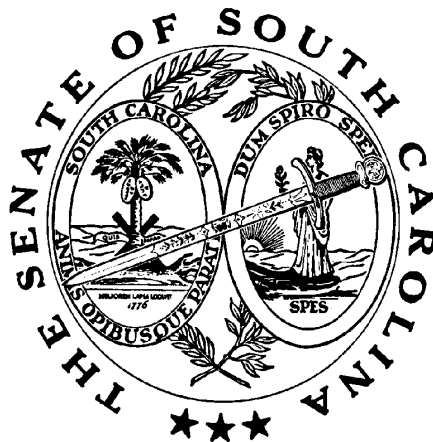


NO. 7

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 10, 2023

THURSDAY, JANUARY 19, 2023

Thursday, January 19, 2023
(Statewide Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Micah 6:8b

In powerful phrases Micah brings us up short, saying: “. . .what does the Lord require of you, but to do justice, and to love kindness, and to walk humbly with your God?”

Please bow in prayer with me: How fervently do we pray indeed, dear Lord, that each person serving here in the Senate of South Carolina takes these words of the prophet Micah to heart. Such a powerful, hopeful, and blessed difference our doing so would make for the work of this Body, for the people of this State, even for all in generations yet to come. Truly, dear God, by Your grace allow that these simple words and phrases will indeed touch the hearts of all who hear them, that each individual serving here will do all she or he can to bring to life the realities of doing justice, of loving kindness, and of walking hand in hand with You, O God, all their days. And may the resulting blessings to the people of this State abound! In Your name we pray, dear Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

Statement by Senator YOUNG

I am not attending session today because I am assisting my family after my father's recent death.

Motion Adopted

On motion of Senator HUTTO, with unanimous consent, Senators RICE, ADAMS, SENN, HUTTO and MATTHEWS were granted leave to attend a subcommittee meeting and were granted leave to vote from the balcony.

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**MESSAGE FROM THE SOUTH CAROLINA
ELECTION COMMISSION**

The following appointment was transmitted by the South Carolina Election Commission:

Statewide Appointment

Initial Appointment, Director, State Election Commission, with the term to commence January 4, 2023, and to expire June 30, 2027

Howard M. Knapp, 10 Sasanqua Circle, Columbia, SC 29209

Referred to the Committee on Judiciary.

Doctor of the Day

Senator MALLOY introduced Dr. Gerald Wilson of Columbia, S.C., Doctor of the Day.

Leave of Absence

On motion of Senator MASSEY, at 11:22 A.M., Senator YOUNG was granted a leave of absence for today.

Leave of Absence

On motion of Senator STEPHENS, at 2:10 P.M., Senator KIMPSON was granted a leave of absence for the balance of the day.

Leave of Absence

On motion of Senator STEPHENS, at 2:10 P.M., Senator SABB was granted a leave of absence until 3:10 P.M.

Leave of Absence

On motion of Senator STEPHENS, at 2:10 P.M., Senator McELVEEN was granted a leave of absence until 3:10 P.M.

Leave of Absence

On motion of Senator K. JOHNSON, at 2:10 P.M., Senator JACKSON was granted a leave of absence for the balance of the day.

Leave of Absence

On motion of Senator BENNETT, at 2:10 P.M., Senator TURNER was granted a leave of absence for the balance of the day.

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CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

S. 164 Sen. Campsen
S. 236 Sen. Senn
S. 381 Sen. Martin

RECALLED

S. 319 -- Senators Williams and Reichenbach: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SC-51, PAMPLICO HWY, BETWEEN FLOWERS ROAD AND WILLARD HENRY ROAD IN FLORENCE COUNTY "SGT. ROBERT A. MOBLEY HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS LOCATION CONTAINING THE DESIGNATION.

Senator GROOMS asked unanimous consent to make a motion to recall the Concurrent Resolution from the Committee on Transportation.

The Concurrent Resolution was recalled from the Committee on Transportation and ordered placed on the Calendar for consideration tomorrow.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 418 -- Senator Hembree: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-155-180, RELATING TO PRE-SERVICE AND IN-SERVICE TEACHER EDUCATION PROGRAMS, SO AS TO UPDATE THE ENDORSEMENT REQUIREMENTS OF READ TO SUCCEED.

sr-0224km23.docx : e6558d75-084a-40da-8bad-168228742b7b

Read the first time and referred to the Committee on Education.

S. 419 -- Senator Grooms: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 1-1-1710 SO AS TO PROVIDE A FRAMEWORK IN WHICH ANTI-SEMITISM IS CONSIDERED FOR ALL LAWS PROHIBITING DISCRIMINATORY ACTS, AND TO EDUCATE STATE PERSONNEL AND OFFICIALS ON ANTI-SEMITISM.

lc-0106dg23.docx : c75b9567-df90-4df2-afe9-9ce7e46b3194

Read the first time and referred to the Committee on Judiciary.

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S. 420 -- Senator Rice: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 9-1-1790 AND 9-11-90, RELATING TO THE AMOUNT OF COMPENSATION THAT MAY BE EARNED UPON RETURNING TO COVERED EMPLOYMENT UNDER THE SOUTH CAROLINA RETIREMENT SYSTEM AND THE POLICE OFFICERS RETIREMENT SYSTEM, RESPECTIVELY, SO AS TO CHANGE THE AMOUNT THAT MAY BE EARNED FROM TEN THOUSAND DOLLARS TO AN AMOUNT NOT TO EXCEED THE LOWER OF THE RETIREMENT EARNINGS TEST EXEMPT AMOUNTS FOR INDIVIDUALS BELOW NORMAL RETIREMENT AGE.

lc-0166sa23.docx : 639409a3-bfba-43ad-9ac9-0d26a8931619

Read the first time and referred to the Committee on Finance.

S. 421 -- Senator M. Johnson: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 27-1-55, SO AS TO REQUIRE THAT THE GOVERNING DOCUMENTS, RULES, AND REGULATIONS OF A HOMEOWNERS' ASSOCIATION MUST NOT PROHIBIT A HOMEOWNER OR A HOMEOWNER'S TENANT FROM PEACEFULLY ASSEMBLING DURING REASONABLE HOURS, ORGANIZING AND PARTICIPATING IN EVENTS WITH SPEAKERS, CANVASSING AND PETITIONING HOMEOWNERS, THEIR TENANTS, AND THEIR GUESTS, AND DISTRIBUTING AND CIRCULATING MATERIALS, AND TO PROVIDE FOR A CIVIL PENALTY IF A SUMMARY COURT FINDS SUCH A PROHIBITION EXISTS.

sj-0003pb23.docx : cf7b9131-e148-40be-aad5-95a593fa4667

Read the first time and referred to the Committee on Judiciary.

S. 422 -- Senator M. Johnson: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 27-1-65, SO AS TO PROVIDE THAT A DEED RESTRICTION, COVENANT, OR A HOMEOWNERS' ASSOCIATION DOCUMENT MUST NOT PROHIBIT THE INSTALLATION OF A SOLAR ENERGY SYSTEM THAT CANNOT BE SEEN FROM THE STREET OR COMMON AREA SURROUNDING A RESIDENCE.

sj-0010pb23.docx : fb188182-a6bb-42a0-8b0b-99a033961352

Read the first time and referred to the Committee on Judiciary.

