



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 3899	Amended by the House of Representatives on April 7, 2021
Author:	Elliott	
Subject:	Exceptional Needs Tax Credit	
Requestor:	Senate Finance	
RFA Analyst(s):	Wren and Jolliff	
Impact Date:	April 26, 2021	

Fiscal Impact Summary

The amended bill makes changes to the Educational Credit for Exceptional Needs Children (ECENC) program and removes the Department of Revenue (DOR) from administrative duties related to the public charity that administers the program, Exceptional SC. We anticipate that DOR will allocate any staff time and resources to other responsibilities, and therefore, the bill is not expected to impact expenditures for DOR.

The amended bill will increase the amount of the ECENC fund that may be retained by Exceptional SC for administrative costs by approximately \$137,000 in FY 2021-22, for a total amount of \$228,000. The increase in the administrative percentage will reduce the amount available for tax credits by approximately \$137,000 beginning in FY 2021-22 and, therefore, increase General Fund individual income tax revenue by a corresponding amount.

The bill does not change the aggregate credit amount allowed but does allow taxpayers to utilize more of the credit earned and to carry forward unused credits. In tax year 2019, 35 taxpayers earned \$74,833 in tax credits that they were not able to claim under the tax liability limitation. By increasing the limitation from 60 percent to 75 percent, those taxpayers will be able to use approximately \$20,000 in additional tax credits a year, leaving approximately \$55,000 in tax credits to be carried forward. Assuming a similar tax liability in future years, the carryforward would increase credits claimed by approximately \$20,000 for the succeeding three tax years allowed in the bill. This would decrease General Fund revenue by approximately \$20,000 beginning in FY 2021-22.

In summary, the combined impact of increasing allowable administrative costs and increasing the ability for taxpayers to claim the credit will result in a net increase in General Fund individual income tax revenue of approximately \$117,000 beginning in FY 2021-22.

Explanation of Fiscal Impact

Amended by the House of Representatives on April 7, 2021

State Expenditure

The bill as amended removes DOR from administrative duties related to the public charity that oversees the ECENC. Currently, the department works with the directors of the public charity for

administration and oversight of the public charity. The amendment eliminates these responsibilities for DOR. We anticipate that the agency will allocate any staff time and resources to other responsibilities. Therefore, the bill is not expected to impact expenditures for DOR.

State Revenue

In addition to changes to the oversight of the public charity related to the ECENC fund, the amended bill increases the amount of the fund that may be retained by the charity for administration and related costs from 2 percent to 5 percent. Further, the amended bill reduces the reporting requirements of independent schools. This bill allows the ECENC fund to carry forward up to five million dollars of donations into the next year to provide credits in the next year. This carryforward amount does not increase the cumulative tax credit amount set forth in this bill for any one year.

Exceptional SC reports that the ECENC fund received \$4,554,883 in donations in tax year 2019 and retained \$91,097, or 2 percent, for administrative costs. Based upon this information and assuming similar donations in future tax years, increasing the amount that may be retained to 5 percent will allow the charity to retain an additional \$137,000 in FY 2021-22, for a total of \$228,000 for administrative costs. Exceptional SC indicates that all donations, less the allowed percentage for administrative costs, have been awarded in prior years and have not met the credit cap in recent years. As such, this increase in administrative expenses will decrease the amount available for tax credits by approximately \$137,000 beginning in FY 2021-22, thereby increasing General Fund individual income tax revenue by a corresponding amount.

The bill also increases the amount of credit a taxpayer may claim in a year from 60 percent of the taxpayer's tax liability to 75 percent for the non-refundable tax credits authorized in Sections 12-6-3790(H)(1) or (I). Further, any used credit from these sections may be carried forward for three tax years after the tax year in which the qualified contribution is first eligible to be claimed. Currently, there is no carryforward provision.

