April 16, 2013

A BILL TO BE ENTITLED

AN ACT TO CREATE OPPORTUNITY SCHOLARSHIP GRANTS.

Whereas, the State has a constitutional obligation to fund the delivery of a sound basic education to children; and

Whereas, children of families with limited financial resources need expanded educational opportunities; and

Whereas, a solid educational foundation can help reduce the socioeconomic achievement gap; and

Whereas, by creating educational environments that enable each child to learn, the State can improve the quality of the education it funds; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Education Assistance Authority (Authority) shall award scholarship grants to eligible students for the 2013-2014 school year to attend nonpublic schools that meet the requirements of Article 39 of Chapter 115C, as identified by the Division of Nonpublic Education, Department of Administration. The Authority shall make applications available no later than August 1, 2013 and shall begin awarding grants no later than August 15, 2013. Information about scholarship grants and the application process shall be made available on the Authority’s Web site. The Division of Nonpublic Education, Department of Administration, shall make available to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes no later than August 1, 2013.

SECTION 1.(b) For the 2013-2014 school year, to be eligible to receive a scholarship grant, a student shall meet both of the following criteria:

1. Reside in a household 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.

2. Be a full-time student who has not yet received a high school diploma and was assigned to and attending a public school pursuant to G.S. 115C-366 during the 2013 spring semester.

SECTION 1.(c) Scholarship grants for 2013-2014 shall be for amounts of up to four thousand two hundred dollars ($4,200) for 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 the required tuition and fees for the nonpublic school the eligible student will attend.
SECTION 1.(d) The Authority shall permit an eligible student receiving a scholarship grant in 2013-2014 to enroll in a different nonpublic school and remain eligible. An eligible student receiving a scholarship grant who transfers to another nonpublic school during the year may be eligible to receive a pro rata share of any unexpended portion of the scholarship grant for tuition and fees at the nonpublic school to which the student transfers.

SECTION 1.(e) The Authority shall establish temporary rules and regulations for the administration and awarding of scholarship grants in 2013-2014, which may include a process for awarding grants using a random lottery system.

SECTION 1.(f) G.S. 115C-562.3 through G.S. 115C-562.7 shall apply to any scholarship grant awarded for the 2013-2014 school year.

SECTION 2. Article 39 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 2A. Scholarship Grants.

§ 115C-562.1. Definitions. The following definitions apply in this Part:

(1) Authority. – The State Education Assistance Authority.

(2) Eligible student. – A student who has not yet received a high school diploma and who meets all of the following requirements:
   a. Who meets one of the following criteria:
      1. Was a full-time student assigned to and attending a public school pursuant to G.S. 115C-366 during the previous semester.
      2. Received a scholarship grant during the previous school year.
      3. Is entering either kindergarten or the first grade.
      4. Is a child in foster care as defined in G.S. 131D-10.2(9).
      5. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship grant application.
   b. Resides in a household with an income level not in excess of one hundred thirty-three percent (133%) of the amount required for the student to qualify for the federal free or reduced price lunch program.

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

(4) Local school administrative unit. – A local school administrative unit, charter school, or regional school.

(5) Nonpublic school. – A school that meets the requirements of Part 1 or 2 of this Article as identified by the Division.

(6) Scholarship grants. – Grants awarded annually by the Authority to eligible students.

§ 115C-562.2. Scholarship grants. (a) The Authority shall make available no later than February 1 annually applications to eligible students for the award of scholarship grants to attend any nonpublic school. Information about scholarship grants and the application process shall be made available on the Authority’s Web site. Beginning March 1, the Authority shall begin awarding scholarship grants according to the following criteria:

(1) First priority shall be given to eligible students who received a scholarship grant during the previous school year if those students have applied by March 1.

(2) After scholarship grants have been awarded to prior recipients as provided in subdivision (1) of this subsection, scholarships shall be awarded with remaining funds as follows:
a. At least fifty percent (50%) of the remaining funds shall be used to award scholarship grants 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.

b. No more than thirty-five percent (35%) of the remaining funds shall be used to award scholarships to eligible students entering either kindergarten or first grade.

c. Any remaining funds shall be used to award scholarship grants to all other eligible students.

(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. Scholarship grants awarded to eligible students residing in households with an income level 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) per year per eligible student and no scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend.

(c) The Authority shall permit an eligible student receiving a scholarship grant to enroll in a different nonpublic school and remain eligible. An eligible student receiving a scholarship grant who transfers to another nonpublic school during the year may be eligible to receive a proportionate share of any unexpended portion of the scholarship grant for tuition and fees at the nonpublic school to which the student transfers.