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S. 423 -- Senators Davis and Hutto: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS SO AS TO ENACT THE "SOUTH CAROLINA COMPASSIONATE CARE ACT"; BY AMENDING CHAPTER 53, TITLE 44 OF THE S.C. CODE, RELATING TO POISONS, DRUGS, AND OTHER CONTROLLED SUBSTANCES, BY ADDING ARTICLE 20, SO AS TO PROVIDE FOR THE SALE OF MEDICAL CANNABIS PRODUCTS AND THE CONDITIONS UNDER WHICH A SALE CAN OCCUR; BY ADDING 56-5-3910, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A DRIVER OF A MOTOR VEHICLE TO VAPORIZE CANNABIS PRODUCTS AS DEFINED IN SECTION 44-53-2010 WHILE OPERATING THE MOTOR VEHICLE AND TO PROVIDE PENALTIES; BY REPEALING ARTICLE 4, CHAPTER 53, TITLE 44, RELATING TO CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH; AND TO DEFINE NECESSARY TERMS.

sr-0219km23.docx : 3f9fdeef-9764-40af-b61d-ec9207f9a2da

Read the first time and referred to the Committee on Medical Affairs.

S. 424 -- Senator Adams: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-29-12 SO AS TO PROVIDE STUDENTS IN STATE-FUNDED PLACES OF LEARNING WITH AN EDUCATION FOCUSED ON EXCELLENCE AND INTEGRITY, EQUIP THEM TO THINK INDEPENDENTLY AND CRITICALLY, SUPPORT EDUCATORS BY MAINTAINING A LEARNING AND WORK ENVIRONMENT UNENCUMBERED BY SOCIAL OR POLITICAL ACTIVISM, TREAT STUDENTS AND EMPLOYEES OF SCHOOLS WITH DIGNITY AS UNIQUE INDIVIDUALS WITHOUT STEREOTYPING OR SCAPEGOATING, PROVIDE INSTRUCTION FREE FROM IDEOLOGICAL INDOCTRINATION OR COERCION, FOSTER AND DEFEND INTELLECTUAL INQUIRY AND FREEDOM OF SPEECH AS WELL AS FREEDOM FROM COMPELLED SPEECH, REQUIRE CLEAR DISTINCTIONS BETWEEN THE TEACHING OF THEORY AND FACT, REQUIRE FULL TRANSPARENCY OF CURRICULA, PROTECT THE PRIVACY AND INNOCENCE OF CHILDREN AND GUARD THEM AGAINST OBSCENE AND MATURE MATERIALS, RESPECT THE RIGHTS OF PARENTS AS THEIR CHILD'S DECISION-MAKERS FOR HEALTH AND WELL-BEING INCLUDING EMOTIONAL AND SEXUAL DEVELOPMENT, DEFER TO PARENTS AS THEIR CHILD'S PRIMARY SOURCE OF MORAL AND SOCIAL VALUES, ALLOW PARENTS TO OPT OUT

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OF ACTIVITIES THAT VIOLATE THIS ACT, ESTABLISH A CLEAR PROTOCOL FOR REPORTING VIOLATIONS AND ALLOWING LOCAL ENTITIES TO ADDRESS AND CORRECT ISSUES, AND REQUIRE PRIVACY AND NONDISCLOSURE DURING THE INVESTIGATION PROCESS.

sr-0217km23.docx : 41727e34-2a05-4ba5-9489-f967041e27fc

Read the first time and referred to the Committee on Education.

S. 425 -- Senators Talley, Turner, Adams, Bennett, Climer, Davis, Hembree, Hutto, M. Johnson, Kimbrell, McElveen, Scott, Senn and Shealy: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 61-2-170, RELATING TO DRIVE-THROUGH OR CURBSIDE SERVICE OF ALCOHOLIC BEVERAGES, SO AS TO PROVIDE CERTAIN EXCEPTIONS; BY ADDING SECTION 61-4-45 SO AS TO PROVIDE THAT THE DEPARTMENT MAY ISSUE CERTAIN LICENSES OR PERMITS ALLOWING A RETAILER TO OFFER CERTAIN CURBSIDE DELIVERY OR PICK UP; BY ADDING SECTION 61-4-280 SO AS TO PROVIDE THAT A RETAIL DEALER MAY HIRE A DELIVERY SERVICE TO DELIVER CERTAIN BEER AND WINE AND TO PROVIDE FOR REQUIREMENTS; BY ADDING SECTION 61-6-1570 SO AS TO PROVIDE THAT THE DEPARTMENT MAY ISSUE CERTAIN LICENSES OR PERMITS ALLOWING A RETAILER TO OFFER CERTAIN CURBSIDE DELIVERY OR PICK UP; AND BY ADDING SECTION 61-6-1580 SO AS TO PROVIDE THAT A RETAIL DEALER MAY HIRE A DELIVERY SERVICE TO DELIVER CERTAIN ALCOHOLIC LIQUORS AND TO PROVIDE FOR REQUIREMENTS.

lc-0143sa23.docx : c19c6b82-5137-477c-9ab6-a63ece3c29aa

Read the first time and referred to the Committee on Judiciary.

S. 426 -- Senators Shealy, Matthews, Gustafson, Senn and McLeod: A RESOLUTION TO RECOGNIZE AND COMMEND THE SOUTH CAROLINA SECTION OF THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS FOR ITS NEARLY SEVENTY YEARS OF SERVING AS A TRUSTED RESOURCE FOR MEDICAL INFORMATION RELATING TO WOMEN'S HEALTH AND TO DECLARE TUESDAY, FEBRUARY 21, 2023, AS ACOG DAY IN SOUTH CAROLINA.

lc-0136ph-jn23.docx : 06308786-bbbd-4de5-a3f8-54769a79a41e

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The Senate Resolution was introduced and referred to the Committee on Medical Affairs.

S. 427 -- Senators Climer, Fanning, M. Johnson, Peeler, Adams, Alexander, Allen, Bennett, Campsen, Cash, Corbin, Cromer, Davis, Gambrell, Garrett, Goldfinch, Grooms, Gustafson, Harpootlian, Hembree, Hutto, Jackson, K. Johnson, Kimbrell, Kimpson, Loftis, Malloy, Martin, Massey, Matthews, McElveen, McLeod, Rankin, Reichenbach, Rice, Sabb, Scott, Senn, Setzler, Shealy, Stephens, Talley, Turner, Verdin, Williams and Young: A RESOLUTION TO RECOGNIZE AND HONOR DEPUTY KOREY WEDOW AND DEPUTY LUCAS FRAME OF THE YORK COUNTY SHERIFF'S OFFICE AND TO CONGRATULATE THEM ON BEING AWARDED THE SOUTH CAROLINA SHERIFFS' ASSOCIATION MEDAL OF VALOR.

lc-0051ha-rm23.docx : 8113d8d9-9c31-49a1-af56-6d0d4c91cb84

The Senate Resolution was adopted.

