

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Allison, Simrill, G.M. Smith, J.G. Smith & Hosey - Staff Contact: Emily Heatwole)

HOUSE BILL 4894

H. 4894- Reps. White, Bedingfield, McCoy, Loftis, Bingham, Herbkerman, Parker, Bowen, Erickson, Taylor, G.M. Smith, Forrester, Frye, G.R. Smith, Merrill, Stringer, Lowe, Nanney, Tribble, Crawford, Ryan, Corbin, Southard, J.R. Smith, Allison, Barfield, Chumley, Clemmons, Cole, Crosby, Delleney, Edge, Hamilton, Hardwick, Harrell, Harrison, Hearn, Henderson, Hixon, Limehouse, Long, Lucas, D.C. Moss, Murphy, Norman, Owens, Pinson, Pitts, Putnam, Quinn, Simrill, Skelton, Sottile, Spires, Tallon, Thayer, Toole, Viers and Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-1145 SO AS TO AUTHORIZE A DEDUCTION 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 OR A PUBLIC SCHOOL OUTSIDE THE CHILD'S OR WARD'S SCHOOL DISTRICT OF RESIDENCE, AND TO ALSO AUTHORIZE A SIMILAR INCOME TAX DEDUCTION UP TO A SPECIFIED AMOUNT TO A PARENT OR LEGAL GUARDIAN FOR HOME SCHOOL EXPENDITURES; AND BY ADDING SECTION 12-6-1146 SO AS TO AUTHORIZE A CREDIT AGAINST A TAXPAYER'S SOUTH CAROLINA INCOME TAX LIABILITY OR CERTAIN OTHER TAX LIABILITY FOR CONTRIBUTIONS MADE TO NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS THAT PROVIDE GRANTS FOR CHILDREN WHO ARE ELIGIBLE FOR THE FEDERAL FREE OR REDUCED SCHOOL LUNCH PROGRAM, WHO ARE "EXCEPTIONAL NEEDS" CHILDREN, OR WHOSE FAMILIES MEET THE REQUIREMENTS FOR FEDERAL MEDICAID BENEFITS TO ATTEND INDEPENDENT SCHOOLS OF THEIR CHOICE, AND TO PROVIDE THE PROCEDURES FOR, AND CONDITIONS AND LIMITATIONS OF THESE TAX CREDITS.

Summary of Bill:

A bill to authorize certain deductions for tuition paid for student education at an independent school, for homeschooling and for outside of residential district schools and to authorize certain credits for contributions made to an organization to provide grants to students who are eligible for free or reduced lunch, eligible for medicaid or are exceptional needs children.

Introduced: 2/23/12

Received by Ways and Means: 2/23/12

Estimated Fiscal Impact:

Attached

Subcommittee Recommendation:

Favorable

Full Committee Recommendation:

Pending

Other Notes/Comments:

Statement of Estimated State Revenue Impact

Date: February 24, 2012

Bill Number: H.4894

Authors: White, Bedingfield, McCoy, Loftis, Bingham, Herbkersman *et al.*

Committee Requesting Impact: Ways and Means

Bill Summary

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-1145 SO AS TO AUTHORIZE A DEDUCTION 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 OR A PUBLIC SCHOOL OUTSIDE THE CHILD'S OR WARD'S SCHOOL DISTRICT OF RESIDENCE, AND TO ALSO AUTHORIZE A SIMILAR INCOME TAX DEDUCTION UP TO A SPECIFIED AMOUNT TO A PARENT OR LEGAL GUARDIAN FOR HOME SCHOOL EXPENDITURES; AND BY ADDING SECTION 12-6-1146 SO AS TO AUTHORIZE A CREDIT AGAINST A TAXPAYER'S SOUTH CAROLINA INCOME TAX LIABILITY OR CERTAIN OTHER TAX LIABILITY FOR CONTRIBUTIONS MADE TO NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS THAT PROVIDE GRANTS FOR CHILDREN WHO ARE ELIGIBLE FOR THE FEDERAL FREE OR REDUCED SCHOOL LUNCH PROGRAM, WHO ARE "EXCEPTIONAL NEEDS" CHILDREN, OR WHOSE FAMILIES MEET THE REQUIREMENTS FOR FEDERAL MEDICAID BENEFITS TO ATTEND INDEPENDENT SCHOOLS OF THEIR CHOICE, AND TO PROVIDE THE PROCEDURES FOR, AND CONDITIONS AND LIMITATIONS OF THESE TAX CREDITS.