The bill does not change the aggregate credit amount allowed but does allow taxpayers to utilize more of the credit earned and to carry forward unused credits. The latest available data from DOR reports only tax credit claims against individual income tax and no claims against corporate income tax or bank tax. Based upon tax year 2019, 353 individual income taxpayers claimed \$4,052,168 in non-refundable tax credits. Of those, 35 taxpayers earned \$74,833 in tax credits that they were not able to claim under the tax liability limitation. By increasing the limitation, those taxpayers will be able to use approximately \$20,000 in additional tax credits a year, leaving approximately \$55,000 in tax credits to be carried forward. Assuming a similar tax liability in future years, the carryforward would increase credits claimed by approximately \$20,000 for the succeeding three tax years, decreasing General Fund individual income tax revenue by approximately \$20,000 per year beginning in FY 2021-22.

In summary, the impact of increasing the allowable administrative costs and increasing the ability for taxpayers to claim the credit will result in a net increase in General Fund individual income tax revenue of \$117,000 beginning in FY 2021-22.

Local Expenditure

N/A

Local Revenue

N/A

Introduced on January 12, 2021**State Expenditure**

N/A

State Revenue

This bill makes changes to the organizational structure of Exceptional SC, which is the public charity that manages the ECENC fund. The board of directors of the charity will no longer be appointed by the Chairman of the House Ways and Means Committee, Chairman of the Senate Finance Committee, and the Governor. The bill also increases the amount of the fund that may be retained by the charity for administration and related costs from 2 percent to 8 percent. Further, the bill reduces the reporting requirements of independent schools. This bill allows the ECENC fund to carry forward up to five million dollars of donations into the next year to provide credits in the next year. This carryforward amount does not increase the cumulative tax credit amount set forth in this bill for any one year.

Exceptional SC reports that the ECENC fund received \$4,554,883 in donations in tax year 2019 and retained \$91,097, or 2 percent, for administrative costs. Based upon this information and assuming similar donations in future tax years, increasing the amount that may be retained to 8 percent will allow the charity to retain an additional \$273,292 in FY 2021-22 for a total amount of \$364,389 for administrative costs. Exceptional SC indicates that all donations, less the allowed percentage for administrative costs, have been awarded in prior years and have not met the credit cap in recent years. As such, this increase in administrative expenses will decrease the amount available for tax credits by approximately \$273,000 beginning in FY 2021-22, thereby increasing General Fund individual income tax revenue by a corresponding amount.

The bill also increases the amount of credit a taxpayer may claim in a year from 60 percent of the taxpayer's tax liability to 75 percent for the non-refundable tax credits authorized in Sections 12-6-3790(H)(1) or (I). Further, any used credit from these sections may be carried forward for three tax years after the tax year in which the qualified contribution is first eligible to be claimed. Currently, there is no carryforward provision.

The bill does not change the aggregate credit amount allowed but does allow taxpayers to utilize more of the credit earned and to carry forward unused credits. The latest available data from DOR reports only tax credit claims against individual income tax and no claims against corporate income tax or bank tax. Based upon tax year 2019, 353 individual income taxpayers claimed \$4,052,168 in non-refundable tax credits. Of those, 35 taxpayers earned \$74,833 in tax credits that they were not able to claim under the tax liability limitation. By increasing the limitation, those taxpayers will be able to use approximately \$20,000 in additional tax credits a year, leaving approximately \$55,000 in tax credits to be carried forward. Assuming a similar tax

liability in future years, the carryforward would increase credits claimed by approximately \$20,000 for the succeeding three tax years, decreasing General Fund individual income tax revenue by approximately \$20,000 per year beginning in FY 2021-22.

In summary, the impact of increasing the allowable administrative costs and increasing the ability for taxpayers to claim the credit will result in a net increase in General Fund individual income tax revenue of \$253,292 beginning in FY 2021-22.

Local Expenditure

N/A

Local Revenue

N/A

Frank A. Rainwater, Executive Director