

## Legislative Updates of interest for Higher Education Week of Mar. 9-13, 2009

### ***Budget Update:***

The House began its budget deliberations on Monday. By Thursday, the budget, ([H.3560](#)), had been approved by the House and was sent to the Senate for consideration. A summary highlighting recommendations adopted for higher education follows:

For Higher Education, the budget adopted by the House is largely the same as the Ways and Means budget. One significant development was that addition of \$2,000,000 in nonrecurring funding for CHE Need Based Grants. Another change relating to higher education included a change in the lottery allocations that resulted in the lottery technology funds for 2-year and 4-year institutions being decreased from \$12,000,000 to \$6,277,217 and LIFE scholarships being increased by \$5,722,729 to bring the LIFE funding level with the current year's appropriation.

To recap the details, higher education institutions (Research, 4-Year, USC 2-Year Regional Campuses, and SBTCE) remained level in the budget, and \$119,673,400 in federal stimulus dollars were appropriated across the institutions relative to the shortfalls experienced since FY 2008. CHE's budget remained level except for an administrative reduction of \$24,415. SC Tuition Grants also remained level except for an administrative reduction of \$1,746. With the exception of the change to the lottery technology funds noted above, the lottery appropriations also remain consistent with this year. The scholarship/grant programs (PF, LIFE, HOPE, Lottery Tuition Assistance, and Tuition Grants), National Guard Tuition Assistance Program) are funded at this year's level and Need-based Grants as noted are increased by \$2,000,000. Under the recommendations of the House, the merit scholarship programs (Palmetto Fellows, LIFE and HOPE) have been fully funded in light of anticipated general program increases.

Several provisos relating to tuition caps were introduced and debated but were not adopted. Several other new provisos were introduced during the debate and adopted that relate to funds provided in the American Recovery and Reinvestment Act of 2009 (ARRA) or that would affect higher education. The ARRA provisos relate to the acceptance of funds, reporting, and use of funds. The other new provisos affect state agencies, including higher education – One would waive the requirement for certain reports and require that some reporting be handled only electronically and another would require agencies to report fines and fees collected on websites. **These provisos and other new or amended provisos relating to higher education that had been recommended by Ways and Means and adopted by the House are copied on the following pages as an attachment to this report.**

Senate Finance Budget Subcommittees continue to hold hearings. The Higher Education Budget Subcommittee – Senators, Courson (Chair), Elliot, Verdin, and Jackson – will hold its hearings on March 17 from 2:00 p.m. until 4:00 p.m. (Citadel, AHEC, Coastal Carolina, State Technical College System, College of Charleston, SC State, and Tuition Grants), on March 18 from 10:00 a.m. until 11:00 a.m. (Francis Marion, Lander, Winthrop, and Provisos), and on March 25 at 10:00 a.m. (SC Commission on Higher Education, University of South Carolina, Clemson, and MUSC). Presentations on the 25<sup>th</sup> are being made before a joint meeting of the full Senate Education Committee and Senate Finance Higher Education Budget Subcommittee.

### ***In the House –***

[S.97](#) relating to changes to the Central Carolina Technical College Commission was introduced and referred to House Education and Public Works. See above, the major activity in the House focused on the budget.

### ***In the Senate –***

By the end of the week [S.19](#) relating to police and security departments of private colleges was approved and sent to the House. On Thursday, three concurrent resolutions were introduced in the Senate relating to the acceptance of the federal stimulus funds by the General Assembly. Under one, [S. 577](#), the General Assembly would agree to accept the funds if the Governor does not. Under another, [S. 578](#), the General Assembly would support the Governor's request to use the state's funds in a different manner than authorized in the ARRA. Under a third, [S.579](#), the General Assembly would refuse the funds. These resolutions were referred to Senate Finance.

Also introduced and referred to Senate Education for consideration was the announcement of an initial appointment by the Governor of Guy C. Tarrant, The Tarrant Company, P. O. Box 28, Charleston, SC 29402, to the SC Commission on Higher Education, with the term to commence July 1, 2008, and to expire July 1, 2012. The appointment is for a statewide at-large seat which was recently vacated.

The full Senate Education Committee met on Wednesday and heard from representatives of the Chamber.

***Other –***

On Thursday, the Board of Economic Advisors (BEA) met Wednesday and voted to lower the state's general fund revenue estimate by 1% (or approximately \$64 million) in the current fiscal year (FY 2008-09) and also to lower the Education Improvement Act (EIA) revenue estimate for the current year by 1%. Additionally, the BEA voted to lower next year's estimates for the general fund and EIA by 1%.

