**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑1145 SO AS TO AUTHORIZE A CREDIT FROM STATE OF SOUTH CAROLINA TAXABLE INCOME UP TO SPECIFIED AMOUNTS FOR TUITION PAID BY A PARENT OR LEGAL GUARDIAN FOR THEIR CHILD OR WARD TO ATTEND AN INDEPENDENT SCHOOL, AND TO ALSO AUTHORIZE A SIMILAR INCOME TAX CREDIT UP TO A SPECIFIED AMOUNT TO A PARENT OR LEGAL GUARDIAN FOR HOME SCHOOL EXPENDITURES; BY ADDING SECTION 12‑6‑1146 SO AS TO AUTHORIZE CREDITS FROM STATE OF SOUTH CAROLINA TAXABLE INCOME AND CERTAIN OTHER FEES AND TAXES FOR CONTRIBUTIONS MADE TO NONPROFIT SCHOLARSHIP GRANTING ORGANIZATIONS THAT PROVIDE GRANTS FOR CHILDREN WHO ARE ELIGIBLE FOR THE FEDERAL FREE OR REDUCED SCHOOL LUNCH PROGRAM OR MEDICAID BENEFITS TO ATTEND INDEPENDENT SCHOOLS OF THEIR CHOICE, AND TO PROVIDE THE PROCEDURES FOR, AND CONDITIONS AND LIMITATIONS OF THESE TAX CREDITS; BY ADDING SECTION 12‑6‑1147 SO AS TO AUTHORIZE CREDITS FROM STATE OF SOUTH CAROLINA TAXABLE INCOME AND CERTAIN OTHER FEES AND TAXES FOR CONTRIBUTIONS MADE TO SPECIAL EDUCATION NONPROFIT SCHOLARSHIP GRANTING ORGANIZATIONS THAT PROVIDE GRANTS FOR CHILDREN WHO HAVE SPECIAL EDUCATIONAL NEEDS, AND TO PROVIDE THE PROCEDURES FOR, AND CONDITIONS AND LIMITATIONS OF THESE TAX CREDITS; AND BY ADDING SECTION 12‑6‑1148 SO AS TO AUTHORIZE A INCOME TAX CREDIT UP TO A SPECIFIED AMOUNT TO A CLASSROOM TEACHER FOR EXPENDITURES ON CLASSROOM SUPPLIES, AND TO PROVIDE THE PROCEDURES FOR, AND CONDITIONS AND LIMITATIONS OF THESE TAX CREDITS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑1145. (A) As used in this section:

(1) ‘Independent school’ means a school, other than a public school, at which the compulsory attendance requirements of Section 59‑65‑10 may be met and that does not discriminate based on the grounds of race, color, or national origin. For purposes of this definition, ‘independent school’ does not include a home school as defined in item (2).

(2) ‘Home school’ means a home, residence, or location where a parent or legal guardian teaches one or more children as authorized pursuant to Section 59‑65‑40, 59‑65‑45, or 59‑65‑47.

(3) ‘Parent’ means the natural or adoptive parent or legal guardian of a child.

(4) ‘Qualifying student’ means a student who is a South Carolina resident and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the current school year.

(5) ‘Tuition’ means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school and school‑related transportation.

(6) ‘Growth calculator’ means annual increases to limits on the size of the maximum credits authorized, reflecting the year‑to‑year rate of increase, if any, on a percentage basis in the total and general fund appropriations or authorizations for K-12 public education, calculated on a per-student basis, in this State as contained in the annual general appropriations act as determined by the Department of Revenue.

(B)(1) Beginning with the 2012‑2013 calendar year, a parent or legal guardian who teaches one or more qualifying students at home as authorized pursuant to Section 59‑65‑40, 59‑65‑45, or 59‑65‑47 may take a credit against their State of South Carolina income taxes due of up to five hundred dollars per home school student for instruction‑related expenditures and rising in value in accordance with the growth calculator each subsequent year. This credit is limited to a total of five hundred dollars per child per year regardless of the number of taxpayers incurring home school instruction‑related expenses on behalf of that child, beginning with the 2012‑2013 calendar year and rising in value in accordance with the growth calculator each subsequent year. The credit allowed by this subsection may be claimed for the calendar year in which the home school term begins provided the qualifying student completes the school term for that school year.

