

# REPORT OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE

(Ballentine, Clyburn, Hosey, Whitmire, & Lowe - Staff Contact: Teesha Trapp)

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## SENATE BILL 635

S. 635 -- Senators Setzler and Scott: A BILL TO AMEND SECTION 13-17-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE SOUTH CAROLINA RESEARCH AUTHORITY BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD CONSISTS OF CERTAIN UNIVERSITY PRESIDENTS OR THEIR DESIGNEES, TO PROVIDE CERTAIN REQUIREMENTS FOR DESIGNEES, AND TO PROVIDE THAT THE EXECUTIVE COMMITTEE SHALL ELECT TWO ADDITIONAL MEMBERS WHO ARE NOT REQUIRED TO BE TRUSTEES AT THE TIME OF THEIR ELECTION; TO AMEND SECTION 13-17-70, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD MAY INVEST IN CERTAIN OBLIGATIONS OF PRIVATE ENTITIES; TO AMEND SECTION 13-17-87, RELATING TO THE ESTABLISHMENT OF RESEARCH INNOVATION CENTERS, SO AS TO PROVIDE THAT THE SOUTH CAROLINA RESEARCH AUTHORITY MAY ALLOW A COMPANY TO REMAIN IN AN INNOVATION CENTER FOR UP TO FIVE YEARS OR UNTIL EXCEEDING FIVE MILLION DOLLARS BUT DOES NOT APPLY WITH RESPECT TO THIRTY-FIVE PERCENT OF THE SQUARE FEET IN AN INNOVATION CENTER; AND TO AMEND SECTION 12-6-3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND TAX CREDIT, SO AS TO PROVIDE THAT IF THE AGGREGATE CREDIT AMOUNT IS NOT MET IN A CERTAIN TIMEFRAME THEN THE SINGLE TAXPAYER MAXIMUM CREDIT IS INCREASED TO ONE MILLION DOLLARS.

***Received by Ways and Means:*** April 21, 2021

***Summary of Bill:*** This bill makes changes to the membership of the South Carolina Research Authority (SCRA) Board of Trustees, changes to the investments that SCRA is permitted to make, and changes the provisions regarding companies remaining in an innovation center. Further, the bill makes changes to the Industry Partnership Fund tax credit for tax years after 2020.

***Estimated Revenue Impact:*** None; as the aggregate limit of \$9,000,000 per tax year remains the same. The timing of the impact may shift if taxpayers do not have sufficient tax liability to utilize the credits and carry forward unused credits to future tax years.

***Other Notes/Comments:*** Passed FAVORABLY in the Senate on 4/14/2021.

***Subcommittee Recommendation:*** Passed FAVORABLY in the Economic Development subcommittee on 4/20/2022.



**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.*

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**Bill Number:** S. 635      Introduced on March 2, 2021  
**Author:** Setzler  
**Subject:** S.C. Research Authority Board  
**Requestor:** Senate Labor, Commerce, and Industry  
**RFA Analyst(s):** Jolliff  
**Impact Date:** March 17, 2021

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### **Fiscal Impact Summary**

This bill makes changes to the membership of the South Carolina Research Authority (SCRA) Board of Trustees, changes to the investments that SCRA is permitted to make, and changes the provisions regarding companies remaining in an innovation center. These changes are not expected to affect expenditures for any state agency. Further, the bill makes changes to the Industry Partnership Fund tax credit for tax years after 2020. We anticipate that the Department of Revenue (DOR) will implement the necessary changes to the tax credit forms in the annual updates to forms and instructions. Therefore, the bill is not expected to impact expenditures for the agency.

In recent years, Industry Partnership Fund contributions have not met the annual aggregate limit for tax credits of \$9,000,000, which is unchanged in the bill. However, the bill increases the maximum allowable contribution per taxpayer, which may allow current contributors to receive additional tax credits. This change may reduce General Fund revenue from individual or corporate income tax, corporate license fees, bank tax, or insurance tax, or some combination thereof, by up to \$1,500,000 in FY 2021-22. The timing of the impact may shift if taxpayers do not have sufficient tax liability to utilize the credits and carry forward credits to future tax years.