REVENUE IMPACT ^{1/}

This bill will reduce General Fund income taxes, insurance premium taxes, and bank license fees by \$36,723,225 in FY 2012-13.

Explanation

This bill allows a \$2,000 tax deduction for expenses paid for a student to attend a home school, a \$4,000 tax deduction for tuition, textbook and other fees, and school-related transportation paid for a student to attend an independent school, and a \$1,000 deduction for public school students to attend a school district which is not their school district of residence. Beginning with FY 2013-14 the dollar amount of the deductions must be increased on an annual basis by an inflation factor equal to the percentage increase in the previous year of the Consumer Price Index, Southeast Region, plus the percentage increase in the previous year in the population of the State as determined by the Office of Research and Statistics of the State Budget and Control Board.

The legislation also allows a tax credit for contributions to nonprofit scholarship funding organizations of up to \$15 million per year for students eligible for the federal free or reduced price lunch program or whose family qualifies for Medicaid benefits and an additional tax credit of up to \$10 million per year for scholarship contributions to nonprofit organizations for exceptional needs children. Both tax credits are limited to 60% of the taxpayers' tax liability. Unused credits may be carried forward for five years. Beginning with FY 2013-14 the dollar amount of the credits must be increased on an annual basis by an inflation factor equal to the

Statement of Estimated State Revenue Impact

percentage increase in the previous year of the Consumer Price Index, Southeast Region, plus the percentage increase in the previous year in the population of the State as determined by the Office of Research and Statistics of the State Budget and Control Board. The two tax credits may be applied to individual and corporate income taxes, insurance premium taxes, or bank license fees.

The following tables report our detailed estimates of the revenue impact for each deduction and credit.

H. 4894 Revenue Impact Summary of Tax Deductions for Student Tuition and Expenses and Tax Credits for Contributions to Nonprofit Scholarship Granting Organizations

FY 2012-13

Type of Deduction	Number of Students Claiming Deduction	Total Tax Deductions Claimed	Total Revenue Reduction
\$2,000 deduction for home school instruction-related expenditures	10,426	20,852,000	844,328
\$4,000 deduction for independent school tuition	52,620	210,480,000	10,781,779
\$1,000 deduction for public school students attending a non-resident school district	2,416	2,416,000	97,118
Credit for contribution to a nonprofit scholarship funding organization for students eligible for the federal free or reduced price lunch program or whose families qualify for Medicaid benefits and attend an independent school			15,000,000
Credit for contribution to a nonprofit scholarship funding organization for students with exceptional needs			10,000,000
Totals	65,462	233,748,000	36,723,225

Statement of Estimated State Revenue Impact

\$2,000 Income Tax Deduction for Home School Students by SC Taxable Income FY 2012-13

