

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

2

HOUSE BILL 32
Committee Substitute Favorable 3/23/21

Short Title: Equity in Opportunity Act.

(Public)

Sponsors:

Referred to:

February 2, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE EQUITY IN OPPORTUNITY ACT.
3 The General Assembly of North Carolina enacts:
4

5 **PART I. OPPORTUNITY SCHOLARSHIP GRANT PROGRAM**

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

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

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

16 "6. Is a child whose parent or legal guardian (i) is on full-time duty
17 status in the active uniformed service of the United States,
18 including members of the National Guard and Reserve on
19 active duty orders pursuant to 10 U.S.C. § 12301, et seq., and
20 10 U.S.C. § 12401, et seq., or (ii) receives an honorable
21 discharge as an active duty member from the uniformed service
22 of the United States within 18 months prior to application."

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

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

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



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

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

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

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

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

15 A. A North Carolina public school.

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

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

20 "b. Meets one of the following criteria:

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

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

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

34 "(b) Scholarship grants awarded to eligible students residing in households with an income
35 level not in excess of the amount required for the student to qualify for the federal free or
36 reduced-price lunch program shall ~~be for amounts of up to four thousand two hundred dollars~~
37 ~~(\$4,200) per year. be, per year per eligible student, in an amount of up to seventy percent (70%)~~
38 of the average State per pupil allocation in the prior fiscal year. Scholarship grants awarded to
39 eligible students residing in households with an income level in excess of the amount required
40 for the student to qualify for the federal free or reduced-price lunch program shall be for amounts
41 of not more than ninety percent (90%) of the required tuition and fees for the nonpublic school
42 the eligible child will attend. Tuition and fees for a nonpublic school may include tuition and fees
43 for books, transportation, equipment, or other items required by the nonpublic school. No
44 scholarship grant shall exceed four thousand two hundred dollars (\$4,200) exceed, per year per
45 eligible student, an amount equal to seventy percent (70%) of the average State per pupil
46 allocation in the prior fiscal year and no scholarship grant shall exceed the required tuition and
47 fees for the nonpublic school the eligible student will attend."

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

49 "**§ 115C-562.3. Verification of ~~eligibility~~eligibility; information from other State agencies.**

50 ...

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

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

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

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

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

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

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

31 **"§ 115C-562.8. The Opportunity Scholarship Grant Fund Reserve.**

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

48 ...

49 (d) Any unexpended funds at the end of a fiscal year from the funds appropriated in a
50 particular fiscal year to be used for the award of scholarships in the following fiscal year shall be
51 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

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

3 "Article 41.

4 "~~Personal Education Savings Accounts.~~ Student Accounts for Children with Disabilities.
5 **"§ 115C-590. North Carolina Personal Education Savings Account-Student Accounts for**
6 **Children with Disabilities Program established.**

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

10 **"§ 115C-591. Definitions.**

11 The following definitions apply in this Article:

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

13 (1a) Child with a disability. – Meets at least one of the following criteria:

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

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

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

23 (2a) Educational technology. – As defined annually by the Authority, an item,
24 piece of equipment, material, product, or system which may be purchased
25 commercially off the shelf, modified, or customized and that is used primarily
26 for educational purposes for a child with a disability.

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

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

37 b. Has not been enrolled in a postsecondary institution in a matriculated
38 status eligible for enrollment for as a full-time student taking at least
39 12 hours of academic credit.

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

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

48 (3a) G.S. 115C-562.5 compliant school. – A Part 1 or 2 nonpublic school that
49 consents to comply with the requirements of G.S. 115C-562.5.

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

- 1 (5) Parent. – A parent, legal guardian, or legal custodian of an eligible student.
 2 (5a) Part 1 or 2 nonpublic school. – A nonpublic school that meets the requirements
 3 of Part 1 or Part 2 of Article 39 of this Chapter, as identified by and deemed
 4 eligible by the Division.
 5 ~~(5a)~~(5b) Part-time student. – A child enrolled part time in a public school and part
 6 time in a nonpublic school that exclusively provides services for children with
 7 disabilities.
 8 (6) Personal Education ~~Savings~~Student Account or PESA. – ~~A bank~~An
 9 electronic account provided to a parent for the purpose of holding scholarship
 10 funds awarded by the Authority for an eligible student to be used for
 11 qualifying education expenses under G.S. 115C-595.

