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2008 Session Legislative Update – Higher Education

(Report prepared as of 6/12/08 and Updated as of 7/1/2008)

Blue and underlined text is linked to legislation as posted on the State's website for the General Assembly at www.scstatehouse.gov

The 2008 session (second regular session) of the 117th South Carolina General Assembly adjourned on Thursday, June 5, under the provisions of the *Sine Die* resolution, [S.838](#). Under this resolution, the General Assembly returned on Wednesday, June 25, to take up gubernatorial vetoes, conference report and other business as provided for in [S.838](#). The General Assembly adjourned on June 25 under the provisions of another *Sine Die* resolution, [S.1469](#), which was passed to extend the provisions of [S.838](#). [S.1469](#) enables the General Assembly to return between now and October 31 under the provisions specified which include consideration of legislation necessary to address any anticipated revenue shortfalls, gubernatorial vetoes, and *Sine Die* provisions.

The following listing provides summary information on the FY 2008-09 Appropriation bill ([H.4800](#)) and Capital Reserve Fund bill ([H.4801](#)) approved by the General Assembly and on legislation relating to higher education that passed during the 2008 session or, if applicable, is pending consideration as of June 25 of the Governor and final action of the General Assembly.

Please note that the information provided in this summary is not intended to be a complete. Text that is blue and underlined is linked to the latest version of the legislation as posted on the General Assembly's website (www.scstatehouse.gov). Bills and other information may also be accessed from that website at <http://www.scstatehouse.net/html-pages/legpage.html>. Additional information about activity during the session may also be found on CHE's website. For weekly updates prepared by CHE staff during the session, see <http://www.chc.sc.gov/InfoCntr/CHELegislativeUpdates.htm> and for information on other bills, see http://www.chc.sc.gov/InfoCntr/Legis/HigherEd_Legis_List.xls.

The 2008 Session is the second regular session of the 117th South Carolina General Assembly. When the session ends *Sine Die*, all legislation that has not been enacted will die and must be re-introduced in the upcoming 2009 Session to receive any future consideration.

FY 2008-09 APPROPRIATIONS

During the session, the Board of Economic Advisors issued reduced estimates for projected state revenue for the current year FY 2007-08 and FY 2008-09. The revised projections resulted in recommended reductions to base budgets upwards of 5% for FY 2008-09 across most state agencies including higher education. Summary details are provided below. Complete information on the FY 2008-09 appropriations is available at http://www.scstatehouse.gov/sess117_2007-2008/appropriations2008/gab4800.htm.

Recurring Base Funding for Higher Education: Recurring base funding for colleges and universities was reduced on average by about 3% or approximately \$23 million. Like the institutions, higher education agencies including CHE, State Technical Board and Tuition Grants also received cuts to recurring base funding bringing the total reductions in recurring funding to \$27 million across higher education. Approximately \$4 million of the \$27 million in reduced funding is a reduction of recurring funds for the state's LIFE program that is included in CHE's budget. However, it is important to note that the state's merit scholarship programs (Palmetto Fellows, LIFE and HOPE) are fully funded for FY 2008-09 in light of anticipated increases. Detailed information on the funding of the scholarship programs is found on the next page. The only new FY 2008-09 recurring general funds across the higher education agencies and colleges and universities included \$200,000 for the statewide electronic library. With this funding, the total annual funding for the library was reduced 90% since the library had received \$2,000,000 annually during the past four fiscal years. Also of note in regard to recurring appropriations, the state's FY 2008-09 budget includes funds to provide a 1% pay increase for state employees and to cover state health plan increases.

Non-Recurring (one-time) Funding for Higher Education: Limited one-time funds were also appropriated, and for higher education non-recurring (one-time) funds included \$4,500,000 continued funding for a second year for the SC LightRail project, \$1,112,229 continued for the University Center of Greenville Operations, \$250,000 continued for the SC State Bridge Program focused on the recruitment of minority teachers, \$100,000 for operating expenses for USC Lancaster, \$250,000 for the Rural Dentist Incentive Program, \$600,000 for MUSC's Cancer Center and \$6,400,000 for MUSC disproportionate share. The funds total \$13.85 million dollars. Last year, higher education received approximately \$51 million in nonrecurring funding.