REPORTS OF STANDING COMMITTEE

Senator GROOMS from the Committee on Transportation submitted a favorable with amendment report on:

S. 304 -- Senators Turner, Climer and Verdin: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-5-1885, RELATING TO OVERTAKING AND PASSING ANOTHER VEHICLE IN THE FARTHEST LEFT-HAND LANE, SO AS TO INCREASE THE FINE FROM TWENTY-FIVE DOLLARS TO ONE HUNDRED DOLLARS AND TO PROVIDE THAT SEVENTY-FIVE DOLLARS FROM EACH FINE COLLECTED MUST BE CREDITED TO THE HIGHWAY PATROL.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

S. 361 -- Senator Grooms: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 57-5-1630, RELATING TO THE EXTENSION OF CONSTRUCTION CONTRACTS, SO AS TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION COMMISSION IS NOT REQUIRED TO PROVIDE PREAPPROVAL OF CONSTRUCTION CONTRACT EXTENSIONS AND TO PROVIDE THAT THE COMMISSION

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MUST RATIFY EXTENSIONS AT THE NEXT COMMISSION MEETING.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable with amendment report on:

S. 363 -- Senators Rankin, Grooms and Verdin: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-5-4445, RELATING TO THE RESTRICTION OF ELEVATING OR LOWERING A MOTOR VEHICLE; SO AS TO PROHIBIT MOTOR VEHICLE MODIFICATIONS THAT RESULT IN THE MOTOR VEHICLE'S FRONT FENDER BEING RAISED FOUR OR MORE INCHES ABOVE THE HEIGHT OF THE REAR FENDER, TO PROVIDE FOR THE MANNER OF MEASURING THE HEIGHT OF THE FRONT FENDER IN RELATION TO THE REAR FENDER, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

S. 375 -- Senators Grooms and Verdin: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-5-1538, RELATING TO THE DEFINITIONS OF EMERGENCY SCENE MANAGEMENT, SO AS TO PROVIDE THAT A DRIVER SHALL ENSURE THAT HIS VEHICLE IS KEPT UNDER CONTROL WHEN APPROACHING OR PASSING A MOTOR VEHICLE STOPPED ON OR NEAR THE RIGHT-OF-WAY OF A STREET OR HIGHWAY; TO PROVIDE THAT A PERSON DRIVING A VEHICLE APPROACHING A STATIONARY VEHICLE DISPLAYING FLASHING HAZARD LIGHTS SHALL SLOW DOWN, YIELD THE RIGHT-OF-WAY, AND MAINTAIN A SAFE SPEED IF CHANGING LANES IS UNSAFE; AND TO PROVIDE PENALTIES.

Ordered for consideration tomorrow.

HOUSE CONCURRENCE

S. 402 -- Senator Cromer: A CONCURRENT RESOLUTION TO CONGRATULATE DR. OSCAR F. LOVELACE FOR RECEIVING THE SOUTH CAROLINA OFFICE OF RURAL HEALTH PIONEER AWARD.

Returned with concurrence.

Received as information.

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THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

CARRIED OVER

S. 164 -- Senators Climer, Gustafson, Kimbrell, Senn, Loftis, Peeler, Grooms and Garrett: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY RENAMING ARTICLE 3, CHAPTER 7, TITLE 44 AS THE "STATE HEALTH FACILITY LICENSURE ACT"; BY AMENDING SECTIONS 44-7-110, 44-7-120, 44-7-130, 44-7-140, 44-7-150, AND 44-7-320, ALL RELATING TO THE REGULATION OF HEALTH CARE FACILITIES IN THE STATE, TO ELIMINATE REFERENCES TO CERTIFICATE OF NEED REQUIREMENTS; BY AMENDING SECTION 44-7-160, SO AS TO PROVIDE THAT THE CERTIFICATE OF NEED PROGRAM ONLY APPLIES TO NURSING HOMES; BY ADDING SECTION 44-7-161, TO PROVIDE THAT MUSC MUST APPEAR BEFORE THE JBRC AND OBTAIN APPROVAL FROM THE SFAA PRIOR TO TAKING CERTAIN ACTIONS; AND TO ESTABLISH THE CERTIFICATE OF NEED STUDY COMMITTEE TO ASSESS HEALTH CARE IN RURAL SOUTH CAROLINA.

The Senate proceeded to the consideration of the Bill.

Senator DAVIS explained the Bill.

On motion of Senator MASSEY, the Bill was carried over.

READ THE SECOND TIME

S. 381 -- Senators Peeler, Verdin and Alexander: A BILL TO RATIFY AN AMENDMENT TO SECTION 36(A), ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE GENERAL RESERVE FUND, SO AS TO INCREASE FROM FIVE TO SEVEN PERCENT THE AMOUNT OF STATE GENERAL FUND REVENUE IN THE LATEST COMPLETED FISCAL YEAR REQUIRED TO BE HELD IN THE GENERAL RESERVE FUND; AND TO RATIFY AN AMENDMENT TO SECTION 36(B) OF ARTICLE III, RELATING TO THE CAPITAL RESERVE FUND, SO AS TO INCREASE FROM TWO TO THREE PERCENT THE AMOUNT OF STATE GENERAL FUND REVENUE IN THE LATEST COMPLETED FISCAL YEAR REQUIRED TO BE HELD IN THE CAPITAL RESERVE FUND AND TO PROVIDE THAT THE

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FIRST USE OF THE CAPITAL RESERVE FUND MUST BE TO OFFSET MIDYEAR BUDGET REDUCTIONS.

The Senate proceeded to the consideration of the Bill.

Senator DAVIS explained the Bill.

The question then was second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 37; Nays 0

AYES

Adams	Alexander	Allen
Bennett	Campsen	Cash
Corbin	Cromer	Davis
Fanning	Gambrell	Garrett
Goldfinch	Grooms	Gustafson
Hembree	Hutto	<i>Johnson, Kevin</i>
<i>Johnson, Michael</i>	Kimpson	Loftis
Malloy	Martin	Massey
Matthews	Peeler	Reichenbach
Rice	Sabb	Senn
Setzler	Shealy	Stephens
Talley	Turner	Verdin
Williams		

Total--37

NAYS

Total--0

The Bill was read the second time, passed and ordered to a third reading.

ADOPTED

S. 411 -- Senator Cromer: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF U.S. HIGHWAY 76 FROM THE LITTLE MOUNTAIN TOWN LIMIT TO THE NEWBERRY/LEXINGTON COUNTY LINE "THE HONORABLE WALTON J. MCLEOD III

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HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS LOCATION CONTAINING THESE WORDS.

The Resolution was adopted, ordered sent to the House.

THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.

MOTION ADOPTED

At 11:26 A.M., on motion of Senator MASSEY, the Senate agreed to dispense with the balance of the Motion Period.

THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.

AMENDMENT PROPOSED

DEBATE INTERRUPTED

S. 39 -- Senator GROOMS: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-8-110 SO AS TO DEFINE NECESSARY TERMS; BY ADDING SECTION 59-8-120 SO AS TO PROVIDE TIMELINE AND SCHOLARSHIP APPLICATION PROCESS GUIDELINES; BY ADDING SECTION 59-8-130 SO AS TO ESTABLISH THE SOUTH CAROLINA EDUCATION SCHOLARSHIP TRUST FUND; BY ADDING SECTION 59-8-140 SO AS TO ESTABLISH AN ONLINE ELECTRONIC PAYMENT SYSTEM; BY ADDING SECTION 59-8-150 SO AS TO PROVIDE GUIDELINES FOR IF A PROGRAM OF ACADEMIC INSTRUCTION IS TERMINATED BEFORE THE END OF THE SEMESTER; BY ADDING SECTION 59-8-160 SO AS TO LIMIT THE NUMBER OF SCHOLARSHIP STUDENTS FOR SPECIFIED SCHOOL YEARS; BY ADDING SECTION 59-8-170 SO AS TO PROVIDE FOR THE APPLICATION PROCESS AND ESTABLISHMENT OF EDUCATION SERVICE PROVIDERS; BY ADDING SECTION 59-8-180 SO AS TO PROVIDE GUIDELINES FOR INFORMING STUDENTS AND THEIR PARENTS OF PROGRAM ELIGIBILITY; BY ADDING SECTION 59-8-190 SO AS TO ENSURE EQUITABLE TREATMENT AND PERSONAL SAFETY OF ALL SCHOLARSHIP STUDENTS; BY ADDING SECTION 59-8-200 SO AS TO REQUIRE THAT A SCHOLARSHIP STUDENT'S RESIDENT SCHOOL DISTRICT PROVIDE A PARENT AND THE EDUCATION SERVICE PROVIDER WITH THE STUDENT'S SCHOOL RECORDS; BY ADDING SECTION 59-8-210