(1) SC Taxable Income Class		(2) Average IIT Liability Per Return	(3) Average Tax Rate	(4) K - 12 Total Home School Students	(5) Tax Deductions Claimed	(6) Total Tax Deductions Claimed	(7) Average Tax Liability Reduction per Student	(8) Total Revenue Reduction
No Taxable Income		-	-	5,121	-	-	-	-
1	1,000	11	0.22%	470	470	940,000	4	2,095
1,001	2,000	12	0.77%	378	378	756,000	15	5,823
2,001	3,000	17	0.65%	350	350	700,000	13	4,567
3,001	4,000	42	1.13%	321	321	642,000	23	7,237
4,001	5,000	74	1.56%	311	311	622,000	31	9,674
5,001	6,000	101	1.75%	293	293	586,000	35	10,229
6,001	7,000	145	2.12%	280	280	560,000	42	11,858
7,001	8,000	184	2.33%	270	270	540,000	47	12,602
8,001	9,000	221	2.46%	255	255	510,000	49	12,556
9,001	10,000	276	2.76%	243	243	486,000	55	13,409
10,001	11,000	333	3.01%	227	227	454,000	60	13,651
11,001	12,000	389	3.21%	219	219	438,000	64	14,067
12,001	13,000	446	3.38%	207	207	414,000	68	14,011
13,001	14,000	514	3.61%	194	194	388,000	72	14,016
14,001	15,000	582	3.80%	184	184	368,000	76	14,001
15,001	20,000	786	4.28%	788	788	1,576,000	86	67,405
20,001	25,000	1,138	4.81%	647	647	1,294,000	96	62,253
25,001	35,000	1,642	5.24%	1,035	1,035	2,070,000	105	108,553
35,001	50,000	2,472	5.59%	1,120	1,120	2,240,000	112	125,317
50,001	75,000	3,764	5.85%	1,244	1,244	2,488,000	117	145,597
75,001	100,000	5,523	6.10%	623	623	1,246,000	122	75,990
100,001	200,000	8,893	6.38%	562	562	1,124,000	128	71,745
200,001	500,000	20,812	6.81%	169	169	338,000	136	23,032
500,001	over	76,567	6.44%	36	36	72,000	129	4,640
Totals		1,443	5.66%	15,549	10,426	20,852,000	81	844,328

Columns 1-3: BEA staff estimates of SC taxable income, average tax liability, and average tax rate are based on DOR Tax Year 2008 data and individual income tax revenue projection for FY 2012-13.

Column 4: BEA staff estimate of the number of home school students by income levels is based on the number of exemptions claimed on individual income tax returns and U.S. Department of Education, National Center for Educational Statistics, Parent and Family Involvement in Education Survey of the National Household Education Surveys Program, 2007. BEA staff estimate of 15,549 for the total number of home school students in FY 2012-13 is based on the most recent five years of growth as reported by an Office of Research and Statistics survey.

Column 5: Tax deductions claimed are estimated for all returns with income tax liability. All students are qualified pursuant to the proposed legislation, but the family return must have taxable income to claim the deduction since the deduction is non-refundable.

Column 6: Total tax deductions claimed is the \$2,000 deduction times the number of deductions claimed.

Column 7: The average tax liability reduction per student is calculated by multiplying the \$2,000 deduction times the average tax rate for taxpayers at the various levels of taxable income listed.

Column 8: The total revenue reduction is calculated by multiplying the average tax liability reduction per student times the number of deductions claimed at each taxable income level listed.

Statement of Estimated State Revenue Impact

\$4,000 Income Tax Deduction for Independent School Students by SC Taxable Income FY 2012-13

(1) SC Taxable Income Class		(2) Average IIT Liability Per Return	(3) Average Tax Rate	(4) K - 12 Total Independent School Students	(5) Tax Deductions Claimed	(6) Total Tax Deductions Claimed	(7) Average Tax Liability Reduction per Student	(8) Total Revenue Reduction
No Taxable Income		-	0.00%	299	-	-	-	-
1	1,000	11	0.22%	1,043	1,043	4,172,000	9	9,298
1,001	2,000	12	0.77%	840	840	3,360,000	31	25,881
2,001	3,000	17	0.65%	780	780	3,120,000	26	20,355
3,001	4,000	42	1.13%	716	716	2,864,000	45	32,285
4,001	5,000	74	1.56%	707	707	2,828,000	62	43,984
5,001	6,000	101	1.75%	666	666	2,664,000	70	46,500
6,001	7,000	145	2.12%	637	637	2,548,000	85	53,955
7,001	8,000	184	2.33%	612	612	2,448,000	93	57,128
8,001	9,000	221	2.46%	599	599	2,396,000	98	58,987
9,001	10,000	276	2.76%	563	563	2,252,000	110	62,132
10,001	11,000	333	3.01%	525	525	2,100,000	120	63,145
11,001	12,000	389	3.21%	505	505	2,020,000	128	64,874
12,001	13,000	446	3.38%	477	477	1,908,000	135	64,571
13,001	14,000	514	3.61%	436	436	1,744,000	144	63,000
14,001	15,000	582	3.80%	409	409	1,636,000	152	62,245
15,001	20,000	786	4.28%	1,740	1,740	6,960,000	171	297,676
20,001	25,000	1,138	4.81%	1,407	1,407	5,628,000	192	270,757
25,001	35,000	1,642	5.24%	2,349	2,349	9,396,000	210	492,737
35,001	50,000	2,472	5.59%	10,583	10,583	42,332,000	224	2,368,275
50,001	75,000	3,764	5.85%	11,663	11,663	46,652,000	234	2,730,058
75,001	100,000	5,523	6.10%	5,797	5,797	23,188,000	244	1,414,179
100,001	200,000	8,893	6.38%	7,014	7,014	28,056,000	255	1,790,816
200,001	500,000	20,812	6.81%	2,103	2,103	8,412,000	273	573,207
500,001	over	76,567	6.44%	449	449	1,796,000	258	115,732
Totals		1,443	5.66%	52,916	52,620	210,480,000	205	10,781,779