It is not yet certain how the action taken by the BEA will translate to agencies and the Budget and Control Board will likely meet in the upcoming week to consider across-the-board reductions. As a reminder, the BEA certifies the state's revenue estimates and it is the responsibility of the Board or the General Assembly to assure that state appropriations are in line with the estimates. The Board may only take action to implement across-the-board reductions and may take larger cuts than the action taken by the BEA if warranted. Once the Board takes action, the action will become final unless the General Assembly acts within five session days.

The budget was passed by the House prior to news from the BEA. Consequently, the Senate now has less money to work with as the budget under consideration will need to be trimmed by approximately \$64 million.

*\*\* Bill numbers are linked to the SC General Assembly page. The link should go to the most recent version of the bill.*

***Reminder: The above report is not intended to be all inclusive. For additional information on legislation referenced above and other legislation relating to higher education, see CHE's website at <http://www.che.sc.gov/Home/CHELegislativeUpdates/LegislativeSession2009.aspx>. Detailed information on the 2009 Session of the General Assembly may be access at [www.scstatehouse.gov](http://www.scstatehouse.gov) or from links included on CHE's website.***

PROVISOS

*New or amended provisos referenced in the summary on the preceding page. This list is not exhaustive and the complete listing of provisos as adopted by the House is available at [http://www.scstatehouse.gov/sess118\\_2009-2010/appropriations2009/hpb09ndx.htm](http://www.scstatehouse.gov/sess118_2009-2010/appropriations2009/hpb09ndx.htm) .*

Strikethrough represents deleted text. New text is underlined.

**The following are New or Amended Higher Education Provisos.**

**6.22.** (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~~ a smaller proportion of funding than would be provided under the student enrollment methodology used in ~~FY 2007-08~~ past years.

**6.23.** (CHE: Tuition Age) For Fiscal Year ~~2008-2009~~ 2009-10, 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.

**6.24.** (CHE: Mandatory Furlough) In a fiscal year in which the general funds appropriated for an institution of higher learning are less than the general funds appropriated for that institution in the prior fiscal year, or whenever the General Assembly or the Budget and Control Board implements a midyear across-the-board budget reduction, agency heads for institutions of higher learning and the State Board for Technical and Comprehensive Education through policy and procedure for the Technical College System may institute employee furlough programs of not more than twenty working days in the fiscal year in which the deficit is projected to occur. The furlough must be inclusive of all employees in an agency or within a designated department or program regardless of source of funds, place of work, or tenure status, and must include employees in classified positions and unclassified positions as well as agency heads. A furlough program may also be implemented by pay band for classified employees and by pay rate for unclassified employees. Law enforcement, employees who provide direct patient or client care, and front-line employees who deliver direct customer services may be exempted from a mandatory furlough. If the furlough includes the entire agency, the furlough must include the agency head. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency or individual institution. In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily will count toward furlough days required by the mandatory furlough. During this furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits which require employer and employee contributions, including but not limited to contributions to the South Carolina Retirement System or the optional retirement program, institutions will be responsible for making both employer and employee contributions during the time of the furlough if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions. Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Act. In the event an institution's reduction is due solely to the General Assembly transferring or deleting a program, this provision does not apply. The implementation of a furlough program authorized by this provision shall be on an institution by institution basis. Agencies may allocate the employee's reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs if that employee is non-exempt under the provisions of the federal Fair Labor Standards Act. State agencies shall report information regarding furloughs to the Office of Human Resources of the Budget and Control Board as requested.

**6.25.** (CHE: University Center of Greenville Funding Plan) For the current fiscal year, the Board of the University Center of Greenville shall develop a plan by September 1, 2009, to address the annual operational funding needs of the University Center of Greenville. This plan shall be implemented to address the funding needs for Fiscal Year 2009-10. The plan may include a fee per credit hour assessed to institutions with students enrolled in the University Center of Greenville. Revenues collected shall not exceed \$1,100,000 for the current fiscal year.

6.26 – See below for copy of this provision which relates to higher education and ARRA funds.

15.7. (USC: Branch Campuses Study) For Fiscal Year 2009-10, the University of South Carolina must complete a study and report on the fiscal impact of potential closing of the branch campuses. The report submitted must include the following: data indicating the economic impact on the adjacent geographic communities; data indicating the resulting savings to the university system and the State; impact on current and prospective students; and a timeline for implementation. The University of South Carolina shall submit the report to the General Assembly by January 1, 2010.