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SO AS TO ESTABLISH THE ESTF REVIEW PANEL; BY ADDING SECTION 59-8-220 SO AS TO PROVIDE THAT THE PROVISIONS OF THE CHAPTER DO NOT RESTRICT A SCHOOL DISTRICT'S ABILITY TO ENACT OR ENFORCE A DISTRICT'S STUDENT TRANSFER POLICY.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Motion Adopted

Senator HUTTO asked unanimous consent to proceed to Amendment No. 14.

There was no objection.

Amendment No. 14

Senators SHEALY, HUTTO and SETZLER proposed the following amendment (SMIN-39.MW0204S), which was carried over:

Amend the bill, as and if amended, SECTION 1, Section 59-8-140, by adding a subitem to read:

(I) (1)For scholarship students utilizing a scholarship to attend an online Education Service Provider, the department must track data on scholarship student wellness through mandatory quarterly in-person days of attendance at their resident public school. During the quarterly in-person attendance, a school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, school nurse, on-site mental health, or allied health professional, or other appropriately designated mandated reporter at the local public school as defined in Section 63-7-310 must complete a comprehensive wellness check to screen for abuse and neglect as defined in Section 63-7-20.

(2)All employees at an online Education Service Provider who are employed in same or similar roles as defined in Section 63-7-310 shall be considered persons required to report and must complete the training programs required pursuant to Section 63-7-310(A) and holds all the same rights, responsibilities, and potential penalties as defined in 63-7-315, 63-7-320, 63-7-350, 63-7-360, 63-7-370, 63-7-380, 63-7-390, 63-7-400, 63-7-430, 63-7-440, and 63-7-450.

Re-number sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

On motion of Senator CORBIN, the amendment was carried over.

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Amendment No. 9

Senators FANNING, MARTIN and CORBIN proposed the following amendment (LC-39.DG0003S), with was tabled:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1. Article 25, Chapter 6, Title 12 of the S.C. Code is amended by adding:

Section 12-6-3791. (A) As used in this section:

(1) ‘Eligible School’ means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59 65 10 may be met, that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state’s diploma requirements;

(e) has school facilities that are subject to applicable federal, state, and local laws; and

(f) is a member in good standing of the South Carolina Association of Christian Schools, the South Carolina Independent Schools Association, the Palmetto Association of Independent Schools, the American Montessori Society, the International Montessori Council, or the National Association of Private Schools or alternatively accredited by Cognia or the National Council for Private School Accreditation.

(2) ‘Exceptional needs child’ means a child:

(a)(i) who has been evaluated in accordance with this state’s evaluation criteria, as set forth in S.C. Code Ann. Regs. 43 243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the Individuals with Disabilities Education Act; or

(ii) who has been diagnosed as either permanently or within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psychoeducational, or other comparable licensed health care provider as having a neurodevelopmental disorder, a substantial sensory or physical impairment such as deaf, blind, or orthopedic disability, or some other disability or acute or chronic condition that significantly impedes the student’s ability to learn and succeed in school without specialized

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instructional and associated supports and services tailored to the child's unique needs; and

(b) the child's parents or legal guardian believes that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.

(3) 'Disadvantaged child' means a child who is eligible for the federal free or reduced lunch program and whose family meets the qualifications for federal Medicaid benefits.

(4) 'PACE Scholarship child' means a child who is a South Carolina resident who, immediately before receiving a scholarship or tuition grant under this section and enrolling in an eligible school or program, was enrolled in a South Carolina secondary or primary public school or who is eligible to enroll in a qualified first grade, kindergarten, or prekindergarten program; provided, however, that if a student is considered to be an eligible student pursuant to this item, he shall continue to qualify as such until he graduates, reaches the age of twenty, or returns to a public school, whichever occurs first; and provided, further, that the enrollment requirement must be waived in the case of a student who, based on the school attendance zone of his primary residence, is or would be assigned to a public school that the South Carolina Department of Education determines to be a low performing priority school, or who is the subject of an officially documented case of school based physical or psychological violence or student related verbal abuse threatening physical harm immediately before receiving a scholarship or tuition grant under this section.

(5) 'Nonprofit scholarship funding organization' means a charitable organization that:

(a) is exempt from federal tax pursuant to Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the tax code;

(b) allocates at least ninety five percent of its annual contributions received during a particular year to provide grants for tuition to children enrolled in an eligible school meeting the criteria of this section and grants for home school curriculum fees, and incurs administrative expenses annually of not more than five percent of its annual contributions for a particular year to cover operational costs;

(c) allocates all of its funds used for grants on an annual basis to children who are exceptional needs, disadvantaged, PACE Scholarship children, or for home school curriculum fees;

(d) does not provide grants only for the benefit of one school, and if the Treasurer determines that the nonprofit scholarship funding

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organization is providing grants to one particular school, the tax credit allowed by this section may be disallowed;

(e) does not have as a volunteer, contractor, consultant, fundraiser, or member of its governing board, any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving or has received a scholarship grant authorized by this section from the organization within one year of the date the parent, legal guardian, or member of their immediate family became a board member;

(f) does not have as a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who has been convicted of a felony;

(g) does not release personally identifiable information pertaining to students or donors or use information collected about donors, students, or schools for financial gain; and

(h) does not place conditions on schools enrolling students receiving scholarships to limit the ability of the schools to enroll students accepting grants from other nonprofit scholarship funding organizations.

(6) 'Parent' means the natural or adoptive parent or legal guardian of a child.

(7) 'Person' means an individual, partnership, corporation, or other similar entity.

(8) 'Qualifying student' means a student who is either (i) an exceptional needs child, (ii) a disadvantaged child, or (iii) a PACE Scholarship child, a South Carolina resident, and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the prekindergarten or later year level for the applicable school year.

(9) 'Resident public school district' means the public school district in which a student resides.

(10) 'Transportation' means transportation to and from school only.

(11) 'Tuition' means the total amount of money charged for the cost of a qualifying student to attend an eligible school including, but not limited to, fees for attending the school, textbook fees, and school related transportation.

(12) 'School year' means July first through June thirtieth each year.

(13) 'Home school' means a home, residence, or location where a parent or legal guardian teaches one or more children as authorized pursuant to Section 59 65 40, 59 65 45, or 59 65 47.

(14) 'Home school child' means any child attending an eligible home school.

(15) 'Treasurer' means the Office of the State Treasurer.

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(16) 'Home school curriculum fees' means the total amount of money charged for instruction-related expenditures of a home school child to attend an eligible home school including, but not limited to, curriculum packages, textbooks, digital education, and testing materials.

