

## 2011 Session Legislative Wrap-Up – Higher Education

(Report prepared as of 8/8/11)

Blue and underlined text is linked to legislation as posted on the State's website for the General Assembly at [www.scstatehouse.gov](http://www.scstatehouse.gov)

The 2011 session (first regular session) of the 119<sup>th</sup> South Carolina General Assembly adjourned on Thursday, June 2, under the provisions of the *sine die* resolution, [H.4195](#). Under the resolution, the General Assembly returned mid-June to finish work on the state's budget which was passed on June 29<sup>th</sup> and redistricting plans and again in late July to finalize the state's Congressional District plan after which the General Assembly adjourned under the provisions of the *sine die* resolution. Because this session is the first year of the two-year continuing session of the General Assembly, bills introduced in 2011 will carry over into the 2012 Session retaining their same position for consideration.

The following provides summary information on the budget and Appropriations Act ([H.3700](#)) and Capital Reserve Fund Bill ([H.3701](#)) for FY 2011-12 and on legislation relating to higher education that passed during the 2011 session or, if applicable, requires General Assembly action on the Governor's veto as of the end of the session.

*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](http://www.scstatehouse.gov)). Bills and other information may also be accessed from the statehouse website at <http://www.scstatehouse.gov/legislation.php>.*

### **Summary Notes – FY2011-12 Higher Education recommendations in Appropriations Bill (H.3700) and the Capital Reserve Fund Bill (H.3701)** (6/29/11 rev., post Governor's vetoes and General Assembly action on vetoes)

The General Assembly finished its work on the FY 2011-12 budget (Appropriations Act and Capital Reserve Fund Bill) on June 29 after considering gubernatorial vetoes. A copy of the Appropriations Act as ratified with the Governor's vetoes noted is available at [http://www.scstatehouse.gov/sess119\\_2011-2012/appropriations2011/ta11ndx.php](http://www.scstatehouse.gov/sess119_2011-2012/appropriations2011/ta11ndx.php). A copy of the Capital Reserve Fund Bill which includes non-recurring appropriations for FY 2011-12 from the state's Capital Reserve Fund is available at <http://www.scstatehouse.gov/billsearch.php?billnumbers=3701&session=119&summary=B>. The following provides a brief summary of FY 2011-12 budget recommendations for higher education:

#### **Colleges Generally**

The budget includes reductions in recurring base funds (Part 1A) for the public colleges and universities and the state technical college system. Recurring funds for the research universities, four-year comprehensive universities, and two-year regional campuses of USC are reduced on average by 6% (cuts range from 5% to 8%) and level funding (0% reduction) for technical colleges and the State Technical College System Office. Area Health Education Consortium (AHEC) is reduced 3%. Further cuts to AHEC were avoided after the House and Senate overturned the Governor's veto of AHEC funds. The FY 2011-12 cuts for colleges and universities and AHEC total \$19.4 million bringing the total state general fund higher education appropriations for institutions to approximately \$406 million down from \$758 million in FY08 – a reduction of nearly 50% since FY 2007-08.

For the public colleges and universities, Capital Reserve Funds (non-recurring or one-time funds as appropriated in H.3701) are also provided. Of the \$110 million appropriated from the Capital Reserve Fund, \$52.4 million is provided to higher education including \$38.9 million for deferred

maintenance at the colleges and universities, \$13 million for the technical college system's *readySC* program, and \$500,000 for Trident Technical College. The Governor vetoed the Capital Reserve Fund bill in its entirety but the veto was overturned by the House and Senate making the funds available for FY 2011-12.

Federal ARRA state fiscal stabilization funds for education that were available in FY 2009-10 and again in FY 2010-11 are no longer available as of FY 2011-12. The state's public colleges and universities had received approximately \$99 million in stimulus funds FY 2009-10 and approximately \$110 million in FY 2010-11. These one-time allocations of stimulus funds helped offset, but did not completely fill, the budget gaps created by the significant loss of state funds in those years. Taking these funds into consideration and comparing the level of funding for colleges and universities in FY 2010-11 to the base appropriations and capital reserve funds anticipated for FY 2011-12, the effective reduction in funds is 17% or \$91 million (\$536 million in FY 2010-11 including stimulus compared to \$444 million anticipated for FY 2011-12 including base state appropriations and Capital Reserve Fund appropriations).

