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Summary: State Institution of Higher Education Enterprise Act

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[5/8/2019](file:///p:\pprever\2019-20\4576_20190508.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 11, TITLE 11 SO AS TO PROVIDE INCREASED FUNDING TO PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THE SAME PERCENTAGE AS GENERAL FUND REVENUES INCREASE, TO PROVIDE ADDITIONAL FUNDING FOR CERTAIN SCHOLARSHIPS AND TO PROVIDE ELIGIBILITY CRITERIA FOR THE FUNDING, AND TO ESTABLISH THE HIGHER EDUCATION FACILITIES REPAIR AND RENOVATION FUND TO PROVIDE INFRASTRUCTURE FUNDING FOR INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTIONS 59‑149‑170, 59‑149‑180, 59‑104‑50, AND 59‑104‑60 SO AS TO NORMALIZE THE TEN‑POINT GRADING SCALE FOR PURPOSES OF ELIGIBILITY FOR CERTAIN SCHOLARSHIPS; TO AMEND SECTION 59‑150‑370, RELATING TO THE HOPE SCHOLARSHIP, SO AS TO NORMALIZE THE TEN‑POINT GRADING SCALE FOR PURPOSES OF ELIGIBILITY; BY ADDING SECTIONS 59‑142‑80 AND 59‑143‑40 SO AS TO APPROPRIATE ADDITIONAL FUNDING FOR THE NEED‑BASED GRANT PROGRAM AND TO PROVIDE ELIGIBILITY CRITERIA FOR FUTURE FUNDING; TO AMEND SECTION 59‑143‑30, RELATING TO HIGHER EDUCATION SCHOLARSHIPS AND GRANTS, SO AS TO APPROPRIATE ADDITIONAL FUNDING FOR GRANT PROGRAMS; TO AMEND SECTIONS 59‑104‑25 AND 59‑149‑15, RELATING TO CERTAIN STEM STIPENDS, SO AS TO PROVIDE THAT THE STIPEND IS AVAILABLE WHEN THE STUDENT BECOMES A JUNIOR INSTEAD OF A SOPHOMORE; BY ADDING SECTION 59‑142‑90 SO AS TO REQUIRE THE APPROPRIATION OF CERTAIN ADDITIONAL FUNDING FOR NEED‑BASED GRANTS AND NEED‑BASED TUITION GRANTS; TO REPEAL SECTIONS 59‑104‑20(D), AND 59‑149‑150 BOTH RELATING TO CERTAIN SCHOLARSHIP PROVISIONS; TO AMEND SECTION 59‑150‑370, RELATING TO SCHOLARSHIPS, SO AS TO MAKE A CONFORMING CHANGE; BY ADDING SECTION 59‑103‑175 SO AS TO REQUIRE THE COMMISSION ON HIGHER EDUCATION SUBMIT POLICY STATEMENTS AND RULES AS REGULATIONS; TO REQUIRE THE PROCUREMENT OF A STUDENT LOAN DEFAULT AVERSION AND FINANCIAL LITERACY PROGRAM; BY ADDING CHAPTER 157 TO TITLE 59 SO AS TO CREATE THE “STATE INSTITUTION OF HIGHER EDUCATION ENTERPRISE ACT”; AND TO AMEND SECTION 11‑35‑710, RELATING TO THE PROCUREMENT CODE, SO AS TO EXEMPT AN ENTERPRISE DIVISION.

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

SECTION 1. This act may be referred to as the “Higher Education Opportunity Act”.

SECTION 2. Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Article 7

Funding for Public Institutions of Higher Learning

Subarticle 1

Base Funding

Section 11‑11‑610. For purposes of this subarticle:

(1) ‘Public institution of higher learning’ means any state‑supported, post‑secondary research, comprehensive, and two‑year branch campus educational institution and shall include technical and comprehensive educational institutions.

(2) ‘Recurring general fund revenue’ means the forecast of recurring general fund revenues pursuant to Section 11‑9‑1130 after the amount apportioned to the Trust Fund for Tax Relief, as required in Section 11‑11‑150, is deducted.

(3) ‘Recurring general fund expenditure base’ means the total recurring general fund appropriations authorized in the current general appropriations act less any reduced appropriations mandated by the General Assembly or the Executive Budget Office pursuant to Section 11‑9‑1140(B).

Section 11‑11‑620. (A) In any fiscal year in which general fund revenues are projected to increase, in the annual general appropriations bill, the appropriation to each public institution of higher learning for the upcoming fiscal year must be increased by the same projected percentage increase, not to exceed five percent, when compared to the appropriation in the current fiscal year. For purposes of this section, beginning with the initial forecast required pursuant to Section 11‑9‑1130, the percentage increase in general fund revenues must be determined by the Revenue and Fiscal Affairs Office by comparing the current fiscal year’s recurring general fund expenditure base with the Board of Economic Advisors’ most recent projection of recurring general fund revenue for the upcoming fiscal year. Upon the issuance of the initial forecast, the Executive Director of the Revenue and Fiscal Affairs Office, or his designee, shall notify the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor of the projected percentage increase. The executive director, or his designee, shall provide similar notice if subsequent modifications to the forecast change the projected percentage increase. However, the forecast in effect on April tenth of the current fiscal year is the final forecast for which the percentage increase is determined, and no subsequent forecast modifications shall have any effect on that determination.

(B) In any fiscal year in which general fund revenues are projected to decrease, in the annual general appropriations bill, the appropriation to each public institution of higher learning for the upcoming fiscal year only may be decreased, if at all, by no more than the projected percentage decrease in general fund revenues, when compared to the appropriation in the current fiscal year.

(C)(1) For purposes of this section, beginning with the initial forecast required pursuant to Section 11‑9‑1130, the percentage change in general fund revenues must be determined by the Revenue and Fiscal Affairs Office by comparing the current fiscal year’s recurring general fund expenditure base with the Board of Economic Advisors’ most recent projection of recurring general fund revenue for the upcoming fiscal year.