(2) Beginning with the 2012‑2013 calendar year, a parent or legal guardian may take a credit against their State of South Carolina income taxes due of up to five hundred dollars for expenses paid to an independent school within this State for tuition on behalf of their child or ward to attend the independent school for that school year, beginning with the 2012‑2013 calendar year and rising in value in accordance with the growth calculator each subsequent year. The child or ward must be a qualifying student as this term is defined in subsection (A)(4). The credit is limited to a total of five hundred dollars beginning with the 2012‑2013 calendar year and rising in value in accordance with the growth calculator each subsequent year per child per year. The credit allowed by this subsection may be claimed for the calendar year in which the school term begins provided the qualifying student completes the school term for that school year.”

SECTION 2. Chapter 6, Title 12, of the 1976 Code is amended by adding:

“Section 12‑6‑1146. (A) The purpose of this section is to:

(1) provide tax credits for certain contributions to a nonprofit scholarship granting organization;

(2) expand educational opportunities for children of families that have limited financial resources;

(3) enable children in this State to receive individually appropriate instruction and achieve a greater level of excellence in their education; and

(4) encourage and support parental engagement in education.

(B) In enacting this section, the General Assembly recognizes diversity among children and affirms that every child is unique. The General Assembly also affirms that children learn differently from one another and may benefit from expanded educational opportunities.

(C) As used in this section:

(1) ‘Eligible school’ means an independent school as defined in Section 12‑6‑1145 that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational program where the students attending are administered a nationally recognized norm‑referenced test including, but not limited to, (i) the Stanford Achievement Test, (ii) the Iowa Test of Basic Skills or other test certified by any other state to meet public school testing requirements under federal law, or (iii) the test designated by the State of South Carolina to fulfill the assessment requirements of the Education Accountability Act, in the areas of mathematics and language arts to each student participating in the program, the results of which are reported by grade and category to the Education Oversight Committee; and

(e) has adequate school facilities which foster productive learning in a healthy environment that meet state and local health and safety laws and codes.

(2) ‘Nonprofit scholarship granting organization’ means a charitable organization that:

(a) is exempt from federal tax under Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the Code;

(b) allocates, after its first year of operation, at least ninety‑five percent of its annual contributions and revenue received, for which credit is sought, during a particular year to provide grants for tuition, transportation, or textbook expenses or any combination of them to children enrolled in an eligible school, and incurs administrative expenses annually, after its first year of operation, of not more than five percent of its annual contributions and revenue for a particular year;

(c) allocates all of its funds used for grants on an annual basis to children eligible for the federal free or reduced‑price lunch program or eligible for Medicaid services over the past three years, or both;

(d) does not provide grants only for the benefit of one school;

(e) does not have as a member of its governing board any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving a scholarship grant from the organization or has received a scholarship grant from the organization within the last five years; and

(f) does not have as a member of its governing board any person who has been convicted of a felony, or who has declared bankruptcy within the last seven years.

(3) ‘Person’ means an individual, partnership, corporation, or other similar entity.

(4) ‘Transportation’ means transportation to and from school only.

(5) ‘Growth calculator’ means annual increases to limits on the size of the maximum credits authorized, reflecting the year‑to‑year rate of increase, if any, on a percentage basis in the total and general fund appropriations or authorizations for K-12 public education, calculated on a per-student basis, in this State as contained in the annual general appropriations act as determined by the Department of Revenue.

(6) ‘Cap escalator’ means increases to the cumulative total of tax credits authorized annually caused by the attainment of such caps, which shall occur in ten million dollar increments until the cumulative total of annually authorized tax credits is forty‑five million dollars, where after increases in the size of cumulative credits authorized annually as provided herein shall be determined by the ‘growth calculator’ defined in item (5) of this subsection.

(D) The tax credits allowed by this section may be claimed for any tax liability imposed by this chapter or in computing insurance premium taxes or bank license fees.

(E) A person may claim a credit against their State of South Carolina income taxes due under this section for the amount of money the person contributes to a nonprofit scholarship granting organization if:

(1) the contribution is used to provide grants for tuition, transportation, or textbook expenses or any combination of them to children enrolled in eligible schools who are eligible for the federal free or reduced‑price lunch program, or eligible for Medicaid services over the past three years, or both; and

(2) the person does not designate a specific child or school as the beneficiary of the contribution.

(F)(1) The tax credits authorized by this section may not exceed cumulatively a total of twenty‑five million dollars annually, beginning with the 2012‑2013 calendar year and rising in value in accordance with the cap escalator until the cumulative total of annually authorized tax credits is forty‑five million dollars, and rising in accordance with growth calculator each subsequent year. The Department of Revenue shall establish a mechanism for reporting of contributions against the cap and shall give immediate public notice upon its achievement.

(2) If a husband and wife file separate returns for any year, they each may claim only one‑half of the tax credit that would have been allowed for a joint return for the year.