### **Commission on Higher Education (CHE)**

The budget as passed by the General Assembly included just over a 3% reduction in recurring general funds for CHE and programs administered by CHE and also programs that pass through CHE (e.g., PASCAL or the statewide higher education electronic library, University Center of Greenville, Lowcountry Graduate Center, EPSCoR (Experimental Program to Stimulate Competitive Research), SC Manufacturing Extension Partnership, African American Loan Program, Academic Endowment, National Foundation for Teaching Entrepreneurship, and Charleston Transition Connection). The Governor vetoed several items in CHE's budget including funding for the CHE administered Higher Education Awareness Program (HEAP), the University Center of Greenville, the Lowcountry Graduate Center, the National Foundation of Teaching Entrepreneurship (NFTE), and a small portion of EPSCoR funding. Vetoes were overridden for the University Center of Greenville and the Lowcountry Graduate Center but were sustained for the HEAP (loss of \$179,856), EPSCoR (loss of \$40,329) and NFTE (loss of \$118,297) resulting in a cut to CHE's core administrative budget of 8% and overall reduction to CHE's core budget and flow through items of 7%. Like the institutions, CHE's budget (administration and flow through) has been reduced by 46% since FY 2007-08.

### **State-supported Student Financial Aid Programs and Other Lottery Funded Higher Education Programs**

Scholarships and Grant: The reductions to CHE's budget do not affect the state's undergraduate scholarship and grant programs or SC's participation in the Southern Regional Education Board (SREB) programs, which are also funded through CHE. The budget fully funds, through a combination of general funds and lottery funds, the state's undergraduate merit-based scholarship programs (Palmetto Fellows, LIFE, and SC HOPE) and provide level funding for Need-based Grants and Lottery Tuition Assistance (LTA). Tuition Grants (need-based grants for students at South Carolina's independent colleges) which are administered and funded through the SC Tuition Grants Commission, also receive level funding.

In total, over \$329 million is provided in the FY 2011-12 budget for the undergraduate scholarship and grant programs including \$49.4 million for Palmetto Fellows, \$171.9 million for LIFE, \$8.3 million for HOPE, \$23.6 million for Need-based, \$47 million LTA and \$22 million for Tuition Grants. The National Guard College Assistance Program receives level funding in the lottery at \$1.7 million. Additionally, SREB programs (SC's participation in the consortium and programs including student contract programs for Veterinary Medicine and Optometry) are not affected by the reductions to CHE – the anticipated budget provides approximately \$3.5 million total in a combination of recurring base general fund state support (\$2.9 million) and non-recurring, one-

time, funding (\$591,019 in Proviso 90.18) to fully fund the request for SREB fees and assessments and programs including the Veterinary Medicine and Optometry contract programs.

**Other Higher Education Lottery Recommendations:** Overall, the certified lottery fund appropriations (funds projected to be available for expenditure by the SC Board of Economic Advisors) are \$266.5 million (including \$254.1 million in lottery expenditures and \$12.4 million in unclaimed prize funds) with higher education receiving approximately \$220 million (83%) across the scholarship and grant programs and other higher education programs. The level of funding provided to higher education is similar to the FY 2009-10 lottery appropriations. As has been the case, there are also provisions included to provide a list of items in priority order that would receive unclaimed prize funds should collections be higher than the \$12.4 million certified to be available. In an average year, approximately \$16 million in unclaimed prize funds has become available.

PASCAL (the statewide higher education electronic library) is included as the first item in the list of initiatives to be funded with any excess unclaimed prize funds. If available after the first \$12.4 million in unclaimed prize funds, PASCAL would be appropriated \$1.5 million. PASCAL is a cooperative and collaborative effort among our public and private higher education libraries that has transformed how vital academic information is accessed. The higher education electronic library significantly enhances the quality of undergraduate education and eliminates duplicated expenditures across institutions by enabling a mechanism for group purchases, at better prices, of essential sophisticated electronic academic databases. The program is in its seventh year of funding and until FY 2008-09 had received \$2 million each year in a nonrecurring allocation. In FY 2008-09, the program lost 90% (\$1.8 million) of its funding and as of the current year was left with an appropriation about \$165,000.