12 **"§ 115C-592. Award of scholarship funds for a personal education ~~savings~~student account.**

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

- 20 (1) First priority shall be given to eligible students who were awarded scholarship
 21 funds for a PESA during the previous school year ~~if those students have~~
 22 ~~applied by March 1 year.~~
 23 (2) After funds have been awarded to prior recipients as provided in subdivision
 24 (1) of this subsection, any remaining funds shall be used to award scholarship
 25 funds for a PESA for all other eligible students.

26 (b) Scholarship Awards. – ~~Scholarships~~Except for eligible students who qualify for
 27 scholarship funds pursuant to subsection (b1) of this section, scholarships shall be awarded each
 28 year for an amount not to exceed nine thousand dollars (\$9,000) per eligible student in an amount,
 29 per year per eligible student, of up to the sum of the following from the prior fiscal year: the State
 30 allocation per funded child with disabilities plus eighty-five percent (85%) of the average State
 31 per pupil allocation, except for the allocation for children with disabilities, for the fiscal school
 32 year in for which the application is received, except for eligible part-time students, who shall be
 33 awarded scholarships each year for an amount not to exceed four thousand five hundred dollars
 34 (\$4,500) fifty percent (50%) of the sum from the prior fiscal year as described in this subsection
 35 per eligible student for the fiscal school year in for which the application is received. Any funds
 36 remaining on a debit card or in an electronic account provided under subsection (b2) of this
 37 section at the end of a school year for eligible students who qualify only under this subsection
 38 shall be returned to the Authority.

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

- 44 (1) Autism.
 45 (2) Hearing impairment.
 46 (3) Moderate or severe intellectual or developmental disability.
 47 (4) Multiple, permanent orthopedic impairments.
 48 (5) Visual impairment.

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

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

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

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

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

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

31 a. Autism.

32 b. Developmental disability.

33 c. Hearing impairment.

34 d. Moderate or severe intellectual disability.

35 e. Multiple, permanent orthopedic impairments.

36 f. Visual impairment.

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

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

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

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

8 **"§ 115C-593. Student continuing eligibility.**

9 After the initial disbursement of funds, the Authority shall ensure that the student's continuing
10 eligibility is assessed at least every three ~~years.~~years. If the student is a child with a section 504
11 (29 U.S.C. § 794) plan, the local education agency shall assess if the student continues to be a
12 child with a disability and verify the outcome on a form to be provided to the Authority. If the
13 student is a child who meets the definition in G.S. 115C-106.3(1), the student shall be assessed
14 by one of the following:

15 (1) The local education agency. – The local education agency shall assess if the
16 student continues to be a child with a disability and verify the outcome on a
17 form to be provided to the Authority.

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

26 **"§ 115C-594. Verification of ~~eligibility.~~eligibility; information from other State agencies.**