(d) The Authority shall establish rules and regulations for the administration and awarding of scholarship grants and may include in those rules a lottery process for selection of scholarship grant recipients within the criteria established by this section.

"§ 115C-562.3. Verification of eligibility.

(a) The Authority may seek verification of information on any application for scholarship grants from eligible students. The Authority shall select and verify a random sample of no less than six percent (6%) of applications annually. The Authority shall establish rules for the verification process and may use the federal verification requirements process for free and reduced-price lunch applications as guidance for those rules. If a household fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship grant to the eligible student.

(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, Department of Health and Human Services, and Department of Public Instruction.

"§ 115C-562.4. Identification of nonpublic schools and distribution of scholarship grant information.

(a) The Division shall provide annually by February 1 to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of this Article. The Division shall notify the Authority of any schools included in the list that the Division has determined to be ineligible within five business days of the determination of ineligibility.

(b) The Authority shall provide information about the scholarship grant program to the Division, including applications and the obligations of nonpublic schools accepting eligible students receiving scholarship grants. The Division shall ensure that information about the scholarship grant program is provided to all qualified nonpublic schools on an annual basis.
§ 115C-562.5. Obligations of nonpublic schools accepting eligible students receiving scholarship grants.

(a) A nonpublic school that accepts eligible students receiving scholarship grants shall comply with the following:

(1) Provide to the Authority documentation for required tuition and fees charged to the student by the nonpublic school.

(2) Conduct a criminal background check for the staff member with the highest decision-making authority, as defined by the bylaws, articles of incorporation, or other governing document to ensure that person has not been convicted of any crime listed in G.S. 115C-238.29K.

(3) Provide to the parent or guardian of an eligible student whose tuition and fees are paid in whole or in part with a scholarship grant an annual written explanation of the student's progress, including the student's scores on any standardized achievement tests.

(4) Submit to the Authority by July 15 of each year the test scores of any nationally standardized achievement test administered to any student receiving a scholarship grant. Test performance data reported to the Authority is not a public record under Chapter 132 of the General Statutes.

(5) Provide to the Authority graduation rates of the students receiving scholarship grants in a manner consistent with nationally recognized standards.

(6) Contract with a certified public accountant to perform a financial review, consistent with generally accepted accounting principles, for each school year in which the school accepts students receiving more than three hundred thousand dollars ($300,000) in scholarship grants awarded under this Part.

(b) A nonpublic school that accepts students receiving scholarship grants shall not require any additional fees based on the status of the student as a scholarship grant recipient.

(c) A nonpublic school enrolling more than 25 students whose tuition and fees are paid in whole or in part with a scholarship grant shall report to the Authority on the aggregate standardized test performance of eligible students. Aggregate test performance data reported to the Authority which does not contain personally identifiable student data shall be a public record under Chapter 132 of the General Statutes. Test performance data may be shared with public or private institutions of higher education located in North Carolina and shall be provided to an independent research organization selected by the Authority for research purposes as permitted by the Federal Education Rights and Privacy Act, 20 U.S.C. § 1232g.

(d) A nonpublic school accepting students receiving scholarship grants that fails to comply with the requirements of this section shall be ineligible to receive future scholarship grants if the Authority determines that the nonpublic school is not in compliance with the requirements of this section. The nonpublic school shall notify the parent or guardian of any enrolled student receiving a scholarship grant that the nonpublic school is no longer eligible to receive future scholarship grants. A nonpublic school may appeal for reconsideration of eligibility after one year.

§ 115C-562.6. Scholarship endorsement.

The Authority shall remit, at least two times each school year, scholarship grant funds awarded to eligible students to the nonpublic school for endorsement by at least one of the student's parents or guardians. The parent or guardian shall restrictively endorse the scholarship grant funds awarded to the eligible student to the nonpublic school for deposit into the account of the nonpublic school. The parent or guardian shall not designate any entity or individual associated with the nonpublic school as the parent's attorney-in-fact to endorse the scholarship grant funds but shall endorse the scholarship grant funds in person at the site of the nonpublic school. A parent's or guardian's failure to comply with this section shall result in forfeiture of the
scholarship grant. A scholarship grant forfeited for failure to comply with this section shall be returned to the Authority to be awarded to another student.