(2) The Governor shall include the adjusted appropriation to each public institution of higher learning in the Executive Budget.

(3) The Revenue and Fiscal Affairs Office shall determine the current fiscal year’s recurring general fund expenditure base, and determine any projected change in general fund revenues. If an adjustment is projected, the appropriation for the upcoming fiscal year must be adjusted accordingly.

Section 11‑11‑630. In any fiscal year in which the Board of Economic Advisors reduces the revenue forecast for the current fiscal year, the appropriation to or rate of expenditure for each public institution of higher learning may not be reduced by more than the percentage amount of the reduction.

Subarticle 2

Additional Funding

Section 11‑11‑710. For purposes of this subarticle, ‘public institution of higher learning’ means any state‑supported, post‑secondary research, comprehensive, and each two‑year regional campus of the University of South Carolina.

Section 11‑11‑720. (A) There is established the Higher Education Opportunity Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Revenues in this fund may not be used to supplant general fund appropriations of each public institution of higher learning, with the amounts appropriated in Part 1.A. of the Fiscal Year 2019‑2020 annual appropriations act serving as the base year. The fund is exempt from any midyear budget reduction imposed by the General Assembly, or the Executive Budget Office pursuant to Section 11‑9‑1140(B).

(B) The fund must be distributed by the State Treasurer to each public institution of higher learning pursuant to the formula set forth in subsection (C). However, any funds accruing in the trust fund during the initial fiscal year of the fund’s establishment must remain in the trust fund for the entirety of that fiscal year and the funds may not be distributed during that year.

(C)(1)(a) As set forth in subitems (b) and (c), ten percent of the trust fund must be used for need‑based scholarships to full‑time undergraduate students from South Carolina, and the remaining ninety percent must be used to fund the costs of the various institutions for educating South Carolinians. By July 15, 2020, and in accordance with subsections (A) and (B), the Commission on Higher Education shall determine the percentage of the trust fund that each public institution of higher learning shall receive in the current fiscal year from subitems (b) and (c).

(b) Ten‑percent of the total amount to be distributed from the trust fund each fiscal year must be used solely for need‑based scholarships to be awarded to full‑time undergraduate students from South Carolina. The percentage each institution shall receive pursuant to this subitem must be determined by a fraction in which the numerator is the institution’s number of full‑time undergraduate students whose family income is not greater than one hundred fifty percent of the most recently published Health and Human Service Poverty Guidelines and whose geographic origin is South Carolina for the fall semester in the immediately preceding fiscal year and the denominator is the sum total of every institution’s number of full‑time undergraduate students whose family income is not greater than one hundred fifty percent of the most recently published Health and Human Service Poverty Guidelines and whose geographic origin is South Carolina for the fall semester in the immediately preceding fiscal year. Each institution must distribute these funds in semiannual awards in the form of need‑based scholarships directly to student recipients qualified using the criteria for those students whose family income is not greater than one hundred fifty percent of the most recently published Health and Human Service Poverty Guidelines and whose geographic origin is South Carolina for the upcoming fall semester.

(c) The remaining ninety percent of the total amount to be distributed from the trust fund each year must be used to fund the costs of the various institutions for the education of students. The percentage each institution shall receive pursuant to this subitem must be determined by using a fraction, in which the numerator is the institution’s number of full‑time undergraduate students whose geographic origin is South Carolina for the fall semester in the immediately preceding fiscal year and the denominator is the total number of every institution’s number of full‑time undergraduate students whose geographic origin is South Carolina for the fall semester in the immediately preceding fiscal year.

(d) Immediately following the Comptroller General’s closing of the state’s books for the preceding fiscal year, or by October 1, 2020, whichever occurs first, the State Treasurer shall distribute the funds to each public institution of higher learning based on the percentage allocation calculated for each institution by the Commission on Higher Education.

(2) By July 15, 2021, and each July fifteenth thereafter, the commission shall update the percentage allocation formula provided in item (1) based on new enrollment figures for the immediately preceding fiscal year’s fall semester. Immediately following the Comptroller General’s closing of the state’s books for the preceding fiscal year, or October first, whichever occurs first, the State Treasurer shall distribute the funds to each public institution of higher learning so that each institution receives the same amount of funds it received in the prior fiscal year plus a proportional share of any increase in the fund’s total in the current fiscal year compared to the fund’s total in the prior fiscal year. The proportional share must be the percentage allocation calculated for each institution by the commission pursuant to this subsection. In the event the trust fund’s total is less in the current fiscal year compared to its total in the prior fiscal year, each institution’s distribution shall be based on its percentage allocation in the prior fiscal year.

(D) Once the Higher Education Opportunity Trust Fund has a balance of at least one hundred twenty‑five million dollars, then the provisions of Section 11‑11‑740 apply.

(E) Nothing in this section may be construed to restrict the appropriation of funds to any public institution of higher learning from any source other than the Higher Education Opportunity Trust Fund.

(F) No later than November first and March first of each academic year, an institution receiving funds pursuant to this section must publish in a conspicuous place on its website a report summarizing the institution’s undergraduate enrollment data, including geographic origin of its undergraduate students, as well as race and ethnicity data, and family income level of this same population. Within seven days of posting this report, an institution must provide an electronic copy to the Commission on Higher Education. Within thirty days of receiving these reports, the commission must summarize the institutional summaries and provide a singular consolidated report to the Governor, Chairman of the House Education and Public Works Committee, Chairman of the Senate Education Committee, Chairman of the House Ways and Means Committee, and the Chairman of the Senate Finance Committee.