(3) The person shall apply for a credit under this section on or with the tax return for the period for which the credit is claimed.

(4) The Department of Revenue shall prescribe the form and manner of proof required to obtain the credit authorized by this section.

(5) Notwithstanding item (3) of this subsection or any other provision of this section, a partnership, corporation, or other similar entity may claim a credit under this section or Section 12‑6‑1147, or both, for a total contribution during a particular year only against the tax owed for the corresponding year and not to exceed sixty percent of that partnership’s, corporation’s, or other similar entity’s tax liability in a given year. An individual may claim a credit under this section or Section 12‑6‑1147, or both, for a total contribution during a particular year only against the tax owed for the corresponding year and not to exceed one hundred percent of that individual’s tax liability in a given year.

(6) If the allowable tax credit of a taxpayer exceeds the taxes otherwise due or if there are no taxes due, the excess may be carried forward for a period not exceeding five consecutive years.

(G) A corporation or entity entitled to a credit under this section may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(H) The Department of Education, Department of Revenue, Education Oversight Committee, State Budget and Control Board, or any other state agency may not regulate the operations of a nonprofit scholarship granting organization under this section, except for the purpose of tax compliance. The Department of Education, Department of Revenue, Education Oversight Committee, State Budget and Control Board, or any other state agency may not regulate the operations of the educational program of an independent school that accepts students who receive grants from the nonprofit scholarship granting organization, or any other aspect of the school’s operations, except for the school’s compliance with the requirements of participation provided by subsection (C) of this section.

(I)(1) The Education Oversight Committee, as established in Chapter 6, Title 59, is responsible for determining if an eligible school meets the criteria established by subsection (C)(1) of this section, and annually shall publish an approved list of schools meeting this criteria as provided in item (2) of this subsection, as well as average test scores, by category, of students at each school, in accordance with subsection (C)(1)(d). For this purpose, it also shall promulgate regulations further enumerating the specifics of these criteria. In performing this function, the Education Oversight Committee shall establish an advisory committee made up of not more than nine members including parents of students enrolled at independent schools, representatives of independent schools, and members of associations of independent schools. The advisory committee shall provide recommendations to the Education Oversight Committee on the content of these regulations and any other matters requested by the Education Oversight Committee.

(2) By the first day of August of each year, beginning on August 1, 2012, the Education Oversight Committee, on its website available to the general public, shall provide a list with addresses and telephone numbers of nonprofit scholarship granting organizations in good standing which provide grants under this section, and a list of approved independent schools which accept grants for eligible students under this section and which in its determination are in compliance with the requirements of subsection (C) of this section.

(3) Any independent school not determined to be an eligible school by the Education Oversight Committee under its authority under this section may appeal this determination to the Administrative Law Court within thirty days of this determination.

(J) Every nonprofit scholarship granting organization providing grants under this section and every independent school accepting cumulative grants of fifty thousand dollars or more per annum for eligible students under this section shall cause an outside auditing firm each year to conduct a compliance audit of its operations as agreed‑upon procedures and shall furnish a report of its findings within thirty days of its completion and acceptance to the Secretary of State and Department of Revenue which must be made available by them on their website for public review.

(K) On January 1, 2015, and on January first every five years thereafter, the Education Oversight Committee shall report to the Governor and the General Assembly on the characteristics and successes of this section, including participants’ satisfaction levels, and whether or not the purposes of this section as provided in subsections (A) and (B) have been accomplished.”

SECTION 3. Chapter 6, Title 12, of the 1976 Code is amended by adding:

“Section 12‑6‑1147. (A) The purpose of this section is to:

(1) provide tax credits for certain contributions to a nonprofit special education scholarship granting organization;

(2) expand educational opportunities for children with special educational needs;

(3) enable children with special educational needs in this State to receive individually appropriate instruction and achieve a greater level of excellence in their education; and

(4) encourage and support parental engagement in education among families with children with special educational needs.

(B) In enacting this section, the General Assembly recognizes diversity among children and affirms that every child is unique. The General Assembly also affirms that children learn differently from one another and may benefit from expanded educational opportunities.

(C) As used in this section:

(1) ‘Eligible student’ means a child identified as having a disability under Section 504 of the federal Rehabilitation Act (29 U.S.C. Section 794), identified by a school district as a handicapped child as defined in Section 59‑33‑20, or a child who is eligible to receive special education services as defined in Section 59‑33‑20.