Lottery Funding:

The FY 2008-09 budget includes a total of \$260,722,729 in lottery fund appropriations with 81% dedicated to higher education projects. The following higher education programs are funded in the lottery:

\$181,708,202 for scholarship and grant programs (see below for details),
 \$10,000,000 for Centers of Economic Excellence program (a reduction of \$20,000,000 from FY 2007-08),
 \$4,700,000 for Higher Education Excellence Enhancement (same as FY 2007-08),
 \$2,500,000 for SC State (same as FY 2007-08), and
 \$12,000,000 (\$3,600,000 in lottery revenues and \$8,400,000 in certified unclaimed prize funds) for technology for 2- and 4-year institutions (same as FY 2007-08).

The lottery fund recommendations also include a provision that would appropriate any unclaimed prize funds collected in excess of the \$8,400,000 in unclaimed prize funds that have been dedicated to technology for public institutions as follows: 1) \$4,000,000 for Allied Health Initiative for State Board for Technical and Comprehensive Education, 2) \$1,000,000 for Critical Needs Nursing Initiative, and 3) the balance of any funds after the aforementioned appropriations to the Need-based Grant program.

Summary of scholarship and grant appropriations, FYs 2007-08 and 2008-09, total and by source of funds:

	Palmetto Fellows	LIFE	HOPE	LTA	Need-based	SC Tuition Grants*	National Guard Tuition Assistance
FY 2007-08 funding from all sources							
	\$40,915,490	\$147,727,542	\$7,767,606	\$47,000,000	\$23,631,566	\$29,568,851	\$3,000,000
FY 2008-09 funding by source:							
General Fund	\$12,000,000	\$81,033,307	\$0	\$0	\$12,000,000	\$21,802,247	\$0
Lottery Funds	\$30,277,240	\$75,256,682	\$8,076,110	\$47,000,000	\$11,631,566	\$7,766,604	\$1,700,000
Total	\$42,277,240	\$156,288,989	\$8,076,110	\$47,000,000	\$23,631,566	\$29,568,851	\$1,700,000

* Program administered by the SC Tuition Grants Commission. All other programs administered by CHE.

Temporary Budget Provisos included in the Appropriations Act as Part 1B Provisions: The following list includes only those provisos for higher education that are new or amended for FY 2008-09. The full text of the proviso is provided below. New language is underlined and italicized. Strikethrough denotes deleted text. The change to Provisos 6.26 and the addition of Proviso 6.28 were requested by CHE.

- 6.26 (CHE: Critical Needs Nursing Initiative) The funds appropriated to the Commission on Higher Education for the Critical Needs Nursing Initiative shall be used ~~for nursing faculty salary enhancements~~ the purpose of implementing the Critical Needs Nursing Initiative Fund per Section 59-110-10, et seq., of the 1976 Code of Laws, as amended. ~~The commission, upon consultation with members of the Advisory Committee on Academic Programs (ACAP) from institutions with accredited nursing programs and the chairperson, or~~

designee, of the South Carolina Council of Deans and Directors in Nursing Education, shall determine and distribute the funds Funds allocated for nursing faculty and faculty salary enhancements and new nursing faculty shall be permanently transferred to the affected institutions where such faculty are employed. The governing body of the institution, pursuant to its procedures, shall then allocate these enhancements among its affected faculty in such amounts as it determines appropriate consistent with their salary guidelines.