Section 11‑11‑730. (A) Notwithstanding any other provision of law, the following revenues must be credited to the Higher Education Opportunity Trust Fund:

(1) sales and use tax revenues owed by any South Carolina retailer who has utilized the provisions of Section 12‑36‑2691 minus any sales and use tax revenue remitted by any such retailer in Fiscal Year 2018‑2019;

(2) to the extent allowed by federal law, sales and use tax revenues owed by remote sellers;

(3) sales and use tax revenues owed on the sale of tangible personal property sold on an Internet website by independent sellers through a South Carolina retailer on consignment, or any other Internet sale made by a third party through a South Carolina retailer;

(4) any admission taxes collected by a public institution of higher learning pursuant to Article 17, Chapter 21, Title 12. The admission tax collections from the previous fiscal year must be deposited into the trust fund in a lump sum by October first of each year; and

(5) any indirect cost recoveries remitted by a public institution of higher learning pursuant to Section 2‑65‑70. The recoveries from the previous fiscal year must be deposited into the trust fund in a lump sum by October first of each year.

(B) The amount of revenue credited to the Higher Education Opportunity Trust Fund pursuant to subsection (A)(3), if any, must be determined by an estimate of the Board of Economic Advisors. The Board of Economic Advisors shall include this estimate in its initial economic forecast, and in any subsequent forecasts if an adjustment is necessary. The amount of this estimate must be deducted from amounts available for appropriation in the same manner as reimbursements to the Trust Fund for Tax Relief are deducted. The State Treasurer shall transfer this amount to the Higher Education Opportunity Trust Fund in equal monthly installments.

(C) Notwithstanding subsection (A), any sales and use tax revenue collected from transactions set forth in subsection (A)(1) through (A)(3) that is attributable to the tax imposed by the Education Improvement Act must be credited as provided in Section 59‑21‑1010(B).

(D) Notwithstanding subsection (A), the maximum amount of revenue that may be credited to the trust fund in any fiscal year is three hundred twenty‑five million dollars. However, the limitation set by this subsection must be increased each year by the percentage increase in the Higher Education Price Index, as reported by the Commonfund Institute, for the immediately preceding fiscal year. Any revenues not credited to the trust fund as a result of this subsection must be credited as otherwise provided by law.

Section 11‑11‑740. (A) Notwithstanding any other provision of law, for the fiscal year immediately following the first fiscal year in which the Higher Education Opportunity Trust Fund has a balance of at least one hundred twenty‑five million dollars and funds are distributed from the trust fund pursuant to Section 11‑11‑720, and upon affirmation of the boards of trustees of public institutions of higher learning receiving such trust funds, the boards of trustees must not increase the institution’s required tuition and mandatory fees charged to in‑state undergraduate students whose geographic origin is the State of South Carolina above the amounts charged on such students for the immediately preceding fiscal year. This limitation shall not apply to undergraduate students whose geographic origin is not the State of South Carolina or to graduate or post‑graduate students regardless of geographic origin.

(B) For all subsequent years following the initial year set forth in subsection (A), and provided that the provisions of subsection (C) are applicable for the immediately preceding year, upon positive affirmation, the boards of trustees of each public institution of higher learning must not increase the institution’s required tuition and mandatory fees charged to in‑state undergraduate students whose geographic origin is the State of South Carolina by more than the percentage increase in the Higher Education Price Index, as reported by the Commonfund Institute, for the immediately preceding fiscal year, or not more than two and three‑quarters percent, whichever is less.

(C) The limitations prescribed in subsections (A) and (B) are suspended for any fiscal year in which the General Assembly fails to comply with the requirements contained in this article pertaining to funding of the Higher Education Opportunity Trust Fund. By July thirtieth of each fiscal year, the Revenue and Fiscal Affairs Office shall notify the Commission on Higher Education if the limitation in subsection (B) is suspended.

(D) In any fiscal year in which the limitations of subsections (A) and (B) are in effect and the board of trustees of an institution that receives trust funds pursuant to this section fails to comply with the requirements of subsection (B), then the General Assembly shall not provide the funding of the Higher Education Opportunity Trust Fund, until such time that the institution’s Board of Trustees is in compliance with the requirements of subsection (B).

(E) The authority granted by the will of Thomas G. Clemson, accepted by Section 59‑119‑10, is confirmed and is not limited by this article.

Subarticle 3

Infrastructure

Section 11‑11‑810. For purposes of this subarticle, ‘public institution of higher learning’ means any state‑supported, post‑secondary research, comprehensive, and two‑year branch campus educational institution and shall include technical and comprehensive educational institutions.

Section 11‑11‑820. (A) There is established the Higher Education Facilities Repair and Renovation Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The Department of Administration, Executive Budget Office, shall administer the fund. The funds only may be expended for the purposes set forth in subsection (C).

(B)(1) Beginning with the annual general appropriations act for Fiscal Year 2020‑2021, and annually thereafter, the General Assembly shall appropriate at least twenty‑five million dollars to the fund for allocation to and among the state’s public colleges and universities, including technical colleges.

(2) Of the funds available in the fund, twenty‑five percent must be transferred to the State Board for Technical and Comprehensive Education for distribution among the state’s public technical colleges in a manner and amounts determined by the board. The remaining seventy‑five percent must be transferred by the Executive Budget Office for distribution among the state’s public institutions of higher learning based on a formula developed by the Executive Budget Office, in consultation with the public institutions of higher learning.

(C)(1) Notwithstanding any other provision of law, the funds only may be expended for necessary renovation, repair and related maintenance, and other critical equipment and systems repair and maintenance that are necessary for the safe and efficient operation of the institution’s physical plant in its support of the institution’s educational purpose. Funds must not be used for new construction.

(2) Before the funds may be distributed, each institution must certify to the Executive Budget Office or the board, as applicable, in the manner prescribed by the applicable body, the extent to which the institution will meet the requirements of this section. No later than one hundred twenty days after the close of a fiscal year, the Executive Budget Office and the board shall report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee regarding the utilization of this section. Funds not expended in the prior fiscal year may be carried forward into the current fiscal year and utilized for the same purpose. In the event of a midyear budget cut imposed by the General Assembly or the Executive Budget Office, the fund only may be reduced, if at all, by an amount not to exceed the overall percentage reduction being required of the general fund in the statewide aggregate. In any fiscal year in which the Board of Economic Advisors reduces the revenue forecast for the current fiscal year, the appropriation to or rate of expenditure for each public institution of higher learning may not be reduced by more than the percentage amount of the reduction.