(B)(1) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly traded securities the person contributes to a nonprofit scholarship funding organization up to the limits of this section if:

(a) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the person does not designate a specific child or school as the beneficiary of the contribution.

(2) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to a nonprofit scholarship funding organization up to the limits of this section if:

(a) the contribution is used to provide grants for tuition to disadvantaged children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(3) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to a nonprofit scholarship funding organization up to the limits of this section if:

(a) the contribution is used to provide grants for tuition to PACE Scholarship children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(4) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly traded securities the person contributes to a nonprofit scholarship funding organization up to the limits of this section if:

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(a) the contribution is used to provide grants for home school curriculum fees to home school children attending a home school who qualify for these grants under the provisions of this section; and

(b) the person does not designate a specific child or home school as the beneficiary of the contribution.

(C)(1) Grants may be awarded by a scholarship funding organization for a school year in an amount not exceeding eleven thousand dollars or the total cost of tuition, whichever is less, for qualifying students who are either (i) exceptional needs or (ii) disadvantaged at an eligible school. Before awarding any grant, a scholarship funding organization must receive written documentation from the parent documenting that the qualifying student is an exceptional needs or disadvantaged child. Upon approving the application, the scholarship funding organization shall issue a paper check payable to the parent or guardian of the qualifying student and deliver it to the eligible school. If the qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school shall return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

(2) Grants may be awarded by a scholarship funding organization for a school year in an amount not exceeding the average state expenditures for each student in fall enrollment in public elementary and secondary education for this State or the total cost of tuition, whichever is less, for qualifying students who are PACE Scholarship children at an eligible school. The Treasurer shall determine and publish such amount annually, no later than January first. Upon approving the application, the scholarship funding organization shall issue a paper check payable to the parent or guardian of the qualifying student and deliver it to the eligible school. If the qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school shall return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

(3) Grants may be awarded by a scholarship funding organization for a school year in an amount not exceeding one thousand dollars or the total cost of home school curriculum fees, whichever is less, for a qualifying home school child attending a home school. Before awarding

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any grant, a scholarship funding organization shall receive written documentation from the parent documenting that the student is a home school child. A scholarship funding organization may reimburse a parent directly for expenditures actually paid for home school curriculum fees, or pay vendors directly for home school curriculum fees on behalf of the home school child.

(D)(1)(a) The tax credits authorized by subsection (B)(1) may not exceed cumulatively a total of twenty-five million dollars each calendar year for contributions made on behalf of exceptional needs students.

(b) The tax credits authorized pursuant to subsection (B)(2) may not exceed cumulatively a total of twenty-five million dollars each calendar year for contributions on behalf of disadvantaged children.

(c) The tax credits authorized pursuant to subsection (B)(3) may not exceed cumulatively a total of forty million dollars each calendar year for contributions on behalf of PACE Scholarship children.

(d) The tax credits authorized pursuant to subsection (B)(4) may not exceed cumulatively a total of ten million dollars each calendar year for contributions on behalf of home school children.

(e) If the department determines that the total of the credits claimed in this subsection by all taxpayers exceeds the limit amount, it shall allow credits only up to those amounts on a first come, first served basis.

(f) The tax credits authorized pursuant to subsection (B)(1), (2), (3), or (4) are automatically and permanently increased by twenty five percent in the succeeding calendar year whenever the total of the specific individual credit claimed meets the limit amount.

(g) The department, in coordination with the Treasurer, shall establish an application process to determine the amount of credit available to be claimed. The receipt of the application by the department shall determine priority for the credit. The credit must be claimed on the return for the tax year that the contribution is made.

(2) A taxpayer may not claim more than one hundred percent of his total tax liability for the tax year in contributions toward the tax credits authorized by subsection (B). This credit is not refundable. If the credit exceeds the taxpayer's tax liability for the taxable year, the excess amount may be carried forward for credit against income or bank taxes in the next ten succeeding taxable years.

(3) If a taxpayer deducts the amount of the contribution on the taxpayer's federal return and claims the credit allowed by this section, then the taxpayer shall add back the amount of the deduction for purposes of South Carolina income or bank taxes.

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(4) The department shall prescribe the form and manner of proof required to obtain the credits authorized by subsection (B). Also, the department, in coordination with the Treasurer, shall develop a method of informing taxpayers if the credit limit is met at any time during the year.

(E) A corporation or entity entitled to a credit under subsection (B) may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(F) Except as otherwise provided, the Department of Education, the Department of Revenue, the Treasurer, or any other state agency may not regulate the educational programs of an eligible school that accepts students receiving scholarship grants pursuant to this section.

(G)(1) The Treasurer shall approve and oversee the scholarship funding organizations and address any citizen concerns about the programs' administration at eligible schools or with the scholarship funding organizations.

(2) By August first of each year, each nonprofit scholarship funding organization shall apply with the Treasurer to be considered an eligible organization for the succeeding calendar year for which its contributors are allowed the tax credit provided by this section. If a nonprofit scholarship funding organization does not apply, the organization may not be published as an approved organization, and contributions to that organization must not be allowed for purposes of the credit allowed by this section. A nonprofit scholarship funding organization's application must contain:

(a) the number and total amount of grants issued to eligible schools in the preceding school year;

(b) for each grant issued to an eligible school in the preceding school year, the identity of the school and the amount of the grant;

(c) an itemization and detailed explanation of any fees or other revenues obtained from or on behalf of any eligible schools;

(d) a copy of the organization's Form 990 or other comparable federal submission that indicates the provisions of the Internal Revenue Code under which the organization has been granted exempt status for purposes of federal taxation;

(e) a copy of a compilation, review, or audit of the organization's financial statements, conducted by a certified public accounting firm;

(f) the criteria and eligibility requirements for scholarship awards; and

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(g) a certification by the organization that it meets the definition of a nonprofit scholarship funding organization as that term is defined in subsection (A)(5) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16 9 10.

(3) The Treasurer shall disclose on its website the names of qualifying nonprofit scholarship funding organizations and eligible schools. The Treasurer also may disclose the names of nonprofit scholarship funding organizations that applied but were not qualified by the Treasurer and those organizations whose eligibility has been revoked in accordance with subsection (H)(2), as well as the reason the application of the organization was not accepted or the reason its qualification was revoked.

(4) By September first of each year, the Treasurer shall publish on its website a list of all qualifying nonprofit scholarship funding organizations for the succeeding calendar year, to include their names, addresses, telephone numbers, and, if available, website addresses. Also, the results of the audit required by item (2)(e) must be published with the list.

(5) By January fifteenth of each year, the Treasurer shall report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor:

(a) the number and total amount of grants issued to eligible schools by each scholarship funding organization in the prior school year;

(b) the identity of the school and the amount of each grant issued to an eligible school in the prior school year by each scholarship funding organization;

(c) an itemization and detailed explanation of fees or other revenues obtained from or on behalf of an eligible school by any scholarship funding organization;

(d) a copy of the each scholarship funding organization's Form 990 or other comparable federal submission that indicates the provisions of the Internal Revenue Code under which the organization has been granted exempt status for purposes of federal taxation;

(e) a copy of a compilation, review, or audit of each scholarship funding organization conducted by a certified public accounting firm as provided to the Treasurer by each scholarship funding organization in their application to participate in the program; and

(f) the criteria and eligibility requirements for scholarship awards of each scholarship funding organization as provided to the

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Treasurer by each scholarship funding organization in their application to participate in the program.