Columns 1-3: BEA staff estimates of SC taxable income, average tax liability, and average tax rate are based on DOR Tax Year 2008 data and individual income tax revenue projection for FY 2012-13.

Column 4: BEA staff estimate of the number of independent school students by income levels is based on the number of exemptions claimed on individual income tax returns and U.S. Department of Education, National Center for Educational Statistics, Parent and Family Involvement in Education Survey of the National Household Education Surveys Program, 2007. BEA staff estimate of 52,916 for the total number of independent school students in FY 2012-13 is based on the historical growth from 1995 to 2011 as reported by an Office of Research and Statistics survey of SC private schools.

Column 5: Tax deductions claimed are estimated for all returns with income tax liability. All students are qualified pursuant to the proposed legislation, but the family return must have taxable income to claim the deduction since the deduction is non-refundable.

Column 6: Total tax deductions claimed is the \$4,000 deduction times the number of deductions claimed.

Column 7: The average tax liability reduction is calculated by multiplying the \$4,000 deduction times the average tax rate for taxpayers at the various levels of taxable income listed.

Column 8: The total revenue reduction is calculated by multiplying the average tax liability reduction per student times the number of deductions claimed at each taxable income level listed.

Statement of Estimated State Revenue Impact

\$1,000 Income Tax Deduction for Public School Students Attending a Non-Resident School District by SC Taxable Income

FY 2012-13

(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)
SC Taxable Income Class		Average IIT Liability Per Return	Average Tax Rate	K - 12 Total Public School Students	Number of Tax Deductions Claimed	Total Tax Deductions Claimed	Average Tax Liability Reduction per Student	Total Revenue Reduction
No Taxable Income		-	-	1,338	-	-	-	-
1	1,000	11	0.22%	111	111	111,000	2	247
1,001	2,000	12	0.77%	89	89	89,000	8	686
2,001	3,000	17	0.65%	83	83	83,000	7	542
3,001	4,000	42	1.13%	76	76	76,000	11	857
4,001	5,000	74	1.56%	74	74	74,000	16	1,151
5,001	6,000	101	1.75%	70	70	70,000	17	1,222
6,001	7,000	145	2.12%	67	67	67,000	21	1,419
7,001	8,000	184	2.33%	64	64	64,000	23	1,494
8,001	9,000	221	2.46%	60	60	60,000	25	1,477
9,001	10,000	276	2.76%	57	57	57,000	28	1,573
10,001	11,000	333	3.01%	53	53	53,000	30	1,594
11,001	12,000	389	3.21%	51	51	51,000	32	1,638
12,001	13,000	446	3.38%	49	49	49,000	34	1,658
13,001	14,000	514	3.61%	45	45	45,000	36	1,626
14,001	15,000	582	3.80%	42	42	42,000	38	1,598
15,001	20,000	786	4.28%	181	181	181,000	43	7,741
20,001	25,000	1,138	4.81%	148	148	148,000	48	7,120
25,001	35,000	1,642	5.24%	236	236	236,000	52	12,376
35,001	50,000	2,472	5.59%	265	265	265,000	56	14,825
50,001	75,000	3,764	5.85%	280	280	280,000	59	16,386
75,001	100,000	5,523	6.10%	137	137	137,000	61	8,355
100,001	200,000	8,893	6.38%	131	131	131,000	64	8,362
200,001	500,000	20,812	6.81%	39	39	39,000	68	2,658
500,001	over	76,567	6.44%	8	8	8,000	64	516
	Totals	1,443	5.66%	3,755	2,416	2,416,000	40	97,118