Section 11‑11‑830. Notwithstanding Section 11‑11‑730 and any other provision of law, any sales and use tax revenues collected by an audit of the Department of Revenue of any South Carolina retailer who has utilized the provisions of Section 12‑36‑2691, must be credited to the Higher Education Facilities Repair and Renovation Fund.

Section 11‑11‑840. Beginning with the annual general appropriations act for Fiscal Year 2020‑2021, and annually thereafter, the General Assembly may not appropriate funds to debt service in excess of the amount required by law, unless the General Assembly appropriates twenty‑five million dollars to the Higher Education Facilities Repair and Renovation Fund for allocation to and among the state’s public colleges and universities, including technical colleges. An appropriation made pursuant to this section also satisfies the appropriation requirement of Section 11‑11‑820.”

SECTION 3. A. Chapter 149, Title 59 of the 1976 Code is amended by adding:

“Section 59‑149‑170. (A) Notwithstanding any other provision of law and the provisions of the South Carolina Uniform Grading Scale, for purposes of the high school grade‑point average requirements of this chapter, any student who graduates high school after the 2020‑2021 school year must have a cumulative grade point average of 3.3.

(B) The provisions of this section only apply to determining initial eligibility for the scholarship provided in this chapter. Nothing in this section may be construed to effect college admission or the South Carolina Uniform Grading Scale.

Section 59‑149‑180. Beginning with the 2021‑2022 annual general appropriations act, the General Assembly must not appropriate funds to the LIFE Scholarship Program, including stipends, in excess of the total amount appropriated to the program in the previous fiscal year, regardless of the source of the appropriation, plus an amount equal to the percentage increase in the higher education price index for the immediately preceding fiscal year, but not to exceed two and three‑quarters percent each year.”

B. Article 1, Chapter 104, Title 59 of the 1976 Code is amended by adding:

“Section 59‑104‑50. (A) Notwithstanding any other provision of law and the provisions of the South Carolina Uniform Grading Scale, for purposes of the high school grade‑point average requirements of this article, any student who graduates after the 2020‑2021 school year must have a cumulative grade point average of 4.0 if the student qualifies pursuant to Section 59‑104‑20(G)(1), or a cumulative grade point average of 4.3 if the student qualifies pursuant to Section 59‑104‑20 (G)(2).

(B) The provisions of this section only apply to determining initial eligibility for the scholarship provided in this article. Nothing in this section may be construed to effect college admission or the South Carolina Uniform Grading Scale.

Section 59‑104‑60. Beginning with the 2021‑2022 annual general appropriations act, the General Assembly must not appropriate funds to the Palmetto Fellows Scholarship Program, including stipends, in excess of the total amount appropriated to the program in the previous fiscal year, regardless of the source of the appropriation, plus an amount equal to the percentage increase in the higher education price index for the immediately preceding fiscal year, but not to exceed two and three‑quarters percent each year.”

C. Section 59‑150‑370 of the 1976 Code is amended by adding two appropriately lettered subsections at the end to read:

“( )(1) Notwithstanding any other provision of law and the provisions of the South Carolina Uniform Grading Scale, for purposes of the high school grade‑point average requirements of this section, any student who graduates high school after the 2020‑2021 school year must have a cumulative grade point average of 3.3.

(2) The provisions of this subsection only apply to determining initial eligibility for the scholarship provided in this article. Nothing in this subsection may be construed to effect college admission or the South Carolina Uniform Grading Scale.

( ) Beginning with the 2021‑2022 annual general appropriations act, the General Assembly must not appropriate funds to the SC HOPE Scholarship program in excess of the total amount appropriated to the program in the previous fiscal year, regardless of the source of the appropriation, plus an amount equal to the percentage increase in the higher education price index for the immediately preceding fiscal year, but not to exceed two and three‑quarters percent each year.”

SECTION 4. Chapter 142, Title 59 of the 1976 Code is amended by adding:

“Section 59‑142‑80. (A) Beginning with Fiscal Year 2020‑2021 and ending after Fiscal Year 2021‑2022, the General Assembly, in the annual general appropriations act, shall appropriate additional funds to the need‑based grant program so that the total appropriation is in excess of the amount appropriated in the previous fiscal year. The additional funds may not be less than the amount determined pursuant to subsection (B).

(B)(1) The Revenue and Fiscal Affairs Office, in consultation with the Commission on Higher Education, for each applicable fiscal year, shall determine the additional amount of funds not required to be expended in the applicable fiscal year as a result of Sections 59‑149‑170, 59‑104‑50, and 59‑150‑370(G), as added by the Higher Education Opportunity Act. The appropriation made pursuant to subsection (A) may not be less than this determination. The determination must be made before February fifteenth, and must be transmitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee.

(2) Notwithstanding item (1), the determination must not be less than:

(a) five million three hundred thousand dollars in Fiscal Year 2020‑2021;

(b) five million dollars in Fiscal Year 2021‑2022.

(C) The funds appropriated pursuant to this section are meant to supplement, not supplant, funding to the need‑based grant program. Nothing in this section may be construed so as to prevent the General Assembly from appropriating additional funding to the program.”

SECTION 5. A. Chapter 143, Title 59 of the 1976 Code is amended by adding:

“Section 59‑143‑40. (A) Beginning with the annual general appropriations act for Fiscal Year 2021‑2022, and each fiscal year thereafter, the General Assembly shall appropriate general funds and lottery funds, to the South Carolina Tuition Grants Commission for need‑based tuition grants and to the Commission on Higher Education for need‑based grants in equal amounts, which must not be less than the amount each received in the previous fiscal year. Beginning in Fiscal Year 2022‑2023, the appropriations must be increased annually by the percentage increase in the higher education price index for the immediately preceding fiscal year, but not to exceed two and three‑quarters percent each year. The Revenue and Fiscal Affairs Office shall determine the amount of the increase and submit the required appropriation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee.

