

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**SENATE DRS15187-LT-95 (3/22)**

Short Title: Student Education Elections. (Public)

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Sponsors: Senator Goodall.

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Referred to:

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**SECTION . A BILL TO BE ENTITLED  
AN ACT TO ENACT THE STUDENT EDUCATION ELECTION PROGRAM, AN  
EDUCATIONAL OPTION PROGRAM FOR CHILDREN FROM LOW- AND  
MIDDLE-INCOME FAMILIES.**

The General Assembly of North Carolina enacts:

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

" Article 41.

"Student Education Elections Program.

**"§ 115C-584. Findings.**

The General Assembly finds that:

- (1) There is a crisis in elementary and secondary education in this country. Many schoolchildren, but particularly those whose parents are poor, are performing significantly below national standards. Other children are dropping out of school before completing the ordinary course of secondary education. Substantial numbers of young people are leaving school without the basic skills and knowledge that will enable them to find and hold jobs or otherwise function as productive citizens.
- (2) The freedom of parents to choose schools for their children that are acceptable to their personal educational convictions is an inherent and inalienable personal right under the State and federal constitutions. The current system of school finance limits parents' freedom to select schools that they believe can provide their children with a quality education.
- (3) Allowing parents to choose schools, public as well as private, for their children will promote a healthy competition among schools and empower parents to influence educational policies and procedures.

1                   leading to better quality education. Competition can also lead to lower  
2                   costs, as waste and unnecessary expenditures of public monies are no  
3                   longer tolerated.

- 4                   (4)   This Article is in the public interest and for the public benefit and  
5                   serves a secular public purpose.

6   **§ 115C-585. Creation of Program; purpose.**

7                   The Student Education Elections Program is created in the Department of Public  
8   Instruction. The purpose of the Program is to provide children from low- and  
9   middle-income families the option of attending the public or private schools of their  
10   choice.

11   **§ 115C-586. Definitions.**

12                   As used in this Article, unless the context requires otherwise:

- 13                   (1)   "Department" means the Department of Public Instruction.  
14                   (2)   "Eligible student" means a student who resides in North Carolina and  
15                   is a member of a household whose total annual income does not  
16                   exceed an amount equal to 3.0 times the income standard used to  
17                   qualify for a reduced-price lunch under the national Free or Reduced  
18                   Price Lunch Program established under 42 U.S.C. § 1751, et seq.  
19                   (3)   "Parent" includes a guardian, legal custodian, or other person with the  
20                   authority to act on behalf of the child.  
21                   (4)   "Participating school" means:  
22                   a.   A public school outside of the local school administrative unit  
23                   in which the child resides or  
24                   b.   A private school that (i) provides education to public school-age  
25                   students, (ii) has notified the Department of its intention to  
26                   participate in the Program and comply with the Program's  
27                   requirements, and (iii) has not been barred from participation in  
28                   the Program pursuant to G.S. 115C-588(4).  
29                   (5)   "Program" means the "Student Education Elections Program" created  
30                   in this Article.  
31                   (6)   "Resident school unit" means the local school administrative unit in  
32                   which the student resides.

33   **§ 115C-587. Eligibility to participate in the Program.**

- 34                   (a)   A student is eligible to receive a grant under this Article if both:  
35                   (1)   During the school year in which the scholarship is to be effective, the  
36                   pupil meets all of the following conditions:  
37                   a.   Resides in this State;  
38                   b.   Is under 22 years of age and has not graduated from high school  
39                   or obtained a general equivalency diploma; and  
40                   c.   Enrolls as a full-time student in an election school, at a grade  
41                   level in which all qualifying students in that grade are entitled  
42                   to receive a grant pursuant to this Article; and  
43                   (2)   During the year before qualifying for and accepting a grant, the student  
44                   was enrolled in and attending a public school in this State for at least

1            ninety percent (90%) of the school year. Students entering  
2            kindergarten or first grade are exempt from the previous school year  
3            attendance eligibility requirement.

4            (b) A qualifying student who receives a grant pursuant to this Article shall  
5            continue to receive a grant each year if the qualifying pupil completed all necessary  
6            coursework to be promoted to at least the next grade level in the election school, the  
7            qualifying pupil is in good academic standing with the election school, and the  
8            custodian completes all applications required by the election school and the Department.

9            (c) The Program shall be phased in over 13 years beginning with the  
10           kindergarten level during the 2005-2006 school year and adding the next grade level  
11           each subsequent school year through the addition of the twelfth-grade level during the  
12           2018-2019 school year.

13           The maximum number of students participating in the Program shall be 25,000 at  
14           each grade level at which the Program is implemented. For each school year beginning  
15           with the 2005-2006 school year, a maximum of 25,000 eligible students shall be elected  
16           to participate in the Program at the kindergarten level. For subsequent school years,  
17           students may be added at each post-kindergarten grade level at which the Program is  
18           implemented up to the maximum of 25,000 students at each such grade level.

19           If the number of eligible students exceeds the maximum number for a grade level,  
20           the Department shall select participating students by random selection.