Columns 1-3: BEA staff estimates of SC taxable income, average tax liability, and average tax rate are based on DOR Tax Year 2008 data and individual income tax revenue projection for FY 2012-13.

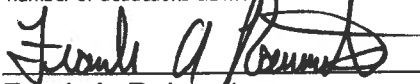
Column 4: BEA staff estimate of the number of public school students attending a non-resident school district by income levels is based on the number of exemptions claimed on individual income tax returns and U.S. Department of Education, National Center for Educational Statistics, Parent and Family Involvement in Education Survey of the National Household Education Surveys Program, 2007. BEA staff estimate of 3,755 for the total number of public school students attending a non-resident school district in FY 2012-13 is based on a September 2011 survey of the school districts by the BEA and the SC Association of School Business Officials.

Column 5: Tax deductions claimed are estimated for all returns with income tax liability. All students are qualified pursuant to the proposed legislation, but the family return must have taxable income to claim the deduction since the deduction is non-refundable.

Column 6: Total tax deductions claimed is the \$1,000 deduction times the number of deductions claimed.

Column 7: The average tax liability reduction per student is calculated by multiplying the \$1,000 deduction times the average tax rate for taxpayers at the various levels of taxable income listed.

Column 8: The total tuition deduction is calculated by multiplying the average tax liability reduction per student times the number of deductions claimed at each taxable income level listed.



Frank A. Rainwater
Chief Economist

Analyst: Shuford

¹¹ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-1145 SO AS TO AUTHORIZE A DEDUCTION 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 OR A PUBLIC SCHOOL OUTSIDE THE CHILD'S OR WARD'S SCHOOL DISTRICT OF RESIDENCE, AND TO ALSO AUTHORIZE A SIMILAR INCOME TAX DEDUCTION UP TO A SPECIFIED AMOUNT TO A PARENT OR LEGAL GUARDIAN FOR HOME SCHOOL EXPENDITURES; AND BY ADDING SECTION 12-6-1146 SO AS TO AUTHORIZE A CREDIT AGAINST A TAXPAYER'S SOUTH CAROLINA INCOME TAX LIABILITY OR CERTAIN OTHER TAX LIABILITY FOR CONTRIBUTIONS MADE TO NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS THAT PROVIDE GRANTS FOR CHILDREN WHO ARE ELIGIBLE FOR THE FEDERAL FREE OR REDUCED SCHOOL LUNCH PROGRAM, WHO ARE "EXCEPTIONAL NEEDS" CHILDREN, OR WHOSE FAMILIES MEET THE REQUIREMENTS FOR FEDERAL MEDICAID BENEFITS TO ATTEND INDEPENDENT SCHOOLS OF THEIR CHOICE, 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. Article 9, Chapter 6, Title 12 of the 1976 Code is amended by adding:

1 "Section 12-6-1145. (A) As used in this section:

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

8 (2) 'Home school' means a home, residence, or location where
9 a parent or legal guardian teaches one or more children as
10 authorized pursuant to Section 59-65-40, 59-65-45, or 59-65-47.

11 (3) 'Parent' means the natural or adoptive parent or legal
12 guardian of a child.

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

17 (5) 'Resident public school district' means the public school
18 district in which a student resides.

19 (6) 'Tuition' means the total amount of money charged for the
20 cost of a qualifying student to attend an independent school
21 including, but not limited to, fees for attending the school and
22 school-related transportation.