§ 115C-562.7. Authority reporting requirements.
(a) The Authority shall report to the Department of Public Instruction annually, no later than August 1, the number of students who have received scholarship grants for the current school year and who were enrolled the prior semester in a local school administrative unit or charter school by the previously attended local school administrative unit or charter school. The Department of Public Instruction shall adjust the allotments of local school administrative units and charter schools based on the number of students awarded a scholarship grant who attended a local school administrative unit or charter school during the prior semester. The amount of the adjustment shall equal the average per pupil allocation for average daily membership from the local school administrative unit or charter school.
(b) The Authority shall report annually, no later than March 1, to the Joint Legislative Education Oversight Committee on the following:
(1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship grants.
(2) Total amount of scholarship grant funding awarded.
(3) Number of students previously enrolled in local school administrative units or charter schools in the prior semester, by the previously attended local school administrative unit or charter school.
(4) Nonpublic schools in which scholarship grant recipients are enrolled, including numbers of scholarship grant students at each nonpublic school.
(5) Nonpublic schools deemed ineligible to receive scholarships.
(c) The Authority shall report annually, no later than December 1, to the Department of Public Instruction and the Joint Legislative Education Oversight Committee on the learning gains of students receiving scholarship grants. This report shall be conducted by an independent research organization to be selected by the Authority, which may be a public or private entity or university. The independent research organization shall report to the Authority on the learning gains of participating students on a statewide basis and shall compare, to the extent possible, the learning gains of eligible students by nonpublic school to the statewide learning gains of public school students with similar socioeconomic backgrounds, using aggregate standardized test performance data provided to the Authority by nonpublic schools and by the Department of Public Instruction. The Joint Legislative Education Oversight Committee shall review reports from the Authority and shall make ongoing recommendations to the General Assembly as needed regarding improving administration and accountability for nonpublic schools accepting students receiving scholarship grants.

SECTION 3. G.S. 110-86(2) reads as rewritten:
"(2) Child care. — A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:
... Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by national or regional accrediting agencies with early childhood standards the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;..."
SECTION 4. G.S. 115C-555 reads as rewritten:

"§ 115C-555. Qualification of nonpublic schools.
The provisions of this Part shall apply to any nonpublic school which has one or more of the following characteristics:

(1) It is accredited by the State Board of Education.
(2) It is accredited by the Southern Association of Colleges and Schools, a national or regional accrediting agency.
(3) It is an active member of the North Carolina Association of Independent Schools.
(4) It receives no funding from the State of North Carolina. For the purposes of this Article, scholarship grant funds awarded pursuant to Part 2A of this Article to eligible students attending a nonpublic school shall not be considered funding from the State of North Carolina."

SECTION 5. G.S. 116-204 reads as rewritten:

"§ 116-204. Powers of Authority.
The Authority is hereby authorized and empowered:

... (11) To administer the awarding of scholarship grants to students attending nonpublic schools as provided in Part 2A of Article 39 of Chapter 115 of the General Statutes."

SECTION 6.(a) There is appropriated from the General Fund to the State Education Assistance Authority the sum of ten million dollars ($10,000,000) for the 2013-2014 fiscal year and the sum of forty million dollars ($40,000,000) for the 2014-2015 fiscal year in recurring funds to be awarded to eligible students as scholarship grants. It is the intent of the General Assembly to appropriate fifty million dollars ($50,000,000) in recurring funds beginning in the 2015-2016 fiscal year to be awarded to eligible students as scholarship grants. The State Education Assistance Authority may retain up to one percent (1%) annually for administrative costs associated with the scholarship grant program. It is the intent of the General Assembly to appropriate funds to public schools for assistance to at-risk students and to community organizations serving the educational needs of at-risk students still enrolled in public schools beginning in the 2014-2015 fiscal year in an amount equal to the cost savings created by the award of opportunity scholarship grants.

SECTION 6.(b) This section becomes effective only if authorized by the General Assembly in the Current Operations and Capital Improvements Appropriations Act of 2013.

SECTION 7. The State Education Assistance Authority shall select an independent research organization, as required by G.S. 115C-562.7, as enacted by this act, beginning with the 2016-2017 school year. The first learning gains report required by G.S. 115C-562.7, as enacted by this act, shall not be due until December 1, 2017. The first financial review for a nonpublic school that accepts scholarship grant funds, as required by G.S. 115C-562.5(a)(6), as enacted by this act, shall not be required until the 2014-2015 school year.

SECTION 8. This act is effective when it becomes law and applies beginning with the 2013-2014 school year. For the 2013-2014 school year, scholarship grants shall be awarded as provided in Section 1. For the 2014-2015 school year and thereafter, scholarship grants shall be awarded as provided in Section 2. Nothing in this act shall require the General Assembly to appropriate funds to implement it.