- 6.28 (CHE: Need-Based Grant Allocation Methodology) Need-based grant funds for public institutions must be allocated using a methodology that considers state resident Pell Grant recipients such that each public institution shall receive an amount sufficient to provide a similar level of support per state resident Pell recipient when compared to tuition and required fees. However, no public institution shall receive less funding than would be provided under the methodology used in FY 2007-08.
- 6.29 (CHE: In-State Tuition) Beginning in Fiscal Year 2008-09, independent persons who reside in and have been domiciled in South Carolina for fewer than twelve months with an intention of making a permanent home therein pursuant to Title 59 and Chapter 112, and their dependents, may be considered eligible for in-state tuition and fees as long as such independent person is employed on a full-time basis within an adjoining county in North Carolina or Georgia. The Commission on Higher Education shall explore and establish, if possible, a reciprocal agreement for persons full-time employed in SC but domiciled in an adjoining county in North Carolina or Georgia and their dependents. NOTE: Proviso was included in the budget and vetoed by the Governor. The House did not override the Governor's veto and consequently the proviso will not go into effect.
- 6.30 (CHE: Tuition Age) For Fiscal Year 2008-2009, the age limitation for those children of certain war veterans who may be admitted to any state-supported college, university, or post high school technical education institution free of tuition is suspended for eligible children that successfully appeal the Division of Veterans Affairs on the grounds of a serious extenuating health condition.
- 6.22 (CHE: Out-Of-State Eligibility) For the current fiscal year, students who are South Carolina residents and enrolled in out-of-state high schools may be eligible to receive the Palmetto Fellows, Life, and Hope scholarships utilizing criteria for in-state students. For the purposes of meeting the rank criteria for the Palmetto Fellows and LIFE scholarships, the existing high school rank may be used provided it is calculated per a state-approved, standardized grading scale at the respective out-of-state high school. NOTE: Proviso 6.22 was codified and therefore, deleted. See report below on H.3394 (Act No. 178)
- ~~89.97. (GP: Academic Center) Of the funds appropriated to the University of South Carolina Upstate for other operating expenses, \$100,000 shall be transferred to Spartanburg Community College to support the Academic Center.~~

Also of note in regard to the temporary budget provisos, the General Assembly amended Proviso 89.25 to increase the mileage reimbursement rate for state business travel from 44.5¢ per mile to 50.5¢ per mile. Additionally, a number of temporary provisos that have been included annually in the budget were deleted by the Senate because they violated Senate rules.

A budget codification bill S.530 went into law on June 17, 2008, without the signature of the Governor. The passage of S.530 restores in permanent code the provisions that had been deleted in Senate considerations of the budget. See below under "Legislation" for a report on S.530.

The provisos for higher education which were struck from the appropriations act and enacted through the passage of S.530 include:

- 6.10. (CHE: Furlough) relating to authority and procedures for voluntary furloughs in light of reductions in general fund appropriations for institutions of higher education
- 6.11. (CHE: Unspent Scholarship Grants) relating to any appropriations from any unspent balance in the Higher Education Scholarship Grants share of the Children's Education Endowment Fund
- 6.14. (CHE: Gifted Student Scholarship Criteria) relating to Palmetto Fellows scholarship eligibility for exceptionally gifted South Carolina resident students who are accepted into an institution of higher learning without having attended or graduated from high school

6.17. (CHE: International Exchange Program Abatement) relating to the allowance of a waiver of the out-of-state tuition differential for students from international institutions at public colleges and universities that have an established and ongoing exchange program approved by the Board of Trustees with the international institution

18.4. (TEC: NC/GA Reciprocal) relating to the allowance of a waiver of the out-of-state tuition differential at the South Carolina Technical Colleges for students from bordering North Carolina and Georgia communities when a negotiated reciprocal agreement is in place or when students from these out-of-state communities are employed by South Carolina employers who pay South Carolina taxes.

80A.14. (BCB: Higher Education Salary Limit Exemption) which exempts higher education institutions from the requirement that the salaries of employees shall not exceed ninety-five percent of the midpoint of the agency head salary range or the agency head actual salary, whichever is greater.

89.16 (GP: Residency Preference) which relates to an exemption for consideration of SC residency for higher education institutions in filling new positions where two candidates are equally qualified for the vacancy or new position.

LEGISLATION

Bills ENACTED During the 2008 Session

(Bills are listed in numeric order of the bill number with House bills (denoted by H.) listed first and followed by Senate bills (denoted by S.)

