

Legislative Analysis

A Revised Education Credit for Children with Exceptional Needs

Many families who benefit from the Educational Credit for Exceptional Needs Children (ECNEC) have contacted us over the last few days, confused about changes to the ECENC program proposed by the SC House last week. As a result, Palmetto Promise Institute has conducted an independent review of the proviso language. In short, it eliminates Scholarship Funding Organizations (SFOs) and creates a new Educational Credit for Exceptional Needs Children Fund in partnership with the SC Department of Revenue. We have also spoken with legislative leaders to understand their intent in proposing changes to the program.

The bottom line: though the program's administration will be different, it does NOT mean the end of ECENC. In fact, we believe that this represents a helpful "reboot" to re-align the program with its original intent. We realize that this information directly contradicts what you may be hearing from one of the SFOs, so we would urge you to consider the following facts, taken directly from the House's budget proviso:

The new ECENC - as proposed by the SC House - is not a "government takeover" of either the program or private schools.

The revised ECENC program is run by a new, unified SFO – the ECENC Fund Board – which is authorized by the Department of Revenue but operated and governed by a consortium of representatives from each of the independent school associations. The language of the proviso clearly provides that the treatment of funds raised for the program remains the same as under the current set-up. Administration of the program is paid for out of these specially designated funds (again, not from public funds), therefore protecting the integrity of the program and keeping schools free from government interference and mandates. See Figure 1.

There is South Carolina precedent for this model, as seen in the administration of the South Carolina Education Lottery scholarships. Lottery Scholarship funds are administered by a state-appointed board to support students who attend both public and private universities and colleges. But the Lottery Commission does not have authority over the governance or curriculum of these public or private institutions.

(B) (1) There is created the Educational Credit for Exceptional Needs Children Fund that is separate and distinct from the state general fund. The fund shall be organized by the department as a public charity as defined by the Internal Revenue Code under sections 509(a)(1) through 509(a)(4) and consists solely of contributions made to the fund. The fund may not receive an appropriation of public funds. The Fund shall receive and hold all contributions intended for it as well as all earnings until disbursed as provided in this chapter. Monies received in the fund shall be used to provide scholarships to exceptional needs children attending eligible schools.

(2) The amounts on deposit in the fund do not constitute public funds nor are the deposits property of the State. Amounts on deposit in the fund must not be commingled with public funds and the State shall have no claim to or interest in the amounts on the deposit. Agreements or contracts entered into by or on behalf of the fund do not constitute a debt or obligation of the State.

(4) In concert with the fund directors, the Department of Revenue shall administer the fund, including, but not limited to, the keeping of records, the management of accounts, and disbursement of the grants awarded pursuant to this proviso. **The Department may expend up to two percent of the fund for administration and related costs. The Department may not expend public funds to administer the program.**

[Figure 1] House Budget Proviso, Part 1B, Section 109

As with the lottery scholarships, the state has the fiduciary responsibility to ensure that ECENC program practices adhere to both the letter and the spirit of the law. Significant issues have been raised about the financial integrity and fundraising practices of one of our states largest Scholarship Funding Organizations (SFOs). It is abundantly clear that as long as these dark clouds hang unresolved over the program, it will not grow. In fact, given the troubling results of an official audit of this SFO, we were concerned that the Legislature might do away with the program entirely. Families should not have to live with this uncertainty. The amended House language is a proven, direct and efficient proposal to resolve these serious issues.

Current scholarship recipients are “grandfathered” into the newly-constituted program.

Making sure that children currently being served by the program continue to be served is critical. The proviso clearly specifies that these children must be a priority:

(6) The department shall develop a process to prioritize the awarding of grants to eligible incumbent grant recipients at eligible schools.

[Figure 2] House Budget Proviso, Part 1B, Section 109

Conclusion: To Concerned Parents

We understand that budget provisos and changes to laws are not just abstract policy conversations if you have a student in this program. This is deeply personal – your child’s educational future is at stake. That’s why we urge you to research the issue for yourself...and not rely strictly on information provided by those who have an undisputed personal financial interest in maintaining the current structure of the program. And please...do continue to be a strong, positive voice to let lawmakers know how this program has changed your student’s life. Your personal story is critical to the future success of this important program.

While there will certainly be adjustments to the new processes under the House’s amendment, we believe that this language— if approved by the Senate and the Governor—provides a clear path forward for this program to continue to effectively serve the students who currently benefit from it. And just as importantly, it puts the program on a workable trajectory to grow and thrive to help even more students reach their full, God-given potential for years to come. 🙏



ECENC student from Greenville, South Carolina

The New ECENC: Bigger, Better, Faster.

What key changes have been proposed?

- More money per child (up to \$11,000)
- More money for the scholarship program (\$10M)
- Faster, fairer process for fundraising and issuing scholarships
- New, single statewide SFO, authorized by the Department of Revenue and governed by representatives of the independent school associations

Why were these changes proposed?

Proposed improvements are the result of bi-partisan effort to ensure that the program supports all eligible students across the state: both those who already benefit and those who still need the opportunity.

Will there be new regulations for schools?

No. There are no new burdens or regulations on participating private schools. School sign up and reporting requirements are nearly identical to those in 2015-2016.

How will my child apply for and receive their scholarship?

All eligible students in all eligible schools would receive scholarships directly from a single statewide scholarship provider, governed directly by the SC independent school associations. Returning scholarship students would have priority. Parents will not need to apply to multiple SFOs and schools will not need to “partner” with any specific SFOs. The application process would change very little. Parents will submit basic information as well as proof of student eligibility. Details will be set by the independent school associations that govern the statewide scholarship provider. Scholarships would be issued within 30 days.

Is the program at risk?

No. The proposed improvements would mean a significant expansion, more streamlined process, larger scholarships and a larger pool of scholarship money.

Will our school or family need to help fundraise?

No. These proposed improvements protect participating schools and families from pressure to fundraise.