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

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

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

41 **"§ 115C-595. Parental agreement; use of funds.**

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

- 1 (1) Use at least a portion of the scholarship funds to provide an education to the
2 eligible student in, at a minimum, the subjects of English language arts,
3 mathematics, social studies, and science.
- 4 (2) Unless the student is a part-time eligible student, release a local education
5 agency in which the student is eligible to attend under G.S. 115C-366 of all
6 obligations to educate the eligible student while the eligible student is
7 receiving scholarship funds under this Article. A parent of a student, other
8 than a part-time eligible student, who decides to enroll the student into the
9 local education agency or other North Carolina public school during the term
10 of the agreement shall notify the Authority to request a release from the
11 agreement and shall return any unexpended funds to the Authority.
- 12 (3) Use the scholarship funds deposited into a personal education ~~savings-student~~
13 account only for the following qualifying education expenses of the eligible
14 student:
- 15 a. Tuition and fees for a ~~nonpublic school that meets the requirements of~~
16 ~~Part 1 or Part 2 of Article 39 of this Chapter and is subject to the~~
17 ~~requirements of G.S. 115C-562.5.~~ G.S. 115C-526.5 compliant school,
18 disbursed as provided in subdivision (1) of subsection (a1) of this
19 section.
- 20 b. Textbooks required by a nonpublic school.
- 21 c. Tutoring and teaching services provided by an individual or facility
22 accredited by a State, regional, or national accrediting organization.
- 23 d. Curricula.
- 24 e. Fees for nationally standardized norm-referenced achievement tests,
25 advanced placement tests, or nationally recognized college entrance
26 exams.
- 27 f. Fees charged to the account holder for the management of the PESA.
- 28 g. Fees for services provided by a public school, including individual
29 classes and extracurricular programs.
- 30 h. Premiums charged to the account holder for any insurance or surety
31 bonds required by the Authority.
- 32 i. Educational therapies from a licensed or accredited practitioner or
33 provider.
- 34 j. Educational technology defined by the Authority as approved for use
35 pursuant to ~~Part 1H of Article 9 of this Chapter.~~ G.S. 115C-591(2a).
- 36 k. Student transportation, pursuant to a contract with an entity that
37 regularly provides student transportation, to and from (i) a provider of
38 education or related services or (ii) an education activity.
- 39 l. Transaction or merchant fees charged to the account holder, not to
40 exceed two and one-half percent (2.5%) of the cost of the item or
41 service.
- 42 (3a) Use of scholarship funds for reimbursement of tuition. – Notwithstanding
43 sub-subdivision a. of subdivision (3) of this subsection, a parent of an eligible
44 student may pay tuition to Part 1 or 2 nonpublic schools that are not
45 G.S. 115C-526.5 compliant schools with funds other than funds available in
46 the personal education student account and then request reimbursement from
47 the Authority from scholarship funds if the parent complies with the
48 provisions of subdivision (2) of subsection (a1) of this section.
- 49 (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 ~~4H 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

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

3 **"§ 115C-600. Personal Education Student Account Fund Reserve.**

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

19 (b) Appropriations. – The General Assembly finds that due to the continued growth and
 20 ongoing need in this State to provide opportunity for school choice for children with disabilities,
 21 it is imperative that the State provide an increase in funds of at least one million dollars
 22 (\$1,000,000) each fiscal year to the Reserve for 10 years for the Personal Education Student
 23 Accounts for Children with Disabilities Program. To that end, there is appropriated from the
 24 General Fund to the Board of Governors of The University of North Carolina the following
 25 amounts each fiscal year to be allocated to the Authority for the program in accordance with this
 26 Article:

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

37
 38 When developing the base budget, as defined by G.S. 143C-1-1, for each fiscal year specified
 39 in this subsection, the Director of the Budget shall include the appropriated amount specified in
 40 this subsection for that fiscal year.

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

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

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

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

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

15 **SECTION 2.2.(a)** Notwithstanding any other provision of law, beginning with the
16 2022-2023 fiscal year, of the funds appropriated from the General Fund to the Board of
17 Governors of The University of North Carolina, the sum of (i) thirteen million forty-three
18 thousand one hundred sixty-six dollars (\$13,043,166) in recurring funds for the Special
19 Education Scholarship Program for Children with Disabilities established pursuant to Part 1H of
20 Article 9 of Chapter 115C of the General Statutes and (ii) three million dollars (\$3,000,000) in
21 recurring funds for the Personal Education Savings Account program shall instead be
22 appropriated to the Personal Education Student Account Fund Reserve, as enacted by Section 2.1
23 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **SECTION 2.3.(c)** This section applies to taxable years beginning on or after January
15 1, 2022.

17 **PART III. AUTHORIZE COUNTIES TO USE LOCAL FUNDS TO SUPPLEMENT K-12** 18 **SCHOLARSHIPS**

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

20 "(17a) K-12 Scholarship Programs. – To provide supplemental funds for students
21 receiving K-12 scholarships for educational purposes as authorized by
22 G.S. 153A-460."

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

25 "**§ 153A-460. K-12 scholarship programs.**

26 (a) For the purposes of this section, a K-12 scholarship is a State-funded scholarship
27 awarded to a student for educational purposes in accordance with Part 2A of Article 39 or Article
28 41 of Chapter 115C of the General Statutes.

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

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

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

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

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

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

50 "(f) A county may provide funds to supplement scholarships for eligible students residing
51 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. EFFECTIVE DATE**

42 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
43 law.
44