- **H.3379 (Act No. 178)** amends 59-104-20(F) relating to Palmetto Fellows and 59-149-50(A) LIFE eligibility in regard to calculating high school GPA and rank for SC resident students who have attended high school out of state. This legislation, enacted February 13, 2008, codifies a budget proviso that had been included in the budget as a temporary provision since FY 2006-07. Because the legislation passed, the temporary proviso 6.22 was deleted from the FY 2008-09 budget recommendations.
- **H.4320 (Act # not assigned)** was amended on June 4, 2008, to include a provision relating to in-state tuition and fees for certain military members. The bill passed the House and Senate and was ratified on June 10. On June 16, the Governor signed the bill into law.
- **H.4400 (Act No. 280)** relates to immigration reform, an issue that was debated throughout the session. On May 29, 2008, H.4400 was approved by the House and Senate and ratified. H.4400 includes a provision that bars those unlawfully present in the United States from entering public colleges and universities and from receiving any type of state support including scholarships and grants. These provisions are found in Section 17 of H.4400. The bill is effective upon signature of the Governor. It was ratified on May 29, 2008, and signed into law by the Governor on June 4, 2008.
- **H.4408 (Act No. 235)** On May 22, 2008, this bill became law without the Governor's signature. It amends Section 59-104-25 and 59-149-15 relating to the Palmetto Fellows and LIFE Scholarship stipends for students majoring in eligible mathematics/science/engineering/healthcare programs so as to provide flexibility in the required 14 credit hours in math and life and physical sciences for eligibility. Prior to the passage of this bill, to be eligible, freshman were required to take 14 credit hours in math and/or life and physical sciences with at least 6 hours in math and at least 6 hours in the life and physical sciences. The change retains the 14 credit hour requirement during the freshman year, but allows students to take any combination of courses in math and/or life and physical sciences to meet the 14 hour requirement.

- **H.4520 (Act # not assigned)** relates to the authority and process by which USC could issue revenue bonds to provide funds for a new business school facility and renovation of the Close-Hipp building and became law as of May 22, 2008, after the House and Senate overrode the Governor's veto.
- **H.4680 (Act No. 215)** relates to the addition of representation from Cherokee and Union Counties to the Spartanburg County Commission for Technical and Community Education and was signed into law effective May 13, 2008.
- **H.4766 (Act # not assigned)** amends Section 48-52-620 relating to energy conservation plans for state agencies so as to provide specific energy consumption reduction goals and reporting requirements, to provide an exemption from annual reporting requirements for an agency implementing all available, cost-effective energy conservation measures, and to define the term "energy consumption." It also amends section 48-52-640 relating to purchase of energy conservation products by a state agency so as to provide that the state energy office may certify for procurement only a product that meets or exceeds federal energy star standards, and to require replacement of an incandescent light bulb used by a state agency with a compact fluorescent bulb when the incandescent bulb needs replacing, among other things. The legislation exempts higher education facilities greater than 10,000 gross square feet and higher education facilities for athletics and research. Also exempt are certain technical college facilities that are used for technical training and education programs. The bill was ratified on June 4, 2008.
- **H.4953 (Act # not assigned)** relating to the establishment of the SC LightRail Consortium, has passed the House and the Senate. It was amended by the Senate before being passed and was ratified on June 10. On June 17, the bill became law without the signature of the Governor.
- **S.75 (Act No. 246)** relates to the closing of the Tuition Prepayment Program. The bill went into law without the Governor's signature on June 5, 2008 and is effective July 1, 2008. Before being passed, the bill was amended in keeping with a temporary FY 2007-08 budget proviso, 76.13, that had closed the Tuition Prepayment Program to new enrollees as of fall 2007.
- **S.282 (Act No. 174)** relates to facilities construction and amends code relating to alternative construction delivery such that design-build is placed on the same level as design-bid-build. The bill became effective after being signed into law by the Governor on February 4, 2008.
- **S.530 (Act # not assigned)**, the budget proviso codification bill, would put into permanent law provisos that have been included annually in the appropriations act. It includes a number of higher education provisos, several of which had been struck from the appropriations act for the upcoming year. The higher education provisos that have been included and deleted from the appropriations act are 6.10, 6.11, 6.14, 6.17, 18.4, 80A.14, and 89.16 (see above report on appropriations). Also included are provisos 6.12 and 7.1 which exempt scholarship and grant programs from mid-year budget cuts, 15.5 which provides reciprocal tuition for USC Beaufort and select GA counties, 89.88 which provides USC Law school with authority to waive tuition up to a certain limit and 17.1 relating to AHEC. The bill passed the Senate and the House and was ratified on June 10. On June 17, the bill became law without the signature of the Governor.
- **S.793 (Act # not assigned)** relates to the Board of Trustees for Coastal Carolina University and provides that they may meet in locations other than Conway and that all property, real and personal, and rights of every description vested in Coastal Carolina University located in Horry County shall be vested in Coastal Carolina University. Bill signed into law by Governor on February 4, 2008.
- **S.950 (Act No. 275)** amends 59-53-630 relating to the powers of Denmark Technical College Area Commission so as to allow the Commission to enter into ground lease arrangements with private entities upon approval of the Budget and Control Board. The bill was ratified on May 29, 2008, and awaits the Governor's consideration.