Second on the excess unclaimed prize list is lottery technology funding at \$5,470,093 for four- and two-year public institutions. This funding would be made available after the \$12.4 million in certified unclaimed prize fund expenditures and \$1.5 million in excess unclaimed prize fund appropriations for PASCAL. It is noted that the institutions will receive approximately \$4.2 million for the lottery technology funds from certified lottery expenditures. Together, the appropriations for lottery technology if fully realized would provide \$9.6 million – an amount short of past historical program levels of \$12 million. While the full amount of the unclaimed prize fund portion of the technology monies may become available, historical trends suggest on average that available funding would reach up to about \$3 million of the \$5.5 million in excess unclaimed prize funds provided for technology which would make the anticipated total program funding \$7 million, a level similar to that received in FY 2010-11. For other items included on the “excess” priority list beyond the technology funds, see Part 1B budget Proviso #2.6. The list includes the same initiatives as provided for in FY2010-11.

Other items higher education programs funded through the lottery continue to be funded at levels similar to the previous year including the aforementioned National Guard College Tuition Assistance program, higher education excellence enhancement program (\$3 million), and funds provided SC State (\$2.5 million).

### **Temporary Part 1B Budget Provisos included in the Appropriations Act:**

The following list includes select provisos of interest for higher education or related to all agencies and impacting higher education that are NEW or AMENDED for FY 2011. The full text of the proviso is provided below. New language is underlined and italicized. Strikethrough denotes deleted text. Notations in yellow are added for additional information. For a complete listing of the Part 1B budget provisos enacted for FY 2011-12, see [http://www.scstatehouse.gov/sess119\\_2011-2012/appropriations2011/tab11ndx.php](http://www.scstatehouse.gov/sess119_2011-2012/appropriations2011/tab11ndx.php) .

**2.3.** (LEA: Higher Education Excellence Enhancement Program) ~~All funds appropriated for the Higher Education Excellence Enhancement Program shall be allocated equally among the eligible institutions as defined in Section 2-~~

~~77-15. The Commission on Higher Education is authorized to retain and carry forward funds not allocated in the prior fiscal year and to allocate those funds in the current fiscal year equally among the eligible institutions as defined in Section 2-77-15. **NOTE: Proviso struck due to Senate Rule 24; however, the provision remains in effect as it was codified in permanent state statute with the passage of S.172 (see below).**~~

**6.4.** (CHE: Performance Funding Calculations Changes) The allocations made for the immediate fiscal year following March 1 of any year may not be adjusted by the commission due to any change in performance funding calculations, or methodology. **NOTE: Proviso struck due to Senate Rule 24**

**6.12.** (CHE: Research Universities Matching Resources) Notwithstanding the provisions of Sections 2-75-05(B)(4) and (6) and 2-75-50 of the 1976 Code, to meet the endowed professorships matching requirement of those provisions, a research university may use funds specifically provided for use in the areas of Engineering, Nanotechnology, Biomedical Sciences, Energy Sciences, Environmental Sciences, Information and Management Sciences, and for other sciences and research that create well-paying jobs and enhanced economic opportunities for the people of South Carolina and that are approved by the Research Centers of Excellence Review Board that are derived from private or federal government sources, excluding state appropriations to the institution, tuition, or fees. The only federal dollars that may be used to meet the endowed professorships matching requirement are those federal dollars received after July 1, 2003. **NOTE: Proviso struck due to Senate Rule 24; however, the provision remains in effect as it was previously codified in permanent state statute.**

**6.10.** (CHE: Performance Improvement Pool Allocation) Of the funds appropriated to the Commission on Higher Education under Section XI. Special Items: Performance Funding, \$1,642,536 will be allocated to the EPSCoR program under the Commission on Higher Education to improve South Carolina's research capabilities, ~~\$410,635 will be allocated to South Carolina State University as matching funds for the Transportation Center, and \$410,635 will be allocated to support the management education programs of the School of Business at South Carolina State University.~~