23 (B)(1) Beginning with the 2012-2013 school year, a parent or
24 legal guardian who teaches one or more qualifying students at
25 home as authorized pursuant to Section 59-65-40, 59-65-45, or
26 59-65-47 may take a deduction against their State of South
27 Carolina income taxes due of up to two thousand dollars per home
28 school student for instruction-related expenditures. This deduction
29 is limited to a total of two thousand dollars per child per year
30 regardless of the number of taxpayers incurring home school
31 instruction-related expenses on behalf of that child. The deduction
32 allowed by this subsection is fully deductible for the calendar year
33 in which the home school term begins provided the qualifying
34 student completes the school term for that school year.

35 (2) Beginning with the 2012-2013 school year, a parent or
36 legal guardian is entitled to a deduction against their State of South
37 Carolina income taxes due of up to four thousand dollars paid to an
38 independent school within this State for tuition on behalf of their
39 child or ward to attend the independent school for that school year.
40 The child or ward must be a qualifying student as this term is
41 defined in subsection (A)(4). This deduction is limited to a total of
42 four thousand dollars per child per year regardless of the number
43 of taxpayers making tuition payments on behalf of that child. The

1 deduction allowed by this subsection is fully deductible for the
2 calendar year in which the school term begins provided the
3 qualifying student completes the school term for that school year.

4 (3) Beginning with the 2012-2013 school year, a parent or
5 legal guardian is entitled to a deduction against their State of South
6 Carolina income taxes due of up to one thousand dollars paid on
7 behalf of their child or ward to attend a school in a school district
8 which is not the school district of residence of the child or ward.
9 This deduction is limited to a total of one thousand dollars per
10 child per year regardless of the number of taxpayers making
11 payments to another school district on behalf of that child. The
12 deduction allowed by this subsection is fully deductible for the
13 calendar year in which the school term begins provided the
14 qualifying student completes the school term for that school year.

15 (4) Beginning with the 2013-2014 school year, the dollar
16 amount of the deductions provided for in items (1), (2), and (3)
17 above must be increased on an annual basis by an inflation factor
18 equal to the percentage increase in the previous year of the
19 Consumer Price Index, Southeast Region, as published by the
20 United States Department of Labor, Bureau of Labor Statistics plus
21 the percentage increase in the previous year in the population of
22 the State as determined by the Office of Research and Statistics of
23 the State Budget and Control Board.

24 The department shall publish the increases as determined in this
25 item each year on its website available to the general public.”

26

27 SECTION 2. Article 9, Chapter 6, Title 12, of the 1976 Code is
28 amended by adding:

29

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

31 (1) provide tax credits for certain contributions to a
32 nonprofit scholarship funding organization;

33 (2) expand educational opportunities for children of families
34 that have limited financial resources or exceptional needs; and

35 (3) enable children in this State to achieve a greater level of
36 excellence in their education.

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

42 (C) As used in this section:

1 (1) 'Eligible school' means an independent school including
2 those religious in nature, other than a public or home school, at
3 which the compulsory attendance requirements of Section
4 59-65-10 may be met, that:

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

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

9 (c) is located in this State;

10 (d) has an educational curriculum that includes courses set
11 forth in the state's diploma requirements and where the students
12 attending are administered national achievement or state
13 standardized tests, or both, at progressive grade levels to determine
14 student progress;

15 (e) has school facilities that are subject to applicable
16 federal, state, and local laws; and

17 (f) is a member in good standing of the Southern
18 Association of Colleges and Schools, the South Carolina
19 Association of Christian Schools or the South Carolina
20 Independent Schools Association.

21 (2) 'Nonprofit scholarship funding organization' means a
22 charitable organization that:

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

26 (b) allocates, after its first year of operation, at least
27 ninety-five percent of its annual contributions and revenue
28 received during a particular year to provide grants for tuition,
29 transportation, or textbook expenses (collectively hereinafter
30 referred to as tuition) or any combination thereof to children
31 enrolled in an eligible school meeting the criteria of this section,
32 and incurs administrative expenses annually, after its first year of
33 operation, of not more than five percent of its annual contributions
34 and revenue for a particular year;

