUNTIES TO USE LOCAL FUNDS TO SUPPLEMENT K-12 SCHOLARSHIPS

SECTION 3.1. G.S. 153A-149(c) is amended by adding a new subdivision to read:

"(17a) K-12 Scholarship Programs. – To provide supplemental funds for students receiving K-12 scholarships for educational purposes as authorized by G.S. 153A-460."

SECTION 3.2. Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-460. K-12 scholarship programs.

(a) For the purposes of this section, a K-12 scholarship is a State-funded scholarship awarded to a student for educational purposes in accordance with Part 2A of Article 39 or Article 41 of Chapter 115C of the General Statutes.

(b) Each county is authorized to appropriate funds in accordance with subsection (c) of this section to provide an amount of up to one thousand dollars (\$1,000) per child residing in the county who meets all of the following requirements to supplement a qualifying child's scholarship:

(1) The child has been awarded a K-12 scholarship for the school year.

(2) The child is enrolled in a nonpublic school located within the county for the school year.

(c) The county may request, no later than January 15 annually, de-identified data from the State Education Assistance Authority on the number of students receiving K-12 scholarship funds, by type of K-12 scholarship, in the current fiscal year who both live in that county and attend a nonpublic school in that county. The county shall use this information as a basis for determining the amount of funds to appropriate for award of supplemental funds for the following fiscal year. The county may provide supplemental funds for eligible students receiving scholarships under one or both of the qualifying K-12 scholarships.

(d) A county appropriating funds pursuant to this section shall remit the appropriated funds to the State Education Assistance Authority for expenditure to supplement K-12 scholarships awarded for the school year occurring in that fiscal year no later than July 15 annually. The State Education Assistance Authority shall act as the fiscal agent for the county in the disbursement of funds to eligible students pursuant to G.S. 115C-562.2(f) or G.S. 115C-592(f), as applicable."

SECTION 3.3. G.S. 115C-562.2 is amended by adding a new subsection to read:

"(f) A county may provide funds to supplement scholarships for eligible students residing within the county pursuant to G.S. 153A-460 for a school year. The Authority shall require

1 applicants to state their county of residence in the application and may verify residency as
2 provided in G.S. 115C-562.3. When requested by January 15, the Authority shall provide
3 de-identified data to a county by February 15 on the number of students who, in the current school
4 year, (i) received scholarship grants pursuant to this Part, (ii) resided in the county, and (iii) were
5 enrolled in a nonpublic school located in the county. If a county appropriates supplemental funds
6 for scholarships pursuant to G.S. 153A-460, the Authority shall disburse up to one thousand
7 dollars (\$1,000) in scholarship funds for that school year to each eligible student residing in that
8 county who is enrolled in a nonpublic school located in the county to supplement the scholarship
9 grants awarded pursuant to this Part. Funds disbursed to eligible students under this subsection
10 shall be subject to the same limitations and requirements as scholarship grants provided with
11 State funds under this Part and shall supplement but not supplant State funds. The Authority shall
12 return to the county any unused funds at the end of each fiscal year. The Authority shall adopt
13 rules for the disbursement of funds pursuant to this subsection."

14 **SECTION 3.4.** G.S. 115C-592 is amended by adding a new subsection to read:

15 "(f) **Supplemental Local Scholarship Funds.** – A county may provide supplemental
16 scholarship funds for eligible students residing within the county pursuant to G.S. 153A-460 for
17 a school year. The Authority shall require applicants to state their county of residence in the
18 application and may verify residency as provided in G.S. 115C-594. When requested by January
19 15, the Authority shall provide de-identified data to a county by February 15 on the number of
20 students who, in the current school year, (i) received scholarships pursuant to this Article, (ii)
21 resided in the county, and (iii) were enrolled in a nonpublic school located in the county. If a
22 county appropriates supplemental funds for scholarships pursuant to G.S. 153A-460, the
23 Authority shall disburse up to one thousand dollars (\$1,000) in scholarship funds for that school
24 year to each eligible student residing in that county who is enrolled in a nonpublic school located
25 in the county to supplement the scholarship funds awarded pursuant to this Article. Funds
26 disbursed to eligible students under this subsection shall be subject to the same limitations and
27 requirements as scholarship funds provided with State funds under this Article and shall
28 supplement but not supplant State funds. The Authority shall return to the county any unused
29 funds at the end of each fiscal year. The Authority shall adopt rules for the disbursement of funds
30 pursuant to this subsection."

31 **SECTION 3.5.(a)** Notwithstanding G.S. 115C-562.8(d), as enacted by this act, of
32 the funds appropriated in the 2019-2020 fiscal year for the award of scholarship grants for the
33 2020-2021 school year pursuant to G.S. 115C-562.8, the State Education Assistance Authority
34 may use up to three hundred thousand dollars (\$300,000) for the 2021-2022 fiscal year of any
35 unexpended funds available at the end of the 2020-2021 fiscal year for the purpose of establishing
36 the infrastructure for the supplemental local scholarship funds.

37 **SECTION 3.5.(b)** Subsection (a) of this section becomes effective June 30, 2021.

38 **SECTION 3.6.** Except as otherwise provided, this Part applies beginning with
39 county budget ordinances adopted for the 2022-2023 fiscal year that provide funds for students
40 receiving scholarship funds for the 2022-2023 school year.

41 **PART IV. ORDER OF APPROPRIATIONS BILLS STATUTE DOES NOT APPLY**

42 **SECTION 4.** G.S. 143C-5-2 does not apply to this act.

43 **PART V. EFFECTIVE DATE**

44 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
45 law.
46
47