**6.18.** (CHE: Education & General Funds - Institutions) ~~Of the funds appropriated to the Commission on Higher Education for Education and General Funds for Institutions, the commission shall allocate the funds to research universities, excluding Clemson University and the University of South Carolina-Columbia, four-year comprehensive teaching colleges and universities, two-year branches of the University of South Carolina, and the state technical and comprehensive education system per the allocation methodology adopted by the commission for FY 2007-08 such that 35% is distributed to the institutions to begin addressing parity issues with the remaining funding distributed based on the institution's share as determined by the commission's funding model for Fiscal Year 2007-08. **NOTE: Proviso struck due to Senate Rule 24**~~

**6.20.** (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 a smaller proportion of funding than would be provided under the student enrollment methodology used in past years. **NOTE: Proviso struck due to Senate Rule 24; however, the provision remains in effect as it was codified in permanent state statute with the passage of S.172 (see below).**~~

**6.23.** (CHE: Religious Activities) For Fiscal Year 2010-11, 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.

**6.24.** (CHE: Scholarships Funded From Unclaimed Capital Credits) For the current fiscal year, businesses identified in Section 27-18-30(C) of the 1976 Code who have contributed to a scholarship program at an institution of higher education in South Carolina from unclaimed capital credits for the last five consecutive years may continue to fund the scholarships for those students who were awarded scholarships prior to August 31, 2010 ~~2011~~, and such funds are exempt from the provisions of Section 27-18-30(C) provided that the reporting requirements of Section 27-18-180 are met. **NOTE: Proviso is struck as it was vetoed by Governor and General Assembly sustained the veto.**

**6.25.** (CHE: In-State Tuition for Military Personnel and Dependents) During the period of their assignment to South Carolina, members of the armed services of the United States stationed in South Carolina and their dependents are eligible for in-state tuition rates. When these armed service personnel are ordered away from the State, their dependents are eligible for in-state tuition rates as long as they remain continuously enrolled at the state institution in which they are enrolled at the time the assignment ends or transfer to an eligible institution during the term or semester, excluding summer terms, immediately following their enrollment at the previous institution. In the event of a transfer, the receiving institution shall verify the decision made by the student's previous institution in order to certify the student's eligibility for in-state tuition rates. It is the responsibility of the transferring student to ensure that all documents required to verify both the previous and present residency decisions are provided to the institution. These persons and their dependents are eligible for in-state rates after their discharge from the armed services even though they were not enrolled at a state institution at the time of their discharge, if they have evidenced an intent to establish domicile in South Carolina and if they have resided in South Carolina for a period of at least twelve months immediately preceding their discharge. **NOTE: Provision was previously codified in permanent statute and therefore remains in effect. .**

**15.4.** (USC: Child Abuse Medical Response Program) Of the funds appropriated to the University of South Carolina School of Medicine, not less than \$576,160 shall be expended for the Child Abuse and Neglect Medical Response Program. In addition, when instructed by the Budget and Control Board or the General Assembly to reduce funds by a certain percentage, the university may not reduce the funds for the Child Abuse and Neglect Medical Response Program greater than such stipulated percentage.

**17.3.** (MUSC: Preterm Birth Prevention) For Fiscal Year 2010-11, 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.

**18.1.** (TEC: Training of New & Expanding Industry) (A) Notwithstanding the amounts appropriated in this section for the "Center for Accelerated Technology Training," it is the intent of the General Assembly that the State Board for Technical and Comprehensive Education expend whatever the funds as are necessary to provide direct training for new and expanding business or industry.

(B) In the event projected expenditures are above the appropriation, the appropriation in this section for the "Center for Accelerated Technology Training" shall may be appropriately adjusted, if and only if, the Budget and Control Board approves the adjustment. determines that the projected expenditures are directly related to:

(1) an existing technology training program where the demand for the program exceeds the program's capacity and the additional funds are to be utilized to meet the demand; or

(2) a new program is necessary to provide direct training for new or expanding business or industry.