35 (c) allocates all of its funds used for grants on an annual
36 basis to children who are 'exceptional needs' students as defined
37 herein, or who are eligible for the federal free or reduced lunch
38 program, or whose families meet the qualifications for federal
39 Medicaid benefits;

40 (d) does not provide grants solely for the benefit of one
41 school, and if the Department of Revenue determines that the
42 nonprofit scholarship funding organization is providing grants to

1 one particular school, the tax credit allowed by this section may be
2 disallowed;

3 (e) does not have as a member of its governing board any
4 parent, legal guardian, or member of their immediate family who
5 has a child or ward who is currently receiving or has received a
6 scholarship grant authorized by this section from the organization
7 within one year of the date the parent, legal guardian, or member
8 of their immediate family became a board member; and

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

12 (3) 'Person' means an individual, partnership, corporation,
13 or other similar entity.

14 (4) 'Transportation' means transportation to and from school
15 only.

16 (D) The tax credits allowed by this section may be used in
17 computing any tax imposed by this chapter or in computing
18 insurance premium taxes or bank license fees; provided, that the
19 tax credit may not offset more than sixty percent of the taxpayer's
20 liability for a particular year.

21 (E) A person is entitled to a tax credit under this section for the
22 amount of money the person contributes to a nonprofit scholarship
23 funding organization up to the limits of this section if:

24 (1) the contribution is used to provide grants for tuition,
25 transportation, or textbook expenses (tuition) or any combination
26 thereof to children enrolled in eligible schools who qualify for
27 these grants under the provisions of this section; and

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

30 (F)(1) Grants may be awarded by the nonprofit scholarship
31 funding organization in an amount not exceeding five thousand
32 dollars per year or seventy-five percent of the cost of tuition,
33 whichever is less, for children who are eligible for the federal free
34 or reduced school lunch program or whose families meet the
35 requirements for federal Medicaid benefits to attend an
36 independent school. The dollar and percentage amounts of grants
37 permitted by this item must be increased annually beginning with
38 2013 in the manner provided in subsection (H).

39 (2) In addition to the provisions of item (1), grants may be
40 awarded by a scholarship funding organization in an amount not
41 exceeding ten thousand dollars or seventy-five percent of the cost
42 of tuition, whichever is less, for students with 'exceptional needs'
43 to attend an independent school. An 'exceptional needs' child is

1 defined as a child who has significant cognitive, mental, physical,
2 or emotional disabilities and whose parents or legal guardian
3 believe that the services provided by the school district of legal
4 residence do not sufficiently meet the needs of their child. The
5 dollar and percentage amounts of the grants permitted by this item
6 must be increased annually beginning in 2013 in the manner
7 provided in subsection (H).

8 (G)(1) The tax credits authorized by this section may not exceed
9 cumulatively a total of fifteen million dollars annually for
10 contributions made on behalf of students who are eligible for the
11 federal free or reduced lunch program and whose families meet the
12 qualifications for federal Medicaid benefits, and the tax credits
13 authorized by this section may not exceed cumulatively a total of
14 ten million dollars annually for contributions made on behalf of
15 'exceptional needs' students. If the Department of Revenue
16 determines for a particular year that the total of such credits
17 claimed by all taxpayers for one or both categories exceed these
18 amounts, it shall proportionally reduce the credits of all taxpayers
19 pro rata for that year in that category. The dollar amount of each
20 of the tax credit caps imposed by this item, beginning with 2013,
21 must be increased annually in the manner provided in subsection
22 (H).

23 (2) Taxpayers making contributions to a nonprofit
24 scholarship funding organization who desire that a portion or all of
25 their contributions be used for grants for exceptional needs
26 children shall state with their contribution the amount to be used
27 for this purpose. These amounts so stated must be used for
28 purposes of computing the maximum tax credit amounts under
29 item (1) of this subsection authorized for contributions on behalf of
30 exceptional needs students. If no such designation for exceptional
31 needs children is made, the contribution shall come within the
32 maximum tax credit limitation for contributions pertaining to
33 students who are eligible for the federal free or reduced lunch
34 program and whose families meet the qualifications for federal
35 Medicaid benefits provided in item (1).