17.4. (MUSC: Preterm Birth Prevention) For Fiscal Year 2009-10, the Medical University of South Carolina shall implement a preterm prevention case management program utilizing a disease management coordination network for the Medicaid fee for service population in the Low Country Perinatal Region. The purpose of the program is to reduce premature births, neonatal morbidity and mortality, and the attendant costs for neonatal intensive care. The Department of Health and Human Services shall provide administrative funding to the Medical University of South Carolina for the cost of this program.

18.5. (TEC: Caterpillar Dealer Academy) The area commission for the Florence-Darlington Technical College may waive the requirements of Chapter 112 of Title 59 for student participants in the Caterpillar Dealer Academy operated by Florence-Darlington Technical College.

18.6. (TEC: Financial and Human Resource Functions Consolidation Plan) The State Board for Technical and Comprehensive Education is directed to develop a plan to consolidate financial and human resources functions, where possible, between like institutions of the state's technical college system. This plan, including an estimate of the cost savings, must be submitted to the Chairman of the Senate Finance Committee and the House Ways and Means Committee no later than December 31, 2009.

**The following Higher Education Proviso is no longer deleted as the task force authorized by the proviso will complete its work in the current year and the proviso is no longer needed.**

~~6.21. (CHE: Higher Education Task Force) The funds appropriated to the Commission on Higher Education for the Task Force on Higher Education Study Committee shall be utilized to establish the Higher Education Task Force whose mission shall be to develop and recommend an evolving, multi-year statewide strategic plan for higher education in South Carolina to meet the needs of the state as can be addressed by higher education.~~

~~The task force shall consist of nine members appointed as follows: three by the Governor, one by the President Pro Tempore of the Senate, one by the Speaker of the House of Representatives, one by the Chairman of the Senate Finance Committee, one by the Chairman of the House Ways and Means Committee, one by the Chairman of the Senate Education Committee, and one by the Chairman of the House Education and Public Works Committee. The members appointed shall include persons knowledgeable in issues involving higher education to include, but not be limited to, higher education officials, K-12 education officials, and members of the business community. The task force shall elect its chairman from among its appointed members.~~

~~The task force shall review the current higher education mission and goals as set forth in Section 59-103-15 of the 1976 Code, taking into consideration the areas identified by the Governor's Task Force on Higher Education in their final report issued September 28, 2006, and shall also review all state supported higher education scholarship and grant programs.~~

~~Upon completion of the review the task force shall develop and recommend a Statewide Higher Education Strategic Plan which shall include, but not be limited to, the following five aspects of higher education as recommended by the Governor's Task Force on Higher Education's final report:~~

- ~~(1) Institutional Missions and Academic Programs and Planning;~~
- ~~(2) Enrollment;~~
- ~~(3) Funding and Institutional Cost;~~
- ~~(4) Buildings, Facilities, and Information Technology; and~~
- ~~(5) Organization and Plan Implementation.~~

~~The Plan shall also include recommendations for all state supported higher education scholarship and grant programs whether funded through the Education Lottery Account or through the State General Fund.~~

~~The task force shall submit recommendations for the Higher Education Statewide Strategic Plan to the General Assembly by September 15, 2008.~~

**The following deleted Higher Education Provisos have been codified (put in permanent SC State Code). Because these provisos are now part of permanent law, the temporary budget proviso is no longer needed.**

~~6.10. (CHE: Mid-Year Reduction Exemption) Whenever the General Assembly or the Budget and Control Board implement a mid-year budget reduction, Commission on Higher Education appropriations for the Legislative Incentives for Future Excellence (LIFE) scholarships, the Need-based Grants, and Palmetto Fellows Scholarships are exempt from any mid-year budget reductions.~~

~~7.1. (HETG: Tuition Grants Mid-Year Reduction Exemption) Funds provided in Part IA, Section 7, II. Tuition Grants shall be exempt from any mandated mid-year budget reductions.~~

~~15.5. (USC: Beaufort Campus - Reciprocal Tuition) The University of South Carolina Beaufort Campus may offer in-state tuition to any student whose legal residence is in the Chatham Effingham and Bryan County area of the neighboring state of Georgia as long as the Georgia Board of Regents continues its Georgia Tuition Program by which in-state tuition is offered to students residing in the Beaufort/Jasper County area of the State of South Carolina.~~