(C) The adjustment may occur only upon approval by the Budget and Control Board. Upon the Budget Control Board's approval of the adjustment, the Executive Director of the Budget and Control Board must certify, in writing, that the adjustment is directly related to either subsection (B)(1) or (B)(2). The Executive Director must immediately provide a copy of the written certification, including the amount of the adjustment, to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.

(D) Upon the Executive Director's written certification approving an adjustment, the State Board for Technical and Comprehensive Education must submit a statement to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee containing a detailed itemization of the manner in which funds initially appropriated for technology training were utilized, the specific purpose for the adjustment, and the ultimate recipient of the adjusted amount.

(E) The aggregate amount of all adjustments made pursuant to this section may not exceed ten million dollars.

(F) In the event that projected expenditures for the Center for Accelerated Technology Training exceed the amounts appropriated and the amount of any adjustments authorized, the State Board for Technical and Comprehensive Education may request a supplemental appropriation from the General Assembly.

**89.84.** (GP: Reduction in Force/Agency Head Furlough) In the event a reduction in force is implemented by a state agency or institution *of higher learning*, the agency head shall be required to take five days furlough in the current fiscal year. If more than one reduction in force plan is implemented in a fiscal year, the mandatory agency head furlough is only required for the initial plan. The agency head will retain all responsibilities and authority during the furlough. All monies saved from this furlough may be retained by that agency and expended at the discretion of the agency head. During this furlough, the agency head 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, the state agency will be 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 agency head remains solely responsible for making those contributions.

Placement of an agency head 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 or institution *of higher learning* is due solely to the General Assembly transferring or deleting a program, this provision does not apply.

Agencies may allocate the agency head's reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. The Budget and Control Board, Office of Human Resources 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 Budget and Control Board.

For purposes of this provision, agency head includes the president of a technical college as defined by Section 59-103-5 of the 1976 Code.

The agency head of the State Board for Technical and Comprehensive Education shall not be required to take this mandatory furlough based solely on the implementation of a reduction in force plan by a technical college.

An agency head shall not be required to take this mandatory furlough based solely on reductions in force implemented as a result of federal budget cuts.

**89.90.** (GP: Printed Report Requirements) (A) For Fiscal Year ~~2010-11~~ 2011-12, 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, 59-103-30, 59-103-45(4), and 59-103-160(D) shall be waived for the current fiscal year, except institutions of higher learning must continue to report under 2-47-55 year one of the Comprehensive Permanent Improvement Plan, student pass rates on professional examinations, and data elements otherwise required for the Commission on Higher Education Management Information System. The commission, in consultation with institutions, shall take further action to reduce data reporting burdens as possible.

(B) For Fiscal Year ~~2010-11~~ 2011-12, 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 ~~2010-11~~ 2011-12, 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 21.13, and shall instead only submit the documents electronically.

(D) For Fiscal Year ~~2010-11~~ 2011-12, 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.

**89.108.** (GP: Commuting Costs) State government employees who use a permanently assigned agency or state owned vehicle to commute from their permanently assigned work location to and from the employee's home must either reimburse the agency in which they are employed ~~for the cost of fuel or the personal use of the vehicle must be considered income and as such reported by the Comptroller General~~ for commuting use in accordance with IRS regulations based on guidance from the Office of Comptroller General which must use the Cents per mile Rule, unless they are exempted from such reimbursement by applicable IRS regulations. These permanently assigned vehicles must be clearly marked as a state or agency vehicle through the use of permanent state-government license plates and either state or agency seal decals unless the vehicle is used primarily in undercover operations. This requirement does not apply to a vehicle used by an employee for the purpose of a special travel assignment, for active certified law enforcement officers authorized to carry firearms, execute warrants, and make arrests, for

Constitutional Officers, for agency heads, or for Department of Transportation employees on call for emergency maintenance.

