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COMMITTEE REPORT

January 30, 2019

**H. 3136**

Introduced by Reps. G.M. Smith, G.R. Smith, Erickson, Clyburn, B. Newton, V.S. Moss, Yow and W. Newton

S. Printed 1/30/19--H.

Read the first time January 8, 2019.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3136) to amend Section 12‑6‑3790, Code of Laws of South Carolina, 1976, relating to the exceptional needs tax credit, so as to provide that the cumulative, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 2 and inserting:

/ SECTION 2. Section 12-6-3790(D)(1)(a) of the 1976 Code is amended to read:

(D)(1)(a) Tax credits authorized by subsection (H)(1) and subsection (I) annually may not exceed cumulatively a total of ~~twelve~~ twenty million dollars for contributions to the Educational Credit for Exceptional Needs Children’s Fund, unless an increased limit is authorized in the annual general appropriations act.

SECTION 3. This act takes effect upon approval by the Governor and the adjustments first apply to the cumulative total for tax year 2020. /

Renumber sections to conform.

Amend title to conform.

G. MURRELL SMITH, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 8, 2019**

**State Expenditure**

This bill requires the Department of Revenue and Education Oversight Committee to consult with the Revenue and Fiscal Affairs Office in estimating the increased amount of the cumulative total credits for contributions to the Fund. We anticipate these consultation duties will not operationally or fiscally impact the agencies. Therefore, the bill will not have an expenditure impact on the general fund, other funds, or federal funds.

**State Revenue**

This bill requires the Revenue and Fiscal Affairs Office, in consultation with the Department of Revenue and the Education Oversight Committee, to estimate the amount necessary to increase the cumulative total credits for contributions to the fund. The estimated increase is the amount necessary to award any desirous exceptional needs child of an active duty member of the armed forces of the United States or a member killed in the line of duty a scholarship from the fund. Presently, cumulative credits for contributions to the Fund authorized under Section 12-6-3970(D)(1) may not exceed a total of $12,000,000 annually. The estimated increase in contributions to the fund will reduce general fund individual and corporate income tax revenue by a corresponding amount.

This bill does not modify requirements for eligible students and schools receiving scholarships from the Fund. Therefore, students qualifying for a scholarship must be exceptional needs children and residents of the State. In addition, the qualifying students must attend eligible schools located in this State. Pursuant to this existing statute, we anticipate that active duty military families stationed in South Carolina that are not residents of the State will not be eligible for these scholarship and will not increase the amount of cumulative total credits. The number of eligible students are estimated below.

Based on data from the Defense Manpower Data Center of the Department of Defense, approximately 40,085 active duty military personnel, as of September 30, 2018, are assigned a duty station in South Carolina. Of these, Department of Defense accession data indicate that on average 2.01 percent of these service members are South Carolina residents. Multiplying the 40,085 service members times the South Carolina resident percentage results in an estimated 842 service members whose children will be eligible for scholarships from the Fund.

The precise number of eligible children of South Carolina service members that meet the proposed criteria is not available. For this analysis, we make use of U.S. Census Bureau data to estimate the number of eligible students. The 2010 Census reports that of the 4,625,364 total population of South Carolina 3,661,409, or 79.16 percent, are in family households of one or more people related by birth, marriage, or adoption. Of these family members, 788,807, or 21.54 percent, are students enrolled in Kindergarten through twelfth grade.

Utilizing these population percentages, we anticipate that of the estimated 842 South Carolina service members, approximately 666, or 79.16 percent, are part of a family household. Of these households, an estimated 144, or 21.54 percent, will be Kindergarten through twelfth grade students. Further, we estimate that approximately 20 of these students, or 13.1 percent, will be exceptional needs students. This estimate is based on the percentage of students with exceptional weightings as indicated in the latest 45-day membership report of the South Carolina Department of Education.

At the maximum $11,000 scholarship amount, the estimated additional 20 students will increase scholarships by $220,000 in tax year 2020 or FY 2020-21. Increasing the cumulative credits for contributions to the fund authorized under Section 12-6-3970(D)(1) by $220,000 for these additional students will decrease general fund individual and corporate income tax revenue by $220,000 in FY 2020-21.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 12‑6‑3790, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXCEPTIONAL NEEDS TAX CREDIT, SO AS TO PROVIDE THAT THE CUMULATIVE MAXIMUM ANNUAL CREDIT AMOUNTS ARE INCREASED TO PROVIDE A SCHOLARSHIP TO ANY EXCEPTIONAL NEEDS CHILD OF A MEMBER OF THE ARMED FORCES OF THE UNITED STATES AND WHO IS EITHER ON ACTIVE DUTY OR WAS KILLED IN THE LINE OF DUTY.

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

SECTION 1. Section 12‑6‑3790(D) of the 1976 Code, as added by Act 247 of 2018, is amended by adding an appropriately numbered item to read:

“( ) Notwithstanding the cumulative total of credits allowed pursuant to item (1), the cumulative amount is increased by an amount necessary to award a scholarship to any desirous exceptional needs child that is the child of a member of the armed forces of the United States and who is either on active duty or was killed in the line of duty. By October first of each year, the Revenue and Fiscal Affairs Office, in consultation with the department and the Education Oversight Committee, shall estimate the amount necessary and as soon as practicable thereafter, the Director of the Revenue and Fiscal Affairs Office shall submit the revised cumulative total to the State Register for publication pursuant to Section 1‑23‑40(2), and the revised cumulative total becomes effective upon publication in the State Register and applies to the following tax year.”

SECTION 2. This act takes effect upon approval by the Governor and the adjustment first applies to the cumulative total for tax year 2020.

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