(6) The Treasurer may request an audit of a scholarship funding organization by the department if the Treasurer believes an organization is in violation of the provisions of this section.

(H)(1) The department has authority to examine and audit the nonprofit scholarship funding organizations when requested by the Treasurer, including determining whether the nonprofit scholarship funding organization is being operated in a manner consistent with the requirements for an IRC Section 501(c)(3) organization or is in compliance with any other provision of this section.

(2)(a) If during a requested audit the department acquires evidence that a nonprofit scholarship funding organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with any other substantial provision of this section, the department immediately may revoke the organization's participation in the program and shall notify the organization and the Treasurer in writing of the revocation.

(b) Actual notice of revocation may be provided to the organization by personal delivery to the organization, by certified return receipt mail to the last known address of the organization, or by other means reasonably designed to provide actual notice to the organization.

(c) Any donations made following the date the actual notice of revocation are received by the organization do not qualify for the credit and the donated funds must be returned to the donor by the organization.

(d)(i) Within thirty days after the day on which the organization is provided actual notice of the revocation, the organization may request a contested hearing before the Administrative Law Court. Within seven days after a request for a contested case hearing is received by the Administrative Law Court, an administrative law judge shall hold the contested case hearing and determine whether the revocation was reasonable under the circumstances. The department has the burden of proof of showing that the revocation was reasonable under the circumstances. The revocation is 'reasonable' if the department has substantial credible evidence that the organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with other substantial provisions of this section. If the organization does not request a contested case hearing within thirty days of the immediate revocation, the revocation is permanent.

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(ii) If the administrative law judge determines that the immediate revocation was reasonable, the administrative law judge shall remand the case to the department to issue a department determination for permanent revocation within the time period determined by the judge. The organization may appeal this department determination in accordance with Section 12 60 460. At the contested case hearing on the department determination, the parties may raise new issues and arguments in addition to those issues and arguments previously presented at the immediate revocation hearing.

(iii) If the administrative law judge determines that immediate revocation is not reasonable, the revocation must be lifted and the organization may resume accepting donations and award scholarships hereunder. The department may still issue a department determination in accordance with Section 12 60 450(E)(2).

(iv) If at any time during the process, the department believes the organization is in compliance, the department may reinstate the organization and notify the Treasurer.

(v) Following the permanent revocation of a nonprofit scholarship funding organization, the department has the authority to oversee the transfer of donated funds of the revoked organization to other nonprofit scholarship funding organizations.

(I) A nonprofit scholarship funding organization may transfer funds to another nonprofit scholarship funding organization, especially if the organization cannot distribute the funds in a timely manner or if the organization ceases to exist. The funds that are transferred by one nonprofit scholarship funding organization to another only may be considered by one organization when calculating its administrative expenses.

SECTION 2. Section 12-6-3790 of the S.C. Code is repealed.

SECTION 3. This act takes effect upon approval by the Governor and applies to income tax years beginning after 2022. All tax credits earned as a result of a contribution made to a scholarship funding organization in 2023 apply to the cumulative total of twenty-five million dollars for exceptional needs children, twenty-five million dollars for disadvantaged children, forty million dollars to PACE Scholarship children, and ten million dollars for home school children, regardless of when in 2023 the contribution is made. All necessary reports and forms must be submitted as soon as practicable upon the enactment of this act.

Re-number sections to conform.

Amend title to conform.

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Point of Order

Senator HEMBREE raised a Point of Order under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill.

Senator FANNING spoke on the Point of Order.

Senator DAVIS spoke on the Point of Order.

Senator HEMBREE spoke on the Point of Order.

Senator FANNING spoke on the Point of Order.

The PRESIDENT overruled the Point of Order.

Senator FANNING explained the amendment.

Senator DAVIS spoke on the amendment.

Senator GROOMS spoke on the amendment.

Senator GROOMS moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 24; Nays 14

AYES

Adams	Alexander	Bennett
Campsen	Cash	Cromer
Davis	Gambrell	Garrett
Goldfinch	Grooms	Gustafson
Hembree	<i>Johnson, Michael</i>	Kimbrell
Loftis	Massey	Peeler
Reichenbach	Rice	Senn
Shealy	Talley	Verdin

Total--24

NAYS

Allen	Climer	Corbin
Fanning	Hutto	<i>Johnson, Kevin</i>
Malloy	Martin	Matthews
McLeod	Scott	Setzler
Stephens	Williams	

Total--14

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The amendment was laid on the table.

Amendment No. 10A

Senators DAVIS, KIMBRELL, CAMPSSEN, BENNETT, RICE, CASH and GROOMS proposed the following amendment (SR-39.JG0203S):

Amend the bill, as and if amended, by adding appropriately numbered SECTIONS to read:

SECTION X.A. Article 25, Chapter 6, Title 12 of the S.C. Code is amended by adding:

Section 12-6-3791. (A) As used in this section:

(1) "Eligible School" means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state's diploma requirements;

(e) has school facilities that are subject to applicable federal, state, and local laws; and

(f) is a member in good standing of the South Carolina Association of Christian Schools, the South Carolina Independent Schools Association, the Palmetto Association of Independent Schools, the American Montessori Society, the International Montessori Council, or the National Association of Private Schools or alternatively accredited by Cognia or the National Council for Private School Accreditation.

(2) "Exceptional needs child" means a child:

(a)(i) who has been evaluated in accordance with this state's evaluation criteria, as set forth in S.C. Code Ann. Regs. 43-243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the Individuals with Disabilities Education Act; or

(ii) who has been diagnosed as either permanently or within the last three years by a licensed speech language pathologist, psychiatrist, or medical, mental health, psychoeducational, or other comparable licensed health care provider as having a neurodevelopmental disorder, a substantial sensory or physical impairment such as deaf, blind, or orthopedic disability, or some other

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disability or acute or chronic condition that significantly impedes the student's ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child's unique needs; and

(b) the child's parents or legal guardian believes that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.

(3) "Disadvantaged child" means a child who is eligible for the federal free or reduced lunch program and whose family meets the qualifications for federal Medicaid benefits, or whose family has an annual adjusted gross income of two hundred percent or less of the federal poverty guidelines as promulgated annually by the United States Department of Health and Human Services.

(4) "PACE Scholarship child" means a child who is a South Carolina resident who, immediately before receiving a scholarship or tuition grant under this section and enrolling in an eligible school or program, was enrolled in a South Carolina secondary or primary public school or who is eligible to enroll in a qualified first grade, kindergarten, or prekindergarten program; provided, however, that if a student is considered to be an eligible student pursuant to this item, he shall continue to qualify as such until he graduates, reaches the age of twenty, or returns to a public school, whichever occurs first; and provided, further, that the enrollment requirement must be waived in the case of a student who, based on the school attendance zone of his primary residence, is or would be assigned to a public school that the South Carolina Department of Education determines to be a low performing priority school, or who is the subject of an officially documented case of school based physical or psychological violence or student related verbal abuse threatening physical harm immediately before receiving a scholarship or tuition grant under this section.