~~17.1. (MUSC: Family Practice Residency System) Statewide family practice residency system funds appropriated for faculty salaries, teaching services, and consultant fees may only be expended when the above activities are accomplished for educational purposes in the family practice centers. Authorization is hereby granted to the Medical University of South Carolina to expend such funds in hospital-based clinical settings apart from the consortium hospital, when such settings are determined by the President of the Medical University of South Carolina with approval of the Board of the Medical University to provide appropriate educational experience and opportunities to the family practice residents and these funds shall not be transferred to any other program.~~

~~89.84. (GP: Law School Educational Fee Waiver) For the current fiscal year, a public institution of higher learning with a law school may offer fee waivers to no more than four percent of the law school student body. This waiver shall not impact the capacity of the fee waivers for four percent of the undergraduate student body. This waiver can not be applied to fees for out-of-state students.~~

**The Following NEW Provisos Affect State Agencies, generally, including Higher Education**

89.121. (GP: Printed Report Requirements) (A) For Fiscal Year 2009-10, state supported institutions of higher learning shall not be required to submit printed reports mandated by Sections 2-47-40, 2-47-50, and 59-103-110 of the 1976 Code, and shall instead only submit the documents electronically.

Submission of the plans or reports required by Sections 2-47-55, 59-101-350, 59-103-15(A), 59-103-20, 59-103-30, 59-103-35, 59-103-45, and 59-103-60 shall be waived for the current fiscal year.

Institutions of higher learning and technical colleges shall use any monetary savings resulting from the provisions of Section (A) to provide direct student services and savings realized should, at a minimum, be \$376,220.

(B) For Fiscal Year 2009-10, the Department of Agriculture shall not be required to submit printed reports mandated by Section 46-49-10 of the 1976 Code. The department shall provide these reports electronically and shall use any monetary savings for K5-12 agriculture education programs.

(C) For Fiscal Year 2009-10 the Department of Health and Human Services shall not be required to provide printed copies of the Medicaid Annual Report required pursuant to Section 44-6-80 of the 1976 Code and the Provider Reimbursement Rate Report required pursuant to proviso 21.16, and shall instead only submit the documents electronically.

(D) For Fiscal Year 2009-10 the Department of Commerce is prohibited from printing and distributing or mailing hard copy color brochures, that have been produced at department expense, to members of the General Assembly. Brochures or documents provided to members of the General Assembly shall only be produced in black and white.

(E) For Fiscal Year 2009-10, the Department of Transportation shall not be required to submit printed reports or publications mandated by Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code.

The Department of Transportation may combine their Annual Report and Mass Transit Report into their Annual Accountability Report.

89.125. (GP: Fines and Fees Report) Each state agency must provide and release to the public via the agency's website, a report of all aggregate amounts of fines and fees that are charged and collected by that state agency. Funds appropriated to and/or authorized for use by each state agency shall be used to accomplish this directive.

**80A.11.** (BCB: Vacant Positions) In the event that any permanent position in an agency remains vacant for more than twelve months the position may be deleted by the Budget and Control Board. For Fiscal Year 2009-10, the Budget and Control Board is authorized to suspend the requirement of this provision.

**89.109.** (GP: RIF Plan/TERI Employees) Notwithstanding any other provision of law, any agency planning to implement a reduction in force plan shall eliminate any TERI employee who does not have grievance rights under the State Employee Grievance Procedure Act who would be in the same proposed competitive areas and competitive groups that would be contained in the reduction in force plan before the agency can implement the reduction in force plan.

**89.110.** (GP: Mandatory State Agency Furlough Program) In a fiscal year in which the general funds appropriated for a state agency, institution, or department are less than the general funds appropriated for that state agency, institution, or department in the prior fiscal year, or whenever the General Assembly or the State Budget and Control Board implements an across-the-board budget reduction, agency heads may institute employee furlough programs of not more than ten working days in the fiscal year in which the deficit is projected to occur.

The furlough must be inclusive of all employees in an agency or within a designated department or program regardless of source of funds or place of work. The furlough must include all classified and unclassified employees in the designated area. However, a furlough program may also be implemented based upon pay band for classified employees and based upon pay rate for unclassified employees within the agency or designated department respectively. Employees who provide direct patient or client care and front-line employees who deliver direct customer services may be exempted from a mandatory furlough. If the furlough includes the entire agency, the furlough must include the agency head. Constitutional officers are exempt from mandatory furlough. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency head, but under no circumstances should the agency close completely.

During this furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits that that require employer and employee contributions, including but not limited to contributions to the South Carolina Retirement System or the optional retirement program, the state agencies, institutions, and departments are responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions.

Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Procedure Act.