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

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

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

1 (6) A person may claim a credit under this section for a
2 contribution during a particular period only against the tax owed
3 for the corresponding period.

4 (7) Any unused tax credit, including the portion of a
5 contribution which is reduced pro rata under item (1) of this
6 subsection, may be carried forward for a period not exceeding five
7 consecutive years. However, the tax credit is not refundable.

8 (H)(1) Beginning with the year 2013, the dollar amount and
9 percentage amount of a scholarship which may be granted under
10 this section and the dollar amount of each of the tax credit caps
11 provided in subsection (G)(1) must be increased on an annual basis
12 by an inflation factor equal to the percentage increase in the
13 previous year of the Consumer Price Index, Southeast Region, as
14 published by the United States Department of Labor, Bureau of
15 Labor Statistics plus the percentage increase in the previous year in
16 the population of the State as determined by the Office of Research
17 and Statistics of the State Budget and Control Board.

18 (2) The department shall publish the increases determined
19 under item (1) each year on its website available to the general
20 public.

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

26 (J) Except as otherwise provided by this section, neither the
27 Department of Education, the Department of Revenue, nor any
28 other state agency may regulate the educational program of an
29 independent school that accepts students receiving scholarship
30 grants pursuant to this section.

31 (K)(1) The Education Oversight Committee, as established in
32 Chapter 6, Title 59, is responsible for determining if an eligible
33 school meets the criteria established by subsection (C)(1) of this
34 section, and shall annually publish an approved list of such schools
35 meeting this criteria as provided in item (2) below. For this
36 purpose, it also shall promulgate regulations further enumerating
37 the specifics of this criteria. In performing this function, the
38 Education Oversight Committee shall establish an advisory
39 committee made up of not more than nine members including
40 parents, and representatives of independent schools and
41 independent school associations. The advisory committee shall
42 provide recommendations to the Education Oversight Committee

1 on the content of these regulations and any other matters requested
2 by the Education Oversight Committee.

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

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

16 (4) The Education Oversight Committee, after consultation
17 with its nine-member advisory committee, may exempt an
18 independent school having students with exceptional needs who
19 receive scholarship grants pursuant to this section from the
20 curriculum requirements of subsection (C)(1)(d).

21 (L)(1) Every nonprofit scholarship funding organization
22 providing grants under this section shall cause an outside auditing
23 firm each year to conduct a comprehensive financial audit of its
24 operations in conformity with generally accepted accounting
25 principles and shall furnish same within thirty days of its
26 completion and acceptance to the Secretary of State and
27 Department of Revenue which must be made available by them on
28 their website for public review.

29 (2) Every independent school accepting grants for eligible
30 students under this section shall cause to be conducted a
31 compliance audit by an outside entity or auditing firm examining
32 its compliance with the provisions of this section and shall furnish
33 the same within thirty days of its completion and acceptance to the
34 Secretary of State and Department of Revenue which must be
35 made available by them on their website for public review.

36 (M) On January 1, 2015, and on January first every three years
37 thereafter, the Education Oversight Committee shall report to the
38 Governor and the General Assembly on the effectiveness and
39 success of this section and whether or not the purposes of this
40 section as provided in subsections (A) and (B) hereunder have
41 been accomplished.

42

1 SECTION 3. If a section, subsection, paragraph, subparagraph,
2 sentence, clause, phrase, or word of this act is for any reason held
3 to be unconstitutional or invalid, this holding does not affect the
4 constitutionality or the validity of the remaining portions of this
5 act, the General Assembly hereby declaring that it would have
6 passed this act, and each section, subsection, paragraph,
7 subparagraph, sentence, clause, phrase, and word thereof,
8 irrespective of the fact that any one or more other sections,
9 subsections, paragraphs, subparagraphs, sentences, clauses,
10 phrases, or words thereof may be declared to be unconstitutional,
11 invalid, or otherwise ineffective.

12
13 SECTION 4. This act takes effect upon approval by the Governor,
14 and the tax deductions authorized by Section 1 and tax credits
15 authorized by Section 2 of this act may be taken to the extent
16 authorized beginning with calendar year 2012.

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