(B) In addition to the amounts required to be appropriated pursuant to subsection (A), beginning with the annual general appropriations act for Fiscal Year 2021‑2022, and each fiscal year thereafter, the General Assembly shall appropriate to the South Carolina Tuition Grants Commission for need‑based tuition grants an amount equal to the amount that the South Carolina Tuition Grants Commission received for needs‑based tuition grants pursuant to Section 59‑143‑30 in Fiscal Year 2020‑2021. The appropriation made pursuant to this section must be spent in the same manner as set forth in Section 59‑143‑30(A). The appropriation required pursuant to this subsection shall not factor into the requirements or calculations made pursuant to subsection (A).”

B. Section 59‑143‑30 of the 1976 Code is amended to read:

“Section 59‑143‑30. (A)(1) Until July 1, 2021, of the funds made available for higher education scholarship grants from the higher education scholarship grant allocation under Section 59‑143‑10 of the 1976 Code for any year, a percentage thereof must be allocated for higher education scholarships and grants for students attending South Carolina independent colleges of higher learning in this State. This percentage shall be equivalent to the percentage of the independent colleges’ share of the total South Carolina resident undergraduate full‑time (FTE) enrollment of all public and independent higher education institutions in South Carolina based on the previous year’s data as determined by the Commission on Higher Education and the South Carolina Tuition Grants Commission.

(2) The allocation each year to students at the South Carolina independent colleges under item (1) above shall be used to provide tuition grants under Chapter 113 of Title 59 of the 1976 Code, and Palmetto Fellows Scholarships under Section 59‑104‑20 of the 1976 Code in the manner the General Assembly shall provide in the annual general appropriations act. Of the funds allocated to independent college students, fifty percent shall be awarded for South Carolina Tuition Grants and fifty percent shall be awarded under the Palmetto Fellows Program. The funds allocated for South Carolina Tuition Grants to South Carolina independent colleges students under this subsection shall be included in the annual appropriation to the Commission on Higher Education and transferred annually into the budget of the South Carolina Tuition Grants Commission in the amount prescribed in item (1) above. The funds allocated for Palmetto Fellows Scholarships to South Carolina independent college students under this subsection shall be included in the annual appropriation to the Commission on Higher Education and may only be awarded to eligible students attending South Carolina independent colleges.

(3) Independent colleges for purposes of this subsection means those institutions eligible to participate in the South Carolina Tuition Grants Program as defined by Section 59‑113‑50.

(4) Public institutions shall receive the remaining allocation each year of the funds made available for higher education scholarship grants under Section 59‑143‑10. One‑half shall be used to provide higher education need‑based grants as provided for in this act or otherwise provided for in state law, and one‑half shall be used to provide Palmetto Fellows Scholarships under Section 59‑104‑20 of the 1976 Code in the manner the General Assembly shall provide in the annual general appropriations act.

(5) The maximum amount of funding provided for awards to students attending South Carolina independent colleges from the Children’s Education Endowment Fund for South Carolina Tuition Grants and Palmetto Fellows scholarships shall not exceed the percentage funding calculation described under item (1) above.

(B) Beginning July 1, 2021, public institutions shall receive the entire allocation each year of the funds made available for higher education scholarship grants under Section 59‑143‑10. One‑half shall be used to provide higher education need‑based grants as provided for in this chapter or otherwise provided for in state law, and one‑half shall be used to provide Palmetto Fellows Scholarships under Section 59‑104‑20 of the 1976 Code in the manner the General Assembly shall provide in the annual general appropriations act.”

SECTION 6. A. Section 59‑104‑25(A) of the 1976 Code is amended to read:

“(A) A resident student who is at least a ~~sophomore~~ junior attending a four‑year public or private institution of higher learning in this State, who is majoring in science or mathematics as defined below, and who is receiving a Palmetto Fellows Scholarship for the current year, shall receive an additional Palmetto Fellows Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed three thousand three hundred dollars each year for no more than ~~three~~ two additional years of instruction, including his ~~sophomore~~ junior year, if the student enrolled in a four‑year degree program, or for not more than ~~four~~ three additional years of instruction, including his ~~sophomore~~ junior year, if enrolled in a five‑year degree program or a 3 plus 2 program. A year is defined as thirty credit hours of instruction or its equivalent each year. To receive the additional Palmetto Fellows Scholarship stipend each year, the student must receive the underlying Palmetto Fellows Scholarship for that year and must be making acceptable progress each year toward receiving a degree in his science or mathematics major. In addition, during each of his freshman ~~year~~ and sophomore years, the student must have successfully completed a total of at least fourteen credit hours of instruction in mathematics courses, or life and physical science courses, or a combination of both. For purposes of meeting the required minimum level of instruction in mathematics and life and physical science courses during a student’s freshman ~~year~~ and sophomore years, advanced placement courses in mathematics and life and physical sciences taken in high school on which the student scored high enough on the advanced placement test to receive credit at his institution and for which he received credit, count toward the fulfillment of this minimum requirement.”