21           **"§ 115C-588. Election amounts.**

22           (a) The election is the entitlement of the eligible student under the supervision of  
23           the student's parent and not that of any school.

24           (b) A student's election funds may only be used for educational purposes. A  
25           participating school shall not refund, rebate, or share a student's election with a parent  
26           or the student in any manner.

27           (c) The maximum election amount a student may receive shall be computed in  
28           accordance with the following schedule as a percentage of the amount the resident  
29           school unit would have received to serve and educate the eligible student from State  
30           funds had the student enrolled there:

31           (1) For students from households qualifying for the federal free or  
32           reduced-price lunch program: 100%.

33           (2) For students from households with an annual income greater than the  
34           amount required to qualify for the free or reduced-price lunch program  
35           but less than one and one-half times that amount: 80%.

36           (3) For students from households with an annual income of greater than or  
37           equal to one and one-half times the amount required to qualify for the  
38           free or reduced-price lunch program but less than two times that  
39           amount: 60%.

40           (4) For students from households with an annual income of greater than or  
41           equal to two times the amount required to qualify for the free or  
42           reduced-price lunch program but less than two and one-half times that  
43           amount: 40%.

1           (5) For students from households with an annual income of greater than or  
2           equal to two and one-half times the amount required to qualify for the  
3           free or reduced-price lunch program but less than three times that  
4           amount: 20%.

5           (d) If a student elects to attend a participating school at which the actual annual  
6           per pupil cost to that school, including operating and capital costs, is less than the  
7           student's maximum election amount, the student shall receive only the actual annual  
8           cost to the school.

9           (e) The student's resident school unit shall receive fifty percent (50%) of the  
10          difference between the student's maximum election amount and the actual ADM or per  
11          student allotment to the local school administrative unit in which the student would  
12          have attended school. The student's resident school unit shall use these funds  
13          exclusively for supplemental instructional compensation that is allocated on a  
14          merit-based system.

15          **"§ 115C-589. Responsibilities of the Department.**

16          The Department of Public Instruction shall:

17          (1) Adopt rules and procedures as necessary for the administration of the  
18          Program, including rules regarding and procedures regarding:

19           a. The eligibility and participation of private schools in the  
20           Program. These rules and procedures shall include time lines  
21           that will maximize student participation and public and private  
22           school participation in the Program;

23           b. The calculation and distribution of elections to eligible students;  
24           and

25           c. The application and approval procedures for participating  
26           public and private schools and for elections for eligible  
27           students.

28          (2) Ensure that eligible students and their parents are informed annually of  
29          which schools will be participating in the Program. The Department  
30          shall pay special attention to ensuring that lower-income families are  
31          made aware of the Program and their options.

32          (3) Create a standard application that students interested in the Program  
33          may submit to participating schools to establish their eligibility under  
34          the Program and apply for admissions. The Department shall ensure  
35          that the application is readily available to interested families through  
36          various sources, including the Internet.

37           Participating schools may require supplemental information from  
38           applicants.

39          (4) Immediately bar a participating school from the Program if the  
40          Department finds that conditions at the school present an imminent  
41          threat to the health and safety of eligible students. The Department  
42          may also bar a school from future participation in the Program if the  
43          Department finds that the participating school has:

- 1           a.     Intentionally and substantially misrepresented information  
2                 required under G.S. 115C-589;  
3           b.     Routinely failed to comply with at least three of the  
4                 accountability standards established in G.S. 115C-289;  
5           c.     Failed to comply with G.S. 115C-587(b); or  
6           d.     Failed to refund to the State any election overpayments in a  
7                 timely manner.

8           If the Department decides to bar a participating school from the  
9           Program, it shall notify eligible students and their parents of this  
10           decision as soon as possible.

11    **"§ 115C-590. Participating schools.**

12        (a)    School's Decision to Participate in the Program. – A private school, whether  
13        secular or sectarian, that maintains any grade in which a qualifying student enrolled is  
14        entitled to receive a grant pursuant to this Article shall have the option each school year  
15        of participating or not participating in the Program. A school that wishes to participate  
16        in the Program as an election school must complete all applications with the Department  
17        by February 15 of each calendar year for inclusion in the Program for the following  
18        school year.

19        (b)    Student Selection. – Participating schools that have more eligible students  
20        applying than spaces available shall fill the available spaces by a random selection  
21        process, except that participating schools may give preference to siblings of enrolled  
22        students and previously enrolled election students under this Article.

23        If a student is denied admission to a participating school because it has too few  
24        available spaces, the eligible student may transfer his election to a participating school  
25        that has spaces available.

26        (c)    Funds. – A private school that participates in the Program and that is entitled  
27        to redeem a grant for a qualifying student who enrolls in that election school is not  
28        required to accept the grant amount as full payment of the educational and related  
29        services that the school provides to that student, and may charge the student an  
30        additional amount representing the balance of the tuition and fees that remains payable  
31        after crediting the grant amount. The school shall use the grant funds solely to provide  
32        educational goods, services, and facilities for its qualifying students and is not entitled  
33        to receive any amount in excess of the tuition and fees customarily charged by the  
34        school.