**89.140.** (GP: FY 2011-12 Flexibility) In order to provide maximum flexibility in absorbing the general fund reductions mandated in this act as compared to Fiscal Year 2008-09 general fund appropriations, agencies are authorized for FY 2011-12 to spend agency earmarked and restricted accounts designated as "special revenue funds" as defined in the Comptroller General's records, to maintain critical programs previously funded with general fund appropriations. Any spending authorization for these purposes must receive the prior approval of the Office of State Budget and must be reported to the Governor, Senate Finance Committee, and the House Ways and Means Committee. The Comptroller General is authorized to implement the procedures necessary to comply with this directive. This provision is provided notwithstanding any other provision of law restricting the use of earned revenue. Appropriation transfers may exceed twenty percent of the program budget upon approval of the Budget and Control Board, Office of State Budget in consultation with the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee.

State institutions of higher learning whose budgets have been reduced from the Fiscal Year 2010-11 state funding level, shall have the authority to use other sources of available funds to support and maintain state funded programs affected by state reductions during Fiscal Year 2011-12 and may adjust appropriations from special items or programs contained in this act in an amount greater or less than the percentage of the reduction assessed to the institution's base budget. Institutions shall submit to the Office of State Budget, the Senate Finance Committee, and the House Ways and Means Committee the amount of base budget reductions associated with these programs.

Notwithstanding the flexibility authorized in this provision, the following agencies are prohibited from reducing or transferring funds from the following programs or areas:

(A) Department of Natural Resources

Law Enforcement Program/Enforcement Operations as contained in Program II. F. 1

(B) Department of Parks, Recreation, and Tourism

Program II. A. Special Item: Regional Promotions

In addition the Department of Parks, Recreation and Tourism is prohibited from closing or reducing the FTE's in the State House Gift Shop and the Santee Welcome Center.

Notwithstanding the prohibition on reducing or transferring funds from the programs or areas listed above, the Department of Natural Resources may reduce the specified programs or areas by an amount not to exceed the percentage associated with any mandated reduction. (Note – Proviso amended from version included in FY10 budget)

**89.141.** (GP: Agency Reduction Management) The General Assembly encourages state agencies, in the event agencies are assessed a base reduction, to endeavor to realize savings through: 1) payroll management, including, but not limited to, furloughs, reductions in employee compensation, and instituting a hiring freeze; 2) eliminate administrative overhead cost that does not directly impact the agency's mission; and as a final option 3) reductions to programmatic funding. NEW PROVISIO IN FY12

**89.163.** (GP: USC Greenville Medical School) It is the intent of the General Assembly that during Fiscal Year 2011-12, no general funds shall be appropriated for the new medical school at the University of South Carolina in Greenville. In addition, no state funds may be transferred from state earmarked or restricted funds held by the University of South Carolina to the medical school except for grants, contributions, contractual payments, and tuition and required fees for students attending the new medical school at the University of South Carolina in Greenville that are specifically designated for the medical school at the University of South Carolina in Greenville.

**NEW PROVISIO IN FY12**

**90.18.** (SR: Nonrecurring Revenue) (A) The source of revenue appropriated in this provision is \$255,804,144 of non-recurring revenue generated from the following sources, transferred to the State Treasurer. This revenue is deemed to have occurred and is available for use in Fiscal Year 2011-12 after September 1, 2011, following the Comptroller General's close of the state's books on Fiscal Year 2010-11.

(1) \$71,000,600 from Fiscal Year 2009-10 Contingency Reserve Fund;

(2) \$173,803,544 from Fiscal Year 2010-11 unobligated general fund revenue as certified by the Board of Economic Advisors;

(3) \$1,000,000 from F03, Budget and Control Board, Subfund 4154, Ordinary Sinking Fund;

(4) \$3,000,000 from F03, Budget and Control Board, Subfund 3197, Motor Pool; and

(5) \$7,000,000 from R40, Department of Motor Vehicles from any earmarked or restricted account designated as "special revenue funds" as defined by the Comptroller General's records if the funds transferred from the Department of Motor Vehicles by Proviso 90.10 of Act 291 of 2010 have been repaid pursuant to Proviso 90.9 of Act 291 of 2010.

Any restrictions concerning specific utilization of these funds are lifted for the specified fiscal year. The above agency transfers shall occur no later than thirty days after the close of the books on Fiscal Year 2010-11 and shall be available for use in Fiscal year 2011-12.

(B) The State Treasurer shall disburse the following