B. Section 59‑149‑15(A) of the 1976 Code is amended to read:

“(A) A resident student who is at least a ~~sophomore~~ junior attending a four‑year public or private institution of higher learning in this State, who is majoring in science or mathematics as defined below, and who is receiving a LIFE Scholarship for the current year, shall receive an additional LIFE Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed two thousand five hundred dollars each year for no more than ~~three~~ two additional years of instruction, including his ~~sophomore~~ junior year, if enrolled in a four‑year degree program, or for not more than ~~four~~ three additional years of instruction, including his ~~sophomore~~ junior year, if enrolled in a five‑year degree program or a 3 plus 2 program. In addition, during each of his freshman ~~year~~ and sophomore years, the student must have successfully completed a total of at least fourteen credit hours of instruction in mathematics courses, or life and physical science courses, or a combination of both. A year is defined as thirty credit hours of instruction or its equivalent each year. To receive the additional LIFE Scholarship stipend each year, the student must receive the underlying LIFE Scholarship for that year and must be making acceptable progress each year toward receiving a degree in his science or mathematics major. For purposes of meeting the required minimum level of instruction in mathematics and life and physical science courses during a student’s freshman ~~year~~ and sophomore years, advanced placement courses in mathematics and life and physical sciences taken in high school on which the student scored high enough on the advanced placement test to receive credit at his institution and for which he received credit, count toward the fulfillment of this minimum requirement.”

C. Chapter 142, Title 59 of the 1976 Code is amended by adding:

“Section 59‑142‑90. (A) Beginning with Fiscal Year 2022‑2023, in addition to the funding required pursuant to Section 59‑143‑40, the General Assembly, in the annual general appropriations act, shall appropriate an equal amount of additional funds, to the South Carolina Tuition Grants Commission for need‑based tuition grants and to the Commission on Higher Education for need‑based grants for public college students. The additional amount may not be less than the amount determined pursuant to subsection (B).

(B) The Revenue and Fiscal Affairs Office, in consultation with the Commission on Higher Education, shall determine the additional amount of funds not required to be expended in Fiscal Year 2022‑2023, as a result of the amendments to Section 59‑104‑25(A) and Section 59‑149‑115(B), as contained in the Higher Education Opportunity Act. The appropriation made pursuant to subsection (A) may not be less than this determination. The determination must be made before February fifteenth, and must be transmitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee.

(C) The funds appropriated pursuant to this section are meant to supplement, not supplant, other funding to the need‑based tuition grants and need‑based grant program. Nothing in this section may be construed so as to prevent the General Assembly from appropriating additional funding to the programs.”

D. This SECTION takes effect on July 1, 2022, and first applies to the 2022‑2023 school year.

SECTION 7. A. Section 59‑104‑20(D) of the 1976 Code is repealed.

B. Section 59‑149‑150 of the 1976 Code is repealed.

C. Section 59‑150‑370(C) of the 1976 Code is amended to read:

“(C) A student is eligible to receive a SC HOPE Scholarship if he meets the criteria for receiving and maintaining the Legislative Incentives for Future Excellence (LIFE) Scholarship except that a minimum Scholastic Aptitude Test (SAT) or ACT score and requisite class rank are not required for eligibility for the SC HOPE Scholarship. ~~These SC HOPE Scholarships must be granted and awarded as provided in this section.~~”

D. The Commission on Higher Education shall adopt rules and establish procedures to, if necessary, proportionally reduce award amounts pursuant to the amendments made to Section 59‑104‑20, 59‑149‑150, and 59‑150‑370 in the Higher Education Opportunity Act.

SECTION 8. Article 1, Chapter 103, Title 59 of the 1976 Code is amended by adding:

“Section 59‑103‑175. Notwithstanding Section 1‑23‑10(4), along with any other regulation, the Commission on Higher Education shall submit policy statements or rules as regulations to the General Assembly for its review pursuant to the Administrative Procedures Act.”

SECTION 9. (A)(1) By December 31, 2019, in accordance with the purposes and regulations of the United States Department of Education regarding the provisions of the Higher Education Opportunity Act of 2009 as it pertains to student loan default and related matters, the State Fiscal Accountability Authority (SFAA) shall utilize the state’s consolidated procurement code to procure a statewide centralized vendor to administer a “Student Loan Default Aversion and Financial Literacy Program”. Funding for the program must not come from new state appropriations but from existing funds held in a state‑owned account of the South Carolina State Education Assistance Authority (authority). The only funds of the authority that may be utilized by SFAA for these purposes are existing funds that have been specifically held by the authority for expenditure, the purposes of which must include default aversion and financial literacy outreach activities as permitted by federal law. When procuring the vendor, the SFAA shall ensure that, at minimum, the vendor:

(a) possesses the necessary capability and experience;

(b) will perform various outreach efforts contacting delinquent student borrowers through telephone calls, emails, and other such communication methods;

(c) will make available to both higher education institutions and high schools within the State, and their students, relevant and easy to understand information regarding various financial literacy topics including, but not limited to, student loan repayment and the potential detrimental impacts of default;

(d) has the capability and experience of identifying participating colleges whose default rate is high enough that it would put the institution at risk of federal sanction and loss of federal student aid funding;

(e) will assist those colleges with development of a default management plan as required by the United States Department of Education.

(2) Funding dedicated by SFAA to fulfill the purposes of this section must be provided to attract a qualified vendor pursuant to the requirements of the state’s consolidated procurement code and must be at such a level so as to ensure that the state’s eligible public and independent colleges that choose to participate, may utilize the services of the vendor without cost to the institution or its students.

(B) By December 31, 2019, the Commission on Higher Education, in consultation with the state’s public institutions of higher learning, including technical colleges, shall study and make recommendations to the House Education and Public Works Committee, the Senate Education Committee, the House Ways and Means Committee, and the Senate Finance Committee regarding the costs and opportunities associated with the implementation of a statewide cloud‑based or other centralized college application system for students seeking admission into one or more of the state’s public colleges or universities, including technical colleges. The report’s examination shall include, but not necessarily be limited to, costs and benefits to the State and institutions associated with implementation of a statewide centralized application portal as well as the costs and benefits to students and parents from implementation of such a system. Additionally, the report shall examine the feasibility of, including the costs and benefits to institutions and students of, reducing, rebating, or eliminating application fees for in‑state applicants if a statewide cloud‑based or other centralized application system is implemented in the State. In the event the final report contains an affirmative recommendation for the State to implement a statewide centralized application portal for public college applicants, it is the intent of the General Assembly that the appropriation act for the succeeding fiscal year shall contain the necessary, but reasonable, funding for the State to procure, utilizing the state’s consolidated procurement code, the design, installation, and maintenance of such a system as soon as is practicable.