### **Explanation of Fiscal Impact**

#### **Introduced on March 16, 2021**

##### **State Expenditure**

This bill makes changes to the membership of the SCRA Board of Trustees, changes to the investments that SCRA is permitted to make, and changes the provisions regarding companies remaining in an innovation center. These changes are not expected to affect expenditures for any state agency. Further, the bill makes changes to the Industry Partnership Fund tax credit for tax years after 2020. We anticipate that DOR will implement the necessary changes to the tax credit forms in the annual updates to forms and instructions. Therefore, the bill is not expected to impact expenditures for the agency.

##### **State Revenue**

This bill makes changes to the Industry Partnership Fund tax credit for tax years after 2020. Currently, taxpayers who contribute to the Industry Partnership Fund at the SCRA or an SCRA

designated affiliate, or both, are allowed a tax credit against individual or corporate income tax, corporate license fees, bank tax, or insurance tax. The tax credit is limited to \$250,000 per taxpayer and an aggregate of \$9,000,000 for all taxpayers in a tax year. The tax credit may be carried forward for ten tax years. The bill would increase the allowable credit amount for individual taxpayers to \$550,000 but does not change the aggregate limit of \$9,000,000 per tax year. Further, if the aggregate limit is not met within sixty days of the annual opening date for applications, the bill increases the maximum credit per taxpayer to \$1,000,000, subject to the aggregate limit.

The table below provides the contributions to the fund in recent years as reported by the S.C. Research Authority. In recent years, contributions have not reached the limit due to changes in federal tax law regulations that have made contributions less favorable.

**Contributions to the Industry Partnership Fund**

<b>Year</b>	<b>Amount</b>	<b>Contributors</b>	<b>Average Per Contributor</b>
2018	\$6,000,000	111	\$ 54,054
2019	\$3,066,317	68	\$ 45,093
2020	\$3,755,740	93	\$ 40,384
2021 (as of March)	\$729,000	11	\$ 66,273

Source: S.C. Research Authority

According to SCRA’s Annual Report for 2020, five companies contributed in excess of \$200,000 to the Industry Partnership Fund for the year. Under the bill, these five companies could contribute an additional \$300,000 up to the \$550,000 maximum or potentially an additional \$750,000 given that the aggregate limit has not been met for 2021. Based upon available data from DOR, we believe that these contributions have been taken as tax credits against individual and corporate income taxes in recent years, although the credits may also be taken against bank or insurance taxes. Assuming that these five businesses contribute an additional \$300,000, the bill may increase the tax credits by up to \$1,500,000. Therefore, the bill may reduce General Fund revenue from individual or corporate income tax, corporate license fees, bank tax, or insurance tax, or some combination thereof, by up to \$1,500,000 in FY 2021-22. The timing of the impact may shift if taxpayers do not have sufficient tax liability to utilize the credits and carry forward unused credits to future tax years.

**Local Expenditure and Local Revenue**

N/A

Frank A. Rainwater, Executive Director

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 COMMITTEE AMENDMENT ADOPTED AND AMENDED

5 April 14, 2021

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## **S. 635**

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Introduced by Senators Setzler and Scott

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11 S. Printed 4/14/21--S.

[SEC 4/15/21 2:51 PM]

12 Read the first time March 2, 2021.

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**A BILL**

TO AMEND SECTION 13-17-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE SOUTH CAROLINA RESEARCH AUTHORITY BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD CONSISTS OF CERTAIN UNIVERSITY PRESIDENTS OR THEIR DESIGNEES, TO PROVIDE CERTAIN REQUIREMENTS FOR DESIGNEES, AND TO PROVIDE THAT THE EXECUTIVE COMMITTEE SHALL ELECT TWO ADDITIONAL MEMBERS WHO ARE NOT REQUIRED TO BE TRUSTEES AT THE TIME OF THEIR ELECTION; TO AMEND SECTION 13-17-70, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD MAY INVEST IN CERTAIN OBLIGATIONS OF PRIVATE ENTITIES; TO AMEND SECTION 13-17-87, RELATING TO THE ESTABLISHMENT OF RESEARCH INNOVATION CENTERS, SO AS TO PROVIDE THAT THE SOUTH CAROLINA RESEARCH AUTHORITY MAY ALLOW A COMPANY TO REMAIN IN AN INNOVATION CENTER FOR UP TO FIVE YEARS OR UNTIL EXCEEDING FIVE MILLION DOLLARS BUT DOES NOT APPLY WITH RESPECT TO THIRTY-FIVE PERCENT OF THE SQUARE FEET IN AN INNOVATION CENTER; AND TO AMEND SECTION 12-6-3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND TAX CREDIT, SO AS TO PROVIDE THAT IF THE AGGREGATE CREDIT AMOUNT IS NOT MET IN A CERTAIN TIMEFRAME THEN THE SINGLE TAXPAYER MAXIMUM CREDIT IS INCREASED TO ONE MILLION DOLLARS.

