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SENATE BILL DRS35268-MTa-12A (01/06)

Short Title: Exceptional Educ. for Exceptional Children. (Public)

Sponsors: Senators Lee, Barefoot, and Clark (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH AN EDUCATION SAVINGS ACCOUNT PROGRAM IN
3 NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 115C of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 39A.

8 "Personal Education Savings Accounts.

9 "**§ 115C-567.5. North Carolina Personal Education Savings Account Program**
10 **established.**

11 There is established the North Carolina Personal Education Savings Accounts Program to
12 provide the option for a parent to better meet the individual educational needs of the parent's
13 eligible child.

14 "**§ 115C-567.6. Definitions.**

15 The following definitions apply in this Article:

16 (1) Division. – The Division of Nonpublic Education, Department of
17 Administration.

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

21 a. Meets one of the following criteria:

22 1. Was a full-time student (i) assigned to and attending a public
23 school pursuant to G.S. 115C-366 or (ii) enrolled in a
24 Department of Defense Elementary and Secondary School,
25 established pursuant to 10 U.S.C. § 2164 and located in North
26 Carolina, during the previous semester.

27 2. Received scholarship funds for a personal education savings
28 account during the previous school year.

29 3. Is entering either kindergarten or the first grade.

30 4. Is a child in foster care, as defined in G.S. 131D-10.2(9).

31 5. Is a child whose adoption decree was entered not more than
32 one year prior to submission of the scholarship application.

33 6. Is a child whose parent or legal guardian is on full-time duty
34 status in the active uniformed service of the United States,
35 including members of the National Guard and Reserve on



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1 active duty orders pursuant to 10 U.S.C. § 12301, et seq., and
2 10 U.S.C. § 12401, et seq.

3 7. Is a child enrolled part-time in a public school and part-time
4 in a nonpublic school that exclusively provides services for
5 children with disabilities.

6 b. Has not enrolled in a postsecondary institution in a matriculated
7 status eligible for enrollment for 12 hours of academic credit.

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

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

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

17 (5) Personal Education Savings Account or PESA. – A bank account provided
18 to a parent for the purpose of holding scholarship funds awarded by the State
19 Treasurer for an eligible student to be used for qualifying education
20 expenses under G.S. 115C-567.9.

21 **"§ 115C-567.7. Award of scholarship funds for a personal education savings account.**

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

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

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

35 (b) Scholarship Awards. – Scholarships shall be awarded each year to eligible students
36 in an amount equal to the statewide average per pupil allocation for average daily membership
37 for charter schools plus the State allocation per funded child with disabilities for the fiscal year
38 in which the application is received. Recipients shall receive scholarship funds deposited in
39 equal amounts to a PESA in each quarter of the fiscal year. The first deposit of funds to a PESA
40 shall be subject to the execution of the parental agreement required by G.S. 115C-567.9. The
41 parent shall then receive a debit card with the prepaid funds loaded on the card at the beginning
42 of the fiscal year. After the initial disbursement of funds, each subsequent, quarterly
43 disbursement of funds shall be subject to the submission by the parent of an expense report.
44 The expense report shall be submitted electronically and shall include documentation that the
45 student received an education, as described in G.S. 115C-567.9(a)(1), for no less than 35 days
46 of the applicable quarter. The debit card shall be renewed upon the receipt of the parental
47 agreement under G.S. 115C-567.9 for recipients awarded scholarship funds in subsequent fiscal
48 years. Any funds remaining on the card at the end of the fiscal year may be carried forward to
49 the next fiscal year if the card is renewed. Any funds remaining on the card if an agreement is
50 not renewed shall be returned to the State Treasurer.

1 (c) Eligibility for Other Scholarships. – Eligibility for the other scholarship programs is
2 provided for as follows:

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

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

10 a. Autism.

11 b. Hearing impairment.

12 c. Moderate or severe intellectual disability.

13 d. Multiple, permanent, orthopedic impairments.

14 e. Visual impairment.

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

23 **"§ 115C-567.8. Verification of eligibility.**

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

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

35 **"§ 115C-567.9. Parental agreement; use of funds.**

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

45 (1) Use at least a portion of the scholarship funds to provide an education to the
46 eligible student in, at a minimum, the subjects of English language arts,
47 mathematics, social studies, and science.

