

Amendment: 3

Representative **FINLAY** proposes the following amendment:

Section 105 - F270 - SFAA, Office of State Auditor

New

105.sslto. (SFAA-AUD: Special Study of Long-Term Obligations) (A) The State Auditor shall identify certain long-term obligations by state institutions of higher learning, as defined by Section 59-107-10 of the 1976 Code, and report his findings to the General Assembly. The intent is to identify those obligations which are long-term debt or tantamount to long-term debt, or those which, if not honored, might result in a negative rating action on the institution's or the State's credit rating. Such obligations would not include either general obligation debt or bonded indebtedness issued directly by an institution.

(B) "Long-term obligation" means:

(1) an arrangement to acquire an interest in or a right to use, or have others use, any type of property if all or a portion of the money required to pay for the acquisition is secured through fare, toll, or user charges;

(2) an arrangement to acquire an interest in or a right to use, or have others use, any type of property if (a) the arrangement is financed, directly or indirectly, with indebtedness undertaken by another for that purpose; (b) the state institution knows or should know the acquisition is financed by indebtedness; and, (c) the state institution is obligated to make, or undertakes to have others make, recurring payments on, or that another will use to make payments on, the indebtedness; or,

(3) any of the following arrangements: (a) lease-purchase agreement; (b) leaseback agreement; (c) installment purchase agreement; (d) lease with an option to purchase for other than the then-current fair market value; (e) lease with option to renew for nominal or no additional consideration; (f) an agreement involving collateral, such as a mortgage or security interest; (g) a public private partnership; (h) an agreement structured as either design-build-operate-maintain or design-build-finance-operate-maintain, as defined in Section 11-35-2910; (i) a finance lease, as defined in Section 36-2A-103(1)(g); (j) a transaction in the form of a lease that creates a security interest, as addressed in Section 36-1-203(b); or (k) a guaranteed energy, water, or wastewater savings contract, as authorized by Section 48-52-670(A).

(C) The report should include long-term obligations irrespective of the source of funds involved, if any, and whether or not the obligation is subject to the availability or appropriation of funds. The report should exclude the following: (1) general obligation debt authorized under Section 13, Article X of the Constitution of South Carolina, 1895, and debt issued by the state institution under Section 13, Article X of the Constitution of South Carolina, 1895, but not debt issued under Section 13 or 14 of Article X on its behalf or for its benefit; and (2) an institution's obligation to make payments when the total amount of money needed for the obligation is committed for that purpose, authorized for expenditure, and in hand.

(D) The report should be adequate to catalog the type, extent, and prevalence of long-term obligations by state institutions. Without limitation, the report should include the following information for each obligation identified, if applicable: (1) the interest or right acquired; (2) the initial, maximum, and then outstanding amount of indebtedness involved; (3) whether a credit rating was obtained for such indebtedness; (4) the amount and frequency of payments involved, and who makes the payments; (5) the total amount of payments remaining to be made; (6) the initial and remaining duration of the obligation; (7) the source of funds used to make payments; (8) the parties to the arrangement and any associated borrowing, including without limitation, the entity lending the funds or assets associated with the financed acquisition; and (9) any counterparty or intermediary involved.

(E) The State Auditor shall conduct the study and issue a final report no later than one hundred and twenty days after the beginning of the current fiscal year. State institutions must fully respond within forty-five days to any formal request for information from the State Auditor. If, in the State Auditor's judgment, a state institution does not timely submit a complete and accurate report, he may obtain the service of independent professionals to audit the institution's records and charge the institution for the associated cost. Sections 11-7-30, 11-7-35, and 11-7-45 of the 1976 Code shall apply to this special study as though it were an audit.