Amend Title To Conform

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

1 SECTION 1.A. Section 13-17-40(B)(1) of the 1976 Code is  
2 amended to read:

3  
4 “(1)(a) The President of Clemson University or his designee, the  
5 President of the Medical University of South Carolina or his  
6 designee, the President of the University of South Carolina at  
7 Columbia or his designee, the President of South Carolina State  
8 University or his designee, the Governor or his designee, the  
9 Chairman of the House Ways and Means Committee or his  
10 designee, the Chairman of the Senate Finance Committee or his  
11 designee, and the ~~Chairman~~ chairman of the ~~Board~~ board of ~~Trustees~~  
12 trustees shall serve on the executive committee of the ~~board of~~  
13 trustees SCRA.

14 (b) A designee of one of the four university presidents must  
15 be an individual serving in no less than a vice president or  
16 comparable role and shall report directly to the president, with such  
17 determination to be made in the sole discretion of the designating  
18 president. Each university president may designate only one person  
19 for each calendar year, except in the case of the designee’s death,  
20 incapacity, or termination of employment, in which case the  
21 designating university president may replace the designee for the  
22 remainder of the calendar year. Any university president is  
23 authorized in any event to participate, in any meeting or otherwise,  
24 in person rather than through a previously named designee.

25 (c) The executive committee shall elect two additional  
26 members of the executive committee, who shall be trustees at the  
27 time of their election, and one additional member, who is not  
28 required to be a trustee at the time of his election, by the affirmative  
29 vote of a majority of the ~~members of the~~ executive committee then  
30 -serving. Each of the three university presidents, with respect to no  
31 more than two executive committee meetings each calendar year,  
32 may designate in his place that university’s chief research officer, as  
33 determined in the sole discretion of the designating president, to  
34 participate in and vote at executive committee meetings specified in  
35 the designation.

36 (d) The executive committee has all powers and authority  
37 of the board of trustees. The board shall have an advisory role only  
38 and shall advise the executive committee of the actions  
39 recommended by the board.

40 (2) Terms of elected executive committee members are for  
41 four years, and ~~half~~ the term of at least one executive committee  
42 member shall expire every two years. An elected executive  
43 committee member may not serve more than two consecutive

1 four-year elected terms. A vacancy must be filled for the unexpired  
2 term in the manner of original election, and occurs upon the  
3 expiration of the term of service, death, resignation, disqualification,  
4 or removal of an elected executive committee member. An elected  
5 executive committee member ~~need not continue to~~ who must be a  
6 trustee at the time of his election need not continue to be a trustee in  
7 order to complete his term as an executive committee member. An  
8 elected executive committee member may be removed from office  
9 by the affirmative vote of two-thirds of the executive committee  
10 members serving.”

11

12 B. The initial term of the member of the executive committee of the  
13 South Carolina Research Authority Board of Trustees who is not  
14 required to be a trustee at the time of his election, pursuant to Section  
15 13-17-40(B)(1), as amended by this act, begins on July 1, 2021, and  
16 ends on July 1, 2024.