48 (2) Unless the student is an eligible student pursuant to G.S. 115C-567.6(2)a.7.,
49 release a local school administrative unit in which the student is eligible to
50 attend under G.S. 115C-366 of all obligations to educate the eligible student
51 while the eligible student is receiving scholarship funds under this Article. A

parent of a student, other than a student who is an eligible student pursuant to G.S. 115C-567.6(2)a.7., who decides to enroll the student into the local school administrative unit or other North Carolina public school during the term of the agreement shall notify the State Treasurer to request a release from the agreement and shall return any unexpended funds to the State Treasurer.

(3) Use the scholarship funds deposited into a personal education savings account only for the following qualifying education expenses of the eligible student:

- a. Tuition or fees for a nonpublic school.
- b. Textbooks required by a nonpublic school.
- c. Tutoring or 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 State Treasurer.
- i. Educational therapies from a licensed or accredited practitioner or provider.
- j. Educational technology, as defined by the North Carolina State Education Assistance Authority (Authority), as approved for use pursuant to Part 1H of Article 9 of this Chapter.

(4) Not use scholarship funds for any of the following purposes:

- a. Computer hardware or other technological devices not defined by the Authority as educational technology approved for use pursuant to Part 1H of Article 9 of this Chapter.
- b. Transportation of the student.
- c. Consumable educational supplies, including paper, pen, or markers.
- d. Tuition and fees at an institution of higher education, as defined in G.S. 116-143.1, or a private postsecondary institution.

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

(c) Funds in the PESA Not Taxable. – Funds received pursuant to this Article do not constitute taxable income to the parent, legal guardian, or legal custodian of an eligible student or to the eligible student.

"§ 115C-567.10. Identification of nonpublic schools and distribution of personal education savings account information.

(a) List of Nonpublic Schools. – The Division shall provide annually by February 1 to the State Treasurer a list of all nonpublic schools operating in the State that meet the requirements of Part 1, 2, or 3 of Article 39 of Chapter 115C of the General Statutes.

(b) Information on PESAs to the Division. – The State Treasurer shall provide information about personal education savings accounts to the Division. The Division shall provide information about PESAs to all qualified nonpublic schools on an annual basis.

"§ 115C-567.11. Administration.

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

- 3 (1) The administration and awarding of scholarship funds, including a lottery
4 process for the selection of recipients within the criteria established by
5 G.S. 115C-567.7(a), if necessary.
6 (2) Requiring a surety bond or insurance to be held by account holders.
7 (3) Use of the funds and the reporting of expenditures.
8 (4) Monitoring and control of spending scholarship funds deposited in a
9 personal education savings account.

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

13 (c) Annual Audits. – The State Treasurer shall conduct annual audits of PESAs and
14 may audit a random sampling of PESAs as needed to ensure compliance with the requirements
15 of this Article. The State Treasurer may contract with an independent entity to conduct these
16 audits. The State Treasurer may remove a parent or eligible student from the program for
17 failure to comply with the terms of the parental agreement, for failure to comply with
18 applicable laws, or because the student is no longer an eligible student.

19 **"§ 115C-567.12. Reporting requirements.**

20 The State Treasurer shall report annually, no later than September 1, to the Joint Legislative
21 Education Oversight Committee on the following:

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

33 **SECTION 2.** G.S. 105-153.5(b) is amended by adding a new subdivision to read:

34 **"(12) The amount deposited during the taxable year to a personal education**
35 **savings account under Article 39A of Chapter 115C of the General Statutes."**

36 **SECTION 3.** G.S. 115C-555 reads as rewritten:

37 **"§ 115C-555. Qualification of nonpublic schools.**

38 The provisions of this Part shall apply to any nonpublic school which has one or more of
39 the following characteristics:

- 40 ...
41 (4) It receives no funding from the State of North Carolina. For the purposes of
42 this Article, scholarship ~~grant~~ funds awarded pursuant to Part 2A of this
43 ~~Article~~ Article, Article 39A of this Chapter, or Part 1H of Article 9 of this
44 Chapter to eligible students attending a nonpublic school shall not be
45 considered funding from the State of North Carolina."

46 **SECTION 4.(a)** There is appropriated from the General Fund to the State
47 Treasurer the sum of twenty million dollars (\$20,000,000) in nonrecurring funds for the
48 2017-2018 fiscal year to establish the program as provided for in this act.

49 **SECTION 4.(b)** There is appropriated from the General Fund to the State
50 Treasurer the sum of twenty million dollars (\$20,000,000) for the 2018-2019 fiscal year in

1 recurring funds for the award of scholarship funds to eligible students in accordance with this
2 act.

3 **SECTION 5.** This act becomes effective July 1, 2017. Sections 1 and 2 of this act
4 apply beginning with the 2018-2019 school year.