(2) ‘Eligible school’ means an independent school as defined in Section 12‑6‑1145 that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational program where the students attending are administered a nationally recognized norm‑referenced test including, but not limited to, (i) the Stanford Achievement Test, (ii) the Iowa Test of Basic Skills or other test certified by any other state to meet public school testing requirements under federal law, or (iii) the test designated by the State of South Carolina to fulfill the assessment requirements of the Education Accountability Act, in the areas of mathematics and language arts to each student participating in the program as is appropriate to their learning ability, the results of which are reported by grade and category to the Education Oversight Committee; and

(e) has adequate school facilities which foster productive learning in a healthy environment that meet state and local health and safety laws and codes.

(3) ‘Special education nonprofit scholarship granting organization’ means a charitable organization that:

(a) is exempt from federal tax under Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the Code;

(b) allocates, after its first year of operation, at least ninety‑five percent of its annual contributions and revenue received, for which a credit may be sought, during a particular year to provide grants for tuition, transportation, or textbook expenses or any combination of them to children with special educational needs enrolled in an eligible school, and incurs administrative expenses annually, after its first year of operation, of not more than five percent of its annual contributions and revenue for a particular year;

(c) allocates all of its funds used for grants on an annual basis to eligible students identified as having a disability under Section 504 of the federal Rehabilitation Act (29 U.S.C. Section 794), identified by a school district as a handicapped child as defined in Section 59‑33‑20, or a child who is eligible to receive special education services as defined in Section 59‑33‑20;

(d) does not have as a member of its governing board any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving a scholarship grant from the organization or has received a scholarship grant from the organization within the last five years; and

(e) does not have as a member of its governing board any person who has been convicted of a felony, or who has declared bankruptcy within the last seven years.

(4) ‘Person’ means an individual, partnership, corporation, or other similar entity.

(5) ‘Transportation’ means transportation to and from school only.

(6)‘Growth calculator’ means annual increases to limits on the size of the maximum credits authorized, reflecting the year‑to‑year rate of increase, if any, on a percentage basis in the total and general fund appropriations or authorizations for K-12 public education, calculated on a per-student basis, in this State as contained in the annual general appropriations act as determined by the Department of Revenue.

(7) ‘Cap escalator’ means increases to the cumulative total of tax credits authorized annually caused by the attainment of such caps, which shall occur in five million dollar increments until the cumulative total of annually authorized tax credits is twenty million dollars, where after increases in the size of cumulative credits authorized annually as provided herein shall be determined by the ‘growth calculator’ defined in this subsection.

(D) The tax credits allowed by this section may be claimed for any tax liability imposed by this chapter or in computing insurance premium taxes or bank license fees.

(E) A person may claim a credit against their State of South Carolina income taxes due under this section for the amount of money the person contributes to a nonprofit scholarship granting organization if:

(1) the contribution is used to provide grants for tuition, transportation, or textbook expenses or any combination of them to eligible students enrolled in eligible schools who areidentified as having a disability under Section 504 of the federal Rehabilitation Act (29 U.S.C. Section 794), identified by a school district as a handicapped child as defined in Section 59‑33‑20, or a child who is eligible to receive special education services as defined in Section 59‑33‑20.

(2) the person does not designate a specific child or school as the beneficiary of the contribution.

(F)(1) The tax credits authorized by this section may not exceed cumulatively a total of ten million dollars annually, beginning with the 2012‑2013 calendar year and rising in value in accordance with the cap escalator until the cumulative total of annually authorized tax credits is twenty million dollars, and rising in accordance with the growth calculator each subsequent year. The Department of Revenue shall establish a mechanism for reporting of contributions against the cap and shall give immediate public notice upon its achievement.

(2) If a husband and wife file separate returns for any year, they each may claim only one‑half of the tax credit that would have been allowed for a joint return for the year.

(3) The person shall apply for a credit under this section on or with the tax return for the period for which the credit is claimed.

(4) The Department of Revenue shall prescribe the form and manner of proof required to obtain the credit authorized by this section.

(5) Notwithstanding item (3) of this subsection or any other provision of this section, a partnership, corporation, or other similar entity may claim a credit under this section or Section 12‑6‑1146, or both, for a total contribution during a particular year only against the tax owed for the corresponding year and not to exceed sixty percent of that partnership’s, corporation’s, or other similar entity’s tax liability in a given year. An individual may claim a credit under this section or Section 12‑6‑1146, or both, for a total contribution during a particular year only against the tax owed for the corresponding year and not to exceed one hundred percent of that individual’s tax liability in a given year.

(6) If the allowable tax credit of a taxpayer exceeds the taxes otherwise due or if there are no taxes due, the excess may be carried forward for a period not exceeding five consecutive years.