SECTION 10. A. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 157

The State Institution of Higher Education Enterprise Act

Section 59‑157‑110. As used in this chapter:

(1) ‘Board of trustees’ or ‘board’ means the boards of trustees of the colleges and universities listed in Section 59‑101‑10.

(2) ‘Capital improvement’ means the constructing, improving, equipping, renovating, or repairing of any buildings, structure, facility, or other permanent improvement project, or the cost of the acquisition of land to construct or establish a building, structure, facility, or permanent improvement project as defined and limited in Section 2‑47‑50.

(3) ‘College or university’ means the colleges and universities listed in Section 59‑101‑10.

(4) ‘Enterprise activities’ means athletic programs and functions, and auxiliary programs or functions, funded solely by funds not received from the general fund of the State or from undergraduate tuition, such as the programs or functions identified in Section 59‑147‑30, including, but not limited to, those primarily related to economic development, research, housing, food services, stores, and athletics, with each constituting an enterprise activity.

(5) ‘Enterprise division’ means an operational unit of a college or university created pursuant to this chapter.

(6) ‘Enterprise division personnel’ means all college or university employees or personnel who are allocated by the board of trustees to one or more enterprise activities and who devote a significant portion of their efforts to supporting enterprise activities.

(7) ‘Procurement’ has the same meaning as in Section 11‑35‑310(24).

(8) ‘SCCPC’ means the South Carolina Consolidated Procurement Code, as provided in Chapter 35, Title 11, and regulations promulgated pursuant to it.

(9) ‘Transferable items’ means, collectively, the duties, responsibilities, assets, personnel, and resources of, allocated to, or supporting an enterprise activity.

Section 59‑157‑120. (A) A board of trustees, by resolution, may establish an enterprise division for its college or university.

(B) An enterprise division created pursuant to this chapter is a constituent part of its college or university.

(C) The resolution creating the enterprise division must provide for allocation to the enterprise division of the transferable items of one or more enterprise activities as the board of trustees may consider appropriate. The board of trustees may amend the resolution from time to time to allocate transferable items to the enterprise division or to reallocate transferable items between the college or university and the enterprise division as it considers appropriate.

(D) The board of trustees may adopt a resolution assigning direct oversight and management responsibility for the enterprise division to an existing committee of the board of trustees or to a new committee established by the board of trustees, but final decision‑making responsibility with respect to the governance of the enterprise division remains with the board of trustees.

Section 59‑157‑130. (A) The board of trustees has the same powers, duties, and responsibilities to manage and control the enterprise division as it does with other duties, responsibilities, assets, personnel, and resources of the college or university. Without limiting the foregoing, the board of trustees has the following additional authority with respect to the enterprise division:

(1) The board of trustees may purchase, lease as lessee, accept, and otherwise acquire any real and personal property and other assets upon the terms and conditions it considers appropriate. Contracts or agreements effecting or governing a purchase, lease, acceptance, or other acquisition are exempt from the provisions of Sections 1‑11‑55 through 1‑11‑65; Chapter 47, Title 2; and Section 59‑103‑110. The board of trustees shall provide on an annual basis a report of property acquired and any contract or agreement to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee. This report must be based on the appropriate fiscal year of the college or university and must be provided not more than ninety days after the end of the fiscal year.

(2) The board of trustees may sell, convey, lease as lessor, exchange, and otherwise dispose of any real and personal property and other assets upon the terms and conditions it considers appropriate. The proceeds derived from the sale, conveyance, lease, exchange, or disposition of any real and personal property and net of transaction costs and payment of any debts, secured by the sold, conveyed, leased, exchanged, or disposed property, must be remitted to the board to be used exclusively for the support of the enterprise division or the college or university. Contracts or agreements effecting or governing the sale, conveyance, lease, exchange, or other disposition are exempt from the provisions of Sections 1‑11‑55 through 1‑11‑65, Section 10‑1‑130, and Section 59‑101‑180, as well as state surplus property laws. The board of trustees shall provide on an annual basis a report of property disposed of pursuant to this item and any contract or agreement to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee. This report must be based on the appropriate fiscal year of the college or university and must be provided not more than ninety days after the end of the fiscal year.

(3) Without the necessity of additional approval, the board of trustees may retain the services of advisors, consultants, attorneys, accountants, and financial experts as necessary in the board of trustees’ judgment in connection with any aspect of the enterprise division and determine the duties of those retained pursuant to this item and fix their compensation.

(4)(a) Upon approval and implementation by the State Department of Administration of the comprehensive human resources system for public institutions of higher learning and technical colleges pursuant to SECTION 3 of Act 74 of 2011, the board of trustees shall participate in the comprehensive human resources system for public institutions of higher learning and technical colleges, provided, however, that any existing exemptions from general state government personnel policies and applicable laws that generally regulate the state employee workforce are preserved and shall be preserved if personnel are moved into the enterprise division.

(b) The enterprise division’s personnel are state employees for purposes of eligibility for participation in retirement, health insurance, and other insurance plans and programs administered by the South Carolina Public Employee Benefit Authority and for purposes of the South Carolina Tort Claims Act.

(5) The board of trustees shall establish the management controls and staffing of the enterprise division’s personnel as the board considers appropriate for the prudent conduct of the enterprise division, including the establishment of an internal audit function to monitor the activities of the enterprise division.