- **S.1007 (Act No. 289)** amends Chapter 6 of Title 34 of the SC Code of Laws relating to the SC Uniform Management of Institutional Funds Act to provide for updated uniform standards and other revisions. The Governor signed the bill into law on June 11, 2008.
- **S.1022 (Act No. 276)** re-enacts legislation that was passed during the 2007 session to implement the Critical Needs Nursing Initiative. The constitutionality of the bill that had passed during the 2007 session and enacted this initiative is under consideration by the SC Supreme Court after a lawsuit was brought forward. The bill went into effect after the House and Senate overturned the Governor's veto of S.1022 on June 5, 2008.
- **S.1034 (Act # not assigned)**, a joint resolution was enacted February 19, 2008, to change the reporting date from February 1, 2008, to September 15, 2008, of the Higher Education Study Committee. The Study Committee was established by an FY 2007-08 Part 1B budget proviso, 5A.28.
- **S.1077 (Act No. 28)**: Amends 11-35-40 of the SC Code of Laws relating to procurement by exempting the licenses granted by the FCC to Greenville and Trident Technical Colleges that authorize the use of educational broadband service spectrum. The bill was signed into law on May 13, 2008.
- **S.1115 (Act No. 299)** amends 59-112-40 of the SC Code of Laws relating to in-state tuition at public colleges and universities for military personnel and their dependents. It allows dependents of military personnel to continue receiving in-state tuition in the event that the person they are dependent upon is re-assigned. Current law provides for only a one-year period in such instances. The Governor signed the bill into law on bill was signed into law on June 11, 2008.
- **S.1232 (Act # not assigned)** is the Education Capital Improvements Sales and Use Tax Act and if enacted, allows counties to seek referendum approval of a 1% increase in sales and use tax for specific education capital improvements. It provides that a portion of the revenues may be shared with public colleges and universities pursuant to a memorandum of agreement. As of June 12, 2008, the bill became law without the signature of the Governor.
- **S.1252 (Act# not assigned)** amends provisions of the Research Centers of Economic Excellence Act to include the following: 1) revision to references as to sources of funds for endowed professorships, 2) an amendment to Section 2-75-10 to include two new appointments, one by the Senate Finance Chair and one by the House Ways and Means Chair, to the Board for total membership of eleven and a provision that the board members serve without compensation, 3) an amendment to Section 2-75-10 to reflect a deadline of October 1 for the submission of the required annual report and to specify that the report is to include, but not limited to, an accounting of all awards up to the previous fiscal year, 4) an amendment to Section 2-75-30 that removes funding limitations and instead reflects an annual appropriation of \$30 million, but only if 80% of the total appropriations have been awarded by June 30 of the previous fiscal year, and another amendment to this section to specify that interest is included in the calculation only if the board uses it for state awards, 5) an amendment to Section 2-75-30 to include language from the CoEE guidelines relating to the review process for the consideration of proposals, and 5) to delete obsolete language in Section 2-75-90 and add Sections 2-75-100 and 2-75-110 relating to matching requirements and the use of matching funds. Before passing, S.1252 was also amended to include a section pertaining to athletic bond revenue authority for Francis Marion University. The bill was vetoed by the Governor on June 11. On June 25, the House and Senate overrode the Governor's veto and the legislation took effect.