35        (d)    Administrative Accountability Standards. – To ensure that students are  
36        treated fairly and kept safe, each participating school shall:

- 37           (1)   Comply with all health and safety laws or codes that apply to private  
38                 schools;  
39           (2)   Hold a valid occupancy permit if required by the local government in  
40                 which the school is located;  
41           (3)   Certify that it will not discriminate in admissions on the basis of race,  
42                 color, national origin, religion, or disability; and  
43           (4)   Cooperate with the Department to conduct criminal background  
44                 checks of all personnel that come in contact with children and exclude

1                   from employment any people that might reasonably pose a threat to the  
2                   safety of students.

3       (e) Academic Accountability Standards. – To ensure that schools provide  
4 academic accountability to parents of students in the Program, all participating schools  
5 shall annually administer either the State achievement tests or nationally recognized  
6 norm-referenced tests in math and language arts or both to any student participating in  
7 the Program in grades that require testing under the State's accountability testing laws.  
8 Testing shall take place at a time comparable to when public schools conduct State  
9 achievement tests. Participating schools shall provide the parents of each student with a  
10 copy of the results and shall provide the results to the State evaluator described in  
11 G.S. 115C-590 in a manner that protects the identity and privacy of individual students.

12       (f) Other Requirements. – Each participating school shall:

13           (1) Ensure the eligibility of each applicant for a grant issued pursuant to  
14           this Article;

15           (2) By August 1 of each year, submit a list of qualifying students and the  
16           contact information of each custodian of a qualifying student accepted  
17           into the school for that school year to the Department;

18           (3) Submit a list of qualifying students enrolled in and attending the  
19           school with a grant as of the date of the report to the Department on  
20           August 15, October 15, and April 15 of each year. The report shall  
21           constitute the base pupil level of qualifying students. The base pupil  
22           level shall accurately reflect the number of qualifying students enrolled  
23           in and attending the grant school; and

24           (4) Annually meet at least one of the following standards:

25           a. At least seventy percent (70%) of the qualifying students in the  
26           Program advance at least one grade level each year;

27           b. The election school's average attendance rate for the students in  
28           the Program is at least ninety percent (90%);

29           c. At least eighty percent (80%) of the qualifying students in the  
30           Program demonstrate significant academic progress; or

31           d. At least seventy percent (70%) of the families of qualifying  
32           students in the Program meet parent involvement criteria  
33           established by the grant school.

34       (g) Participating School Autonomy. – A participating school is autonomous and  
35 not an agent of the State or federal government and therefore:

36           (1) The Department or any other State agency shall not in any way  
37           regulate the educational program of a participating school that accepts  
38           a student education election funds;

39           (2) The creation of this Program does not expand the regulatory authority  
40           of the State, its officers, or any school unit to impose any additional  
41           regulation of private schools beyond those necessary to enforce the  
42           requirements of the Program; and

- 1           (3) Participating schools shall be given the maximum freedom to provide  
2           for the educational needs of their students without governmental  
3           control.

4 **"§ 115C-591. Responsibilities of resident school units.**

5           The resident school unit shall provide to the participating school that has admitted an  
6           eligible student under this Program with a complete copy of the student's school records  
7           while complying with the Family Educational Rights and Privacy Act of 1974 (20  
8           U.S.C. § 1232 g)."

9           **SECTION 2.(a)** The Legislative Research Commission may contract with  
10 one or more qualified researchers who have previous experience evaluating school  
11 choice programs to conduct a study of the Program with funds other than State funds.

12           **SECTION 2.(b)** The study shall assess:

- 13           (1) The level of parental satisfaction with the Program;  
14           (2) The level of participating students' satisfaction with the Program;  
15           (3) The impact of the Program and the resulting competition from private  
16           schools on the resident school units, public school students, and  
17           quality of life in a community;  
18           (4) The impact of the Program on public and private school capacity,  
19           availability, and quality; and  
20           (5) Participating students' academic performance and graduation rates in  
21           comparison to students who applied for a scholarship under this  
22           Program but did not receive one because of random selection.

23           **SECTION 2.(c)** The researchers who conduct the study shall:

- 24           (1) Apply appropriate analytical and behavioral science methodologies to  
25           ensure public confidence in the study.  
26           (2) Protect the identity of participating schools and students by, among  
27           other things, keeping anonymous all disaggregated data other than that  
28           for the categories of grade level, gender, race, and ethnicity.  
29           (3) Provide the General Assembly with a final copy of the evaluation of  
30           the Program.

31           **SECTION 2.(d)** The relevant public and participating private schools shall  
32 cooperate with the research effort by providing student assessment results and any other  
33 data necessary to complete this study.

34           **SECTION 2.(e)** The Legislative Research Commission may accept grants to  
35 assist in funding this study.

36           **SECTION 2.(f)** The study shall cover a period of 13 years. The General  
37 Assembly may require periodic reports from the researchers. After publishing their  
38 results, the researchers shall make their data and methodology available for public  
39 review while complying with the requirements of FERPA (20 U.S.C. § 1232 g).

40           **SECTION 3.** This act is effective when it becomes law.