(6) The board of trustees may enter into relationships or transactions with not‑for‑profit entities established, in whole or in part, to support the mission of the college or university, it being understood that a support entity is not considered an entity owned or controlled by the enterprise division or the college or university and is not subject to the laws and regulations applicable to the enterprise division. However, if a not‑for‑profit entity acquires a capital improvement on behalf of or for the use of the enterprise division and funds of the enterprise division or college or university are used in the acquisition, financing, construction, or current or subsequent leasing of the capital improvement, then the acquisition is subject to the provisions of the enterprise division’s policies that the board adopts pursuant to this chapter.

(7) The board of trustees may issue bonds, notes, or other obligations or evidences of indebtedness in the name of the college or university and on behalf of the enterprise division in the same manner and for the same purposes, including the purposes of the enterprise division. Also, the board of trustees may utilize or benefit, as the case may be, from the provisions of the Higher Education Revenue Bond Act, as provided in Chapter 147, Title 59, and the provisions of the South Carolina Jobs‑Economic Development Fund Act, as provided in Chapter 43, Title 41. This item only applies so long as the proceeds of the bonds, notes, or obligations are not utilized to fund a capital improvement project.

(B)(1) Capital improvements of the enterprise division, and the financing of these capital improvements, are exempt from the provisions of Section 1‑11‑180; Chapter 47, Title 2; and Section 59‑103‑110. The board shall provide on an annual basis a report of capital projects authorized by the board of trustees to the Governor, the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Commission on Higher Education. This report must be based on the appropriate fiscal year of the college or university and must be provided not more than ninety days after the end of the fiscal year.

(2) The board of trustees must establish a review process for the consideration of any permanent improvement project proposal by the enterprise division, and the board must approve any capital improvement project as defined in Chapter 47, Title 2 in a public vote.

(3) Notwithstanding any other provision of subsection (B), after full architecture and engineering design work is completed on a permanent improvement project, but prior to execution of a construction contract, the project must be submitted to the Joint Bond Review Committee for review and comment.

(4) The exemptions provided by subsection (B) do not apply to capital improvements for athletics that expend, secure bonding with, or otherwise utilize state appropriated funds, state general obligation capital improvement bonds, student tuition, student fees, or any other student charge except for nonmandatory ticket charges to athletic events. For purposes of this item, ‘state appropriated funds’ excludes federal funds and other funds that do not otherwise make this subsection inapplicable.

(5) If a capital improvement project serves multiple purposes and one or more of the purposes is not an enterprise activity, thereby causing the exemptions provided by subsection (B) to not apply, then the exemptions provided by subsection (B) do not apply for the entire capital improvement project.

(C) The board of trustees shall conduct an annual audit by independent certified public accountants selected by the board of trustees, who shall review the accounts of the enterprise division and report the findings of the audit to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee in accordance with generally accepted auditing standards and procedures.

(D)(1) Subject to the provisions of item (D)(2), the board of trustees shall adopt for the enterprise division a procurement policy and amend the policy as it considers appropriate. Before the implementation of the procurement policy or any amendment, the policy or amendment must be approved by the State Fiscal Accountability Authority. Thereafter, every procurement of the enterprise division is exempt from the SCCPC, and each procurement instead is subject to the procurement policy adopted by the board.

(2)(a) The procurement policy adopted by the enterprise division may not include provisions relating to telecommunications, and the enterprise division is subject to all procurement provisions relating to telecommunications and telecommunications equipment and service as set forth in the SCCPC and Section 1‑11‑430, unless otherwise exempt by Section 11‑35‑710(6).

(b) The enterprise division may not construct, own, or operate a network that carries commercial traffic, commercial Internet traffic, or K‑12 traffic originated in South Carolina.

Section 59‑157‑140. The requirements imposed upon the college or university, its board of trustees, and the enterprise division by the provisions of this chapter may be enforced by mandamus. However, failure to comply with these requirements does not invalidate the powers granted pursuant to this chapter.

Section 59‑157‑150. Notwithstanding any other provision of this chapter, enterprise activities may only include athletics if the college or university’s Athletics Grand Total Revenues, as reported under the Equity in Athletics Disclosure Act as required by the Higher Education Opportunity Act, Public Law 110‑315, are equal to or exceed forty million dollars a year.

Section 59‑157‑160. Four years after the adoption of a resolution providing for the allocation to the enterprise division of the transferable items of one or more enterprise activities pursuant to this chapter, and every four years thereafter, the provisions of this chapter must be reauthorized by the adoption of a joint resolution by the General Assembly, in separate legislation and solely for that purpose. If this chapter, or any part thereof, is not reauthorized, then those provisions are no longer effective.

Section 59‑157‑170. It is the intent of the General Assembly to review the provisions of this chapter and to determine the merit of this pilot enterprise program after the program has been in effect for at least four years. After reviewing this chapter and making a determination, the General Assembly may consider the costs and benefits of expanding the provisions of this chapter to additional institutions of higher learning.

Section 59‑157‑180. Nothing in this chapter may be construed to exempt the enterprise division from the provisions of Section 59‑103‑35, relating to the approval of new programs by the Commission on Higher Education. Enterprise division land transactions, including leases, and permanent improvement projects are the only functions and areas removed from the jurisdiction of the Commission on Higher Education.

Section 59‑157‑190. Colleges and universities are exempt from the requirements of Section 2‑47‑50 for permanent improvement projects that are:

(1) not part of an auxiliary division, where the cost is less than five million dollars for research universities as defined in Section 11‑51‑30(5) and less than two million dollars for all other colleges and universities and for which no debt, capital improvement bond funds, capital reserve funds or state‑appropriated funds, or state infrastructure bond funds are required to fund the project; and

(2) included in the colleges’ and universities’ comprehensive permanent improvement plan.”

B. Section 11‑35‑710 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) an enterprise division, if a division is established pursuant to Chapter 157, Title 59, for which the board of trustees, pursuant to Section 59‑157‑130(D), has adopted a procurement policy for the division that was approved by the State Fiscal Accountability Authority.”

C. This SECTION takes effect upon approval by the Governor.

SECTION 11. This act takes effect July 1, 2019.

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