CHE REGULATIONS Approved During the Session

- *Document #3143, CHE Free tuition for Residents 60 Years of Age and Older – For a copy of the regulation, see <http://www.scstatehouse.net/regis/3143.doc> . Regulation approved by expiration date*

on 5/7/08 with an effective date of 5/23/08. Establishes regulations pursuant to authority in 59-111-330 regarding free tuition for residents sixty years of age. The regulation provides definitions institutions may use to ensure consistent application of the provisions of 59-111-330 and establishes guidelines for institutional processing of inquiries and appeals.

- *Document #3129, CHE Licensing Criteria* – For a copy of the regulation, see <http://www.scstatehouse.net/regs/3129.doc> . Regulation approved by expiration date on 5/14/08 with an effective date of 6/27/08. Revises regulations to align the accreditation requirement for in-state and out-of-state institutions and to provide additional accountability and credibility that is associated with accreditation and thereby provide additional consumer protection for consumers of private postsecondary education.
- *Document #3170, CHE Nonpublic Postsecondary Institution Licensing, Use of Surety Bond Funds* – For a copy of the regulation, see <http://www.scstatehouse.net/regs/3170.doc> . Regulation approved by expiration date on 5/14/08 with an effective date of 6/27/08. Aligns regulation with passage of Act 20 of 2007 (S.321) that amended CHE authority in regard to the use of surety bonds that are posted by institutions licensed to operate in SC.
- *Document #3172, SC Residency Program* See <http://www.scstatehouse.net/regs/3172.doc> . Legislative review period expires June 4, 2008. Revises R.62-600 to clarify policies and procedures for administering residency classification for purposes of determination rates of tuition and fees.
- *Document #3173, SC HOPE Scholarship* – See <http://www.scstatehouse.net/regs/3173.doc> . Legislative review period expires June 4, 2008. Revises 62-900.85-140 to clarify policies and procedures for administering the program and conforms regulations to statutory changes passed during the 2007 session.
- *Document #3185, SC Need-based Grants Program* – See <http://www.scstatehouse.net/regs/3185.doc> . Legislative review period expires June 4, 2008. Revises 62-450-505 to clarify policies and procedures for administering the program and conforms regulations to statutory changes passed during the 2007 session.

PENDING CHE REGULATIONS Submitted for General Assembly Consideration

- *Document #3196, SC National Guard Tuition Assistance Program* – See <http://www.scstatehouse.net/regs/3196.doc> . Legislative review period expires March 23, 2009. In accordance with Act 40 of 2007 that amends Chapter 114, Title 59, Code of Laws of South Carolina, 1976, CHE proposes to add R.62-250 through R.62-263 to provide for the college assistance program for National Guard members that is to be administered by the Commission on Higher Education.

PENDING SDE REGULATIONS of Interest Submitted for General Assembly Consideration

- *Document #3191, Advanced Placement* – See <http://www.scstatehouse.net/regs/3191.doc> . Legislative review period expires 2/1/09. As stated in the document, the purpose of this request is to promulgate amendments to the regulation requiring teachers to take a three-hour graduate credit course to earn the endorsement to teach Advanced Placement (AP courses). The review period expires 2/1/09.
- *Document #3192, Requirements for Additional Areas of Certification* – See <http://www.scstatehouse.net/regs/3192.doc> . Legislative review period expires 2/1/09. As stated in the this document, this regulation is being amended to facilitate the certification of individuals attempting to qualify for middle-level certification, which is scheduled for statewide implementation July 1, 2009, and to provide for add-on certification requirements for teachers of American Sign Language.