(5) "Nonprofit scholarship funding organization" means a charitable organization that:

(a) is exempt from federal tax pursuant to Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the tax code;

(b) allocates at least ninety five percent of its annual contributions received during a particular year to provide grants for tuition to children enrolled in an eligible school meeting the criteria of this section and grants for home school curriculum fees, and incurs administrative expenses annually of not more than five percent of its annual contributions for a particular year to cover operational costs;

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(c) allocates all of its funds used for grants on an annual basis to children who are exceptional needs, disadvantaged, PACE Scholarship children, or for home school curriculum fees;

(d) does not provide grants only for the benefit of one school, and if the Treasurer determines that the nonprofit scholarship funding organization is providing grants to one particular school, the tax credit allowed by this section may be disallowed;

(e) does not have as a volunteer, contractor, consultant, fundraiser, or member of its governing board, any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving or has received a scholarship grant authorized by this section from the organization within one year of the date the parent, legal guardian, or member of their immediate family became a board member;

(f) does not have as a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who has been convicted of a felony;

(g) does not release personally identifiable information pertaining to students or donors or use information collected about donors, students, or schools for financial gain;

(h) does not place conditions on schools enrolling students receiving scholarships to limit the ability of the schools to enroll students accepting grants from other nonprofit scholarship funding organizations; and

(i) does not incur administrative fees for annual contributions raised in excess of ten percent of the cumulative total of the tax credits authorized under Subsection (D).

(6) "Parent" means the natural or adoptive parent or legal guardian of a child.

(7) "Person" means an individual, partnership, corporation, or other similar entity.

(8) "Qualifying student" means a student who is either (i) an exceptional needs child, (ii) a disadvantaged child, or (iii) a PACE Scholarship child, a South Carolina resident, and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the prekindergarten or later year level for the applicable school year. A qualifying student does not include students participating in the Education Scholarship Trust Fund Program, as provided in Section 59-8-110 et. seq.

(9) "Resident public school district" means the public school district in which a student resides.

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(10) “Transportation” means transportation to and from school only.

(11) “Tuition” means the total amount of money charged for the cost of a qualifying student to attend an eligible school including, but not limited to, fees for attending the school, textbook fees, and school related transportation.

(12) “School year” means July first through June thirtieth each year.

(13) “Home school” means a home, residence, or location where a parent or legal guardian teaches one or more children as authorized pursuant to Section 59-65-40, 59-65-45, or 59-65-47.

(14) “Home school child” means any child attending an eligible home school.

(15) “Treasurer” means the Office of the State Treasurer.

(16) “Home school curriculum fees” means the total amount of money charged for instruction related expenditures of a home school child to attend an eligible home school including, but not limited to, curriculum packages, textbooks, digital education, and testing materials.

(B)(1) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly traded securities the person contributes to a nonprofit scholarship funding organization up to the limits of this section if:

(a) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the person does not designate a specific child or school as the beneficiary of the contribution.

(2) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to a nonprofit scholarship funding organization up to the limits of this section if:

(a) the contribution is used to provide grants for tuition to disadvantaged children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(3) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly

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traded securities the taxpayer contributes to a nonprofit scholarship funding organization up to the limits of this section if:

(a) the contribution is used to provide grants for tuition to PACE Scholarship children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(4) A person is entitled to a tax credit against income taxes imposed pursuant to this chapter, or bank taxes imposed pursuant to Chapter 11 of this title for the amount of cash and the monetary value of any publicly traded securities the person contributes to a nonprofit scholarship funding organization up to the limits of this section if:

(a) the contribution is used to provide grants for home school curriculum fees to home school children attending a home school who qualify for these grants under the provisions of this section; and

(b) the person does not designate a specific child or home school as the beneficiary of the contribution.

(C)(1) Grants may be awarded by a scholarship funding organization for a school year in an amount not exceeding eleven thousand dollars or the total cost of tuition, whichever is less, for qualifying students who are either (i) exceptional needs or (ii) disadvantaged at an eligible school. Before awarding any grant, a scholarship funding organization must receive written documentation from the parent documenting that the qualifying student is an exceptional needs or disadvantaged child. Upon approving the application, the scholarship funding organization shall issue a paper check payable to the parent or guardian of the qualifying student and deliver it to the eligible school. If the qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school shall return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

(2) Grants may be awarded by a scholarship funding organization for a school year in an amount not exceeding the average state expenditures for each student in fall enrollment in public elementary and secondary education for this State or the total cost of tuition, whichever is less, for qualifying students who are PACE Scholarship children at an eligible school. The Treasurer shall determine and publish such amount annually, no later than January first. Upon approving the application, the scholarship funding organization shall issue a paper check payable to the

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parent or guardian of the qualifying student and deliver it to the eligible school. If the qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school shall return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

(3) Grants may be awarded by a scholarship funding organization for a school year in an amount not exceeding one thousand dollars or the total cost of home school curriculum fees, whichever is less, for a qualifying home school child attending a home school. Before awarding any grant, a scholarship funding organization shall receive written documentation from the parent documenting that the student is a home school child. A scholarship funding organization may reimburse a parent directly for expenditures actually paid for home school curriculum fees, or pay vendors directly for home school curriculum fees on behalf of the home school child.

(D)(1)(a) The tax credits authorized by subsection (B)(1) may not exceed cumulatively a total of twenty five million dollars each calendar year for contributions made on behalf of exceptional needs students.

(b) The tax credits authorized pursuant to subsection (B)(2) may not exceed cumulatively a total of twenty five million dollars each calendar year for contributions on behalf of disadvantaged children.

(c) The tax credits authorized pursuant to subsection (B)(3) may not exceed cumulatively a total of forty million dollars each calendar year for contributions on behalf of PACE Scholarship children.

(d) The tax credits authorized pursuant to subsection (B)(4) may not exceed cumulatively a total of ten million dollars each calendar year for contributions on behalf of home school children.

(e) If the department determines that the total of the credits claimed in this subsection by all taxpayers exceeds the limit amount, it shall allow credits only up to those amounts on a first come, first served basis.

(f) The tax credits authorized pursuant to subsection (B)(1), (2), (3), or (4) are automatically and permanently increased by twenty five percent in the succeeding calendar year whenever the total of the specific individual credit claimed meets the limit amount.

(g) The department, in coordination with the Treasurer, shall establish an application process to determine the amount of credit available to be claimed. The receipt of the application by the department

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shall determine priority for the credit. The credit must be claimed on the return for the tax year that the contribution is made.

(2) A taxpayer may not claim more than one hundred percent of his total tax liability for the tax year in contributions toward the tax credits authorized by subsection (B). This credit is not refundable. If the credit exceeds the taxpayer's tax liability for the taxable year, the excess amount may be carried forward for credit against income or bank taxes in the next ten succeeding taxable years.

(3) If a taxpayer deducts the amount of the contribution on the taxpayer's federal return and claims the credit allowed by this section, then the taxpayer shall add back the amount of the deduction for purposes of South Carolina income or bank taxes.

(4) The department shall prescribe the form and manner of proof required to obtain the credits authorized by subsection (B). Also, the department, in coordination with the Treasurer, shall develop a method of informing taxpayers if the credit limit is met at any time during the year.

(E) A corporation or entity entitled to a credit under subsection (B) may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(F) Except as otherwise provided, the Department of Education, the Department of Revenue, the Treasurer, or any other state agency may not regulate the educational programs of an eligible school that accepts students receiving scholarship grants pursuant to this section.

(G)(1) The Treasurer shall approve and oversee the scholarship funding organizations and address any citizen concerns about the programs' administration at eligible schools or with the scholarship funding organizations. The Treasurer shall consider a scholarship funding organization's organizational structure, financial condition, ability to fulfill the requirements of the program, and other factors he determines to be relevant when making a decision concerning whether to approve an applicant. The Treasurer shall hold at least one public hearing concerning an application if citizen concerns are raised about an applicant.