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18 SECTION 2. Section 13-17-70(8) of the 1976 Code is amended to  
19 read:

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21 “(8) from time to time to borrow money, make and issue  
22 negotiable notes, bonds, and other evidences of indebtedness,  
23 including refunding and advanced refunding notes, bonds, and other  
24 evidences of indebtedness of the authority; to secure the payment of  
25 the obligations or any part by mortgage, lien, pledge, or deed of  
26 trust, on all or any of its property, contracts, franchises, or revenues,  
27 including the proceeds of any refunding and advanced refunding  
28 notes, bonds, and other evidences of indebtedness and the  
29 investments in which proceeds are invested and the earning on and  
30 income therefrom; to invest its monies, including without limitation  
31 its revenues and proceeds of the notes, bonds, or other evidences of  
32 indebtedness, in obligations of, or obligations the principal of and  
33 interest on which are guaranteed by or are fully secured by contracts  
34 with the United States of America, in obligations of any agency,  
35 instrumentality, or corporation which has been or may hereafter be  
36 created by or pursuant to an act of Congress of the United States as  
37 an agency, instrumentality, or corporation thereof, in direct and  
38 general obligations of the State of South Carolina, and in certificates  
39 of deposit issued by any bank, trust company, or national banking  
40 association and, in addition, in obligations of any private entity  
41 existing under the laws of the United States of America or any state  
42 thereof, which at the time of purchase bear an investment grade  
43 rating of at least two nationally recognized credit rating services;

1 provided, that the authority, when investing in certificates of  
2 deposit, shall invest in certificates of deposit issued by institutions  
3 authorized to do business in South Carolina if such institutions offer  
4 terms which, in the opinion of the authority, are equal to or better  
5 than those offered by other institutions; to make agreements with the  
6 purchasers or holders of such notes, bonds, or other evidences of  
7 indebtedness or with others in connection with any such notes,  
8 bonds, or other evidences of indebtedness, whether issued or to be  
9 issued, as the authority shall deem advisable; and in general to  
10 provide for the security for the notes, bonds, or other evidences of  
11 indebtedness and the rights of the holders thereof; provided, that in  
12 the exercise of the powers herein granted to issue advanced  
13 refunding notes, bonds, or other evidences of indebtedness the  
14 authority may, but shall not be required to, avail itself of or comply  
15 with any of the provisions of Sections 11-21-10 to 11-21-80  
16 (Advanced Refunding Act);”

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18 SECTION 3. Section 13-17-87(F)(3) of the 1976 Code is amended  
19 to read:

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21 “(3) allow a company to remain in an innovation center for up  
22 to ~~four~~ five years or until exceeding ~~one~~ five million dollars in  
23 annual commercial revenue; provided, however, that this  
24 requirement may not apply with respect to thirty-five percent of the  
25 square feet in an innovation center, as determined by the SCRA.”

26

27 SECTION 4. Section 12-6-3585(A) of the 1976 Code, as last  
28 amended by Act 15 of 2019, is further amended to read:

29

30 “(A) For each tax year beginning after ~~2018~~ 2020, a taxpayer may  
31 claim as a credit against state income tax imposed by Chapter 6,  
32 Title 12, bank tax imposed by Chapter 11, Title 12, license fees  
33 imposed by Chapter 20, Title 12, or insurance premiums imposed  
34 by Chapter 7, Title 38, or any combination of them, one hundred  
35 percent of an amount contributed to the Industry Partnership Fund  
36 at the South Carolina Research Authority (SCRA), or an SCRA  
37 designated affiliate, or both, pursuant to Section 13-17-88(E), up to  
38 a maximum credit of ~~two~~ five hundred ~~fifty~~ thousand dollars for a  
39 single taxpayer, not to exceed an aggregate credit of nine million  
40 dollars for all taxpayers. If the aggregate credit of nine million  
41 dollars for all taxpayers is not met within sixty days of the annual  
42 opening date for the application for the credit, the single taxpayer  
43 maximum credit is automatically increased to one million dollars for



1 the remainder of that year until the maximum aggregate credit of  
2 nine million dollars is met. For purposes of determining a taxpayer's  
3 entitlement to the credit for qualified contributions for a given tax  
4 year in which more than the applicable aggregate annual limit on the  
5 credit is contributed by taxpayers for that year, taxpayers who have  
6 made contributions that are intended to be qualified contributions  
7 earlier in the applicable tax year than other taxpayers must be given  
8 priority entitlement to the credit. The SCRA shall certify to  
9 taxpayers who express a bona fide intention of making one or more  
10 qualified contributions as to whether the taxpayer is entitled to that  
11 priority.”

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13 SECTION 5. This act takes effect on July 1, 2021.

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