(G) A corporation or entity entitled to a credit under this section may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(H) The Department of Education, Department of Revenue, Education Oversight Committee, State Budget and Control Board, or any other state agency may not regulate the operations of a special education nonprofit scholarship granting organization under this section, except for the purpose of tax compliance. The Department of Education, Department of Revenue, Education Oversight Committee, State Budget and Control Board, or any other state agency may not regulate the operations of the educational program of an independent school that accepts students who receive grants from the nonprofit scholarship granting organization, or any other aspect of the school’s operations except for the school’s compliance with the requirements of participation specified subsection (C) of this section.

(I)(1) The Education Oversight Committee, as established in Chapter 6, Title 59, is responsible for determining if an eligible school meets the criteria established by subsection (C) of this section, and annually shall publish an approved list of schools meeting this criteria as provided in item (2) of this subsection, as well as average test scores, by category, of students at each school, in accordance with subsection (C)(2)(d)***.***  For this purpose, it also shall promulgate regulations further enumerating the specifics of these criteria. In performing this function, the Education Oversight Committee shall establish an advisory committee made up of not more than nine members including parents of students with special educational needs enrolled at independent schools, representatives of independent schools and members of associations of independent schools. The advisory committee shall provide recommendations to the Education Oversight Committee on the content of these regulations and any other matters requested by the Education Oversight Committee.

(2) By the first day of August of each year, beginning on August 1, 2012, the Education Oversight Committee, on its website available to the general public, shall provide a list with addresses and telephone numbers of special education nonprofit scholarship granting organizations in good standing which provide grants under this section, and a list of approved independent schools which accept grants for eligible students under this section and which in its determination are in compliance with the requirements of subsection (C)(2) of this section.

(3) Any independent school not determined to be an eligible school by the Education Oversight Committee under its authority under this section may appeal this determination to the Administrative Law Court within thirty days of this determination.

(J) Every special education nonprofit scholarship granting organization providing grants under this section, and every independent school accepting cumulative grants of fifty thousand dollars or more per annum for eligible students under this section, shall cause an outside auditing firm each year to conduct a compliance audit of its operations as agreed‑upon procedures and shall furnish a report on its findings within thirty days of its completion and acceptance to the Secretary of State and Department of Revenue which must be made available by them on their website for public review.

(K) On January 1, 2015, and on January first every five years thereafter, the Education Oversight Committee shall report to the Governor and the General Assembly on the characteristics and successes of this section, including participants’ satisfaction levels, and whether or not the purposes of this section as provided in subsections (A) and (B) have been accomplished.”

SECTION 4. Chapter 6, Title 12, of the 1976 Code is amended by adding:

“Section 12‑6‑1148. (A) The purpose of this section is to:

(1) provide tax credits for certain instructional expenses borne by classroom teachers in the State of South Carolina;

(2) support classroom teachers who make personal financial sacrifices to provide students with necessary and appropriate materials for basic instruction.

(B) In enacting this section, the General Assembly recognizes that teachers in public and independent primary and secondary schools regularly provide students in their classrooms with supplies required for learning with their own funds. The General Assembly affirms that teachers providing supplies in this manner often saves taxpayers money and ensures students are equipped with the materials most appropriate to their academic success.

(C) As used in this section:

(1) ‘Classroom teacher’ means a salaried employee of public or private school situated in the State of South Carolina who performs at least thirty hours of instruction to primary or secondary students per week throughout the course of the school year.

(2) ‘Qualified expenses’ means ordinary and necessary expenses paid in connection with books, supplies, equipment, and other helpful and appropriate materials used in the classroom where that teacher provides instruction that are not otherwise reimbursable or compensated.

(3) ‘Growth calculator’ means annual increases to limits on the size of the maximum credits authorized, reflecting the year‑to‑year rate of increase, if any, on a percentage basis in the total and general fund appropriations or authorizations for K-12 public education, calculated on a per-student basis, in this State as contained in the annual general appropriations act as determined by the Department of Revenue.

(D) Beginning with the 2012‑2013 calendar year, a classroom teacher may take a credit against their State of South Carolina income taxes due of up to two hundred dollars for qualified expenses and rising in value in accordance with the growth calculator each subsequent year. The credit allowed by this subsection may be claimed for the calendar year in which the school term begins.”

SECTION 5. If a section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, this holding does not affect the constitutionality or the validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words thereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect upon approval by the Governor, and the credits authorized by Sections 1, 2, 3, and 4 of this act may be taken to the extent authorized beginning with calendar year 2012.

‑‑‑‑XX‑‑‑‑