(2) By August first of each year, each nonprofit scholarship funding organization shall apply with the Treasurer to be considered an eligible organization for the succeeding calendar year for which its contributors are allowed the tax credit provided by this section. If a nonprofit scholarship funding organization does not apply, the organization may not be published as an approved organization, and contributions to that

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organization must not be allowed for purposes of the credit allowed by this section. A nonprofit scholarship funding organization's application must contain:

(a) the number and total amount of grants issued to eligible schools in the preceding school year;

(b) for each grant issued to an eligible school in the preceding school year, the identity of the school and the amount of the grant;

(c) an itemization and detailed explanation of any fees or other revenues obtained from or on behalf of any eligible schools;

(d) a copy of the organization's Form 990 or other comparable federal submission that indicates the provisions of the Internal Revenue Code under which the organization has been granted exempt status for purposes of federal taxation;

(e) a copy of a compilation, review, or audit of the organization's financial statements, conducted by a certified public accounting firm;

(f) the criteria and eligibility requirements for scholarship awards; and

(g) a certification by the organization that it meets the definition of a nonprofit scholarship funding organization as that term is defined in subsection (A)(5) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16-9-10.

(3) The Treasurer shall disclose on its website the names of qualifying nonprofit scholarship funding organizations and eligible schools. The Treasurer also may disclose the names of nonprofit scholarship funding organizations that applied but were not qualified by the Treasurer and those organizations whose eligibility has been revoked in accordance with subsection (H)(2), as well as the reason the application of the organization was not accepted or the reason its qualification was revoked.

(4) By September first of each year, the Treasurer shall publish on its website a list of all qualifying nonprofit scholarship funding organizations for the succeeding calendar year, to include their names, addresses, telephone numbers, and, if available, website addresses. Also, the results of the audit required by item (2)(e) must be published with the list.

(5) By January fifteenth of each year, the Treasurer shall report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor:

(a) the number and total amount of grants issued to eligible schools by each scholarship funding organization in the prior school year;

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(b) the identity of the school and the amount of each grant issued to an eligible school in the prior school year by each scholarship funding organization;

(c) an itemization and detailed explanation of fees or other revenues obtained from or on behalf of an eligible school by any scholarship funding organization;

(d) a copy of the each scholarship funding organization's Form 990 or other comparable federal submission that indicates the provisions of the Internal Revenue Code under which the organization has been granted exempt status for purposes of federal taxation;

(e) a copy of a compilation, review, or audit of each scholarship funding organization conducted by a certified public accounting firm as provided to the Treasurer by each scholarship funding organization in their application to participate in the program;

(f) the criteria and eligibility requirements for scholarship awards of each scholarship funding organization as provided to the Treasurer by each scholarship funding organization in their application to participate in the program; and

(g) any report required by this section shall specifically not include the name, amount, or any other personally identifiable information of scholarship recipients.

(6) The Treasurer may request an audit of a scholarship funding organization by the department if the Treasurer believes an organization is in violation of the provisions of this section.

(H)(1) The department has authority to examine and audit the nonprofit scholarship funding organizations when requested by the Treasurer, including determining whether the nonprofit scholarship funding organization is being operated in a manner consistent with the requirements for an IRC Section 501(c)(3) organization or is in compliance with any other provision of this section.

(2)(a) If during a requested audit the department acquires evidence that a nonprofit scholarship funding organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with any other substantial provision of this section, the department immediately may revoke the organization's participation in the program and shall notify the organization and the Treasurer in writing of the revocation.

(b) Actual notice of revocation may be provided to the organization by personal delivery to the organization, by certified return receipt mail to the last known address of the organization, or by other means reasonably designed to provide actual notice to the organization.

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(c) Any donations made following the date the actual notice of revocation are received by the organization do not qualify for the credit and the donated funds must be returned to the donor by the organization.

(d)(i) Within thirty days after the day on which the organization is provided actual notice of the revocation, the organization may request a contested hearing before the Administrative Law Court. Within seven days after a request for a contested case hearing is received by the Administrative Law Court, an administrative law judge shall hold the contested case hearing and determine whether the revocation was reasonable under the circumstances. The department has the burden of proof of showing that the revocation was reasonable under the circumstances. The revocation is 'reasonable' if the department has substantial credible evidence that the organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with other substantial provisions of this section. If the organization does not request a contested case hearing within thirty days of the immediate revocation, the revocation is permanent.

(ii) If the administrative law judge determines that the immediate revocation was reasonable, the administrative law judge shall remand the case to the department to issue a department determination for permanent revocation within the time period determined by the judge. The organization may appeal this department determination in accordance with Section 12-60-460. At the contested case hearing on the department determination, the parties may raise new issues and arguments in addition to those issues and arguments previously presented at the immediate revocation hearing.

(iii) If the administrative law judge determines that immediate revocation is not reasonable, the revocation must be lifted and the organization may resume accepting donations and award scholarships hereunder. The department may still issue a department determination in accordance with Section 12-60-450(E)(2).

(iv) If at any time during the process, the department believes the organization is in compliance, the department may reinstate the organization and notify the Treasurer.

(v) Following the permanent revocation of a nonprofit scholarship funding organization, the department has the authority to oversee the transfer of donated funds of the revoked organization to other nonprofit scholarship funding organizations.

(I) A nonprofit scholarship funding organization may transfer funds to another nonprofit scholarship funding organization, especially if the

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organization cannot distribute the funds in a timely manner or if the organization ceases to exist. The funds that are transferred by one nonprofit scholarship funding organization to another only may be considered by one organization when calculating its administrative expenses.

B. This SECTION takes effect upon approval by the Governor and applies to income tax years beginning after 2022. All tax credits earned as a result of a contribution made to a scholarship funding organization in 2022 apply to the cumulative total of twenty five million dollars for exceptional needs children, twenty five million dollars for disadvantaged children, forty million dollars to PACE Scholarship children, and ten million dollars for home school children, regardless of when in 2022 the contribution is made. All necessary reports and forms must be submitted as soon as practicable upon the enactment of this act.

C. Section 12 6 3790 of the S.C. Code is repealed.

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

Senator MASSEY spoke on the amendment.

RECESS

At 3:16 P.M., on motion of Senator DAVIS, the Senate recessed from business until 3:21 P.M.

At 3:40 P.M., the Senate resumed.

Senator MASSEY resumed speaking on the amendment.

Debate was interrupted by adjournment.

Motion Adopted

On motion of Senator MASSEY, the Senate agreed to stand adjourned.

MOTION ADOPTED

On motion of Senator STEPHENS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Mary Lee Felder of Santee, S.C. Mary was active in her community and was the official Mother of Chapel Hill Baptist Church. She was a loving mother who will be dearly missed.

and

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MOTION ADOPTED

On motion of Senator MATTHEWS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Leroy Sneed of Ridgeland, S.C. Leroy was owned and operated a barbershop in Mitchellville. He served as a councilman for twelve years in Jasper County and was chairman of the Citizens Organization for Public Services. Leroy was a member of the Jasper County Rotary and the Low Country Council of Governments. He enjoyed basketball, football, baseball and his favorite hobby was playing checkers. Leroy was an entrepreneur and civil rights activist. Leroy was a loving husband, devoted father and doting grandfather who will be dearly missed.

ADJOURNMENT

At 3:44 P.M., on motion of Senator MASSEY, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

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