In the event the reduction for the state agency, institution, or department is due solely to the General Assembly transferring or deleting a program, this provision does not apply. The implementation of a furlough program authorized by this provision shall be on an agency-by-agency basis. Agencies may allocate the employee's reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily shall count toward furlough days required by the mandatory furlough.

The State Budget and Control Board shall promulgate guidelines and policies, as necessary, to implement the provisions of this proviso. State agencies shall report information regarding furloughs to the Office of Human Resources of the State Budget and Control Board.

This provision does not apply to employees of those state agencies or institutions covered by Section 8-11-193, and Section 8-11-193 of the 1976 Code, rather than this provision continues to apply to those employees in the manner provided by law.

**89.111.** (GP: TERI Program Closure) The Teacher and Employee Retention Incentive (TERI) Program is closed to new participants effective July 1, 2009.

**89.119.** (GP: Consolidation of State Agencies Study Committee) A Joint Study Committee on the Consolidation of State Agencies is established to review the feasibility and cost savings related to the consolidation of certain state agencies. The joint study committee shall be composed of the Governor, or his designee, Chairman of the Senate Judiciary Committee, or his designee, the Chairman of the House Judiciary Committee, or his designee, the Chairman of the Senate Finance Committee, or his designee, the Chairman of the House Ways and Means Committee. Designees, if appointed, must be from within the respective committee. The study committee may solicit input from agency heads and from other sources as deemed necessary. Recommendations for elimination of duplication within state agencies and cost savings mechanism shall be reported to the General Assembly by January 15, 2010.

89.125. (GP: Fines and Fees Report) Each state agency must provide and release to the public via the agency's website, a report of all aggregate amounts of fines and fees that are charged and collected by that state agency. Funds appropriated to and/or authorized for use by each state agency shall be used to accomplish this directive.

**The following New Provisos relate to the federal American Recovery and Reinvestment Act of 2009 which was signed into law on February 17, 2009.**

1.78. (SDE: Transparency) The department must publish on its' homepage a listing of all programs funded during the current fiscal year with Federal Stimulus Funds to include program name, location, starting date, funding level and contact person with telephone number. This listing must be updated monthly to allow the public to easily identify how these funds are being used.

1.79. (SDE: Prohibit Use of ARRA for Administration) The department is prohibited from using funds received from the American Recovery and Reinvestment Act of 2009 for state department administrative purposes. The department shall provide to the General Assembly a list of federal stimulus expenditures.

6.26. (CHE: Religious Activities) For Fiscal Year 2009-2010, state supported higher education institutions receiving Federal Stimulus Stabilization funds must continue to support, operate and maintain existing religious programs, instruction, and facilities used for religious activities.

89.116. (GP: Transparency) State agencies must publish on their homepage a listing of all programs funded during the current fiscal year with funds from the American Recovery and Reinvestment Act of 2009 to include program name, location, starting date, and funding level. This listing must be updated monthly to allow the public to easily identify how these funds are being used.

89.118. (GP: ARRA Oversight) In order to provide transparency and accountability of the funds associated with the American Recovery and Reinvestment Act of 2009, the State Treasurer shall be responsible for collecting information associated with funds received by state agencies, school districts, and local government from the American Recovery and Reinvestment Act of 2009. Information collected shall include, but not be limited to, state agency or local government entity, program designation, purpose for which the funds were received and expended, and the amount of funds received. The State Treasurer shall also collect information pertaining to jobs created resulting from receipt of the federal stimulus funds. The State Treasurer shall also collect other information as required by the American Recovery and Reinvestment Act of 2009. The State Treasurer is authorized to collect any other information deemed relevant to providing disclosure of the American Recovery and Reinvestment Act of 2009 funds to the public.

90.15. (SR: State Budget Stabilization Fund) It is the intent of the General Assembly to accept all available funds from the State Budget Stabilization Fund contained within the American Recovery and Reinvestment Act of 2009 and to authorize expenditure of such funds as delineated in this act.

90.16. (SR: ARRA Fund Authorization) It is the intent of the General Assembly to accept all available funds from the State Budget Stabilization Fund contained within the American Recovery and Reinvestment Act of 2009. The Office of State Budget is directed to increase agency federal fund authorizations for funds from the State Budget Stabilization Fund allocated by the General Assembly.

90.18. (SR: E-Verify) For the current fiscal year, a state entity must certify that it is a participant in the E-verify federal work authorization program before it may accept or use any monies that are a part of the federal stimulus package. Failure to do so is a violation of the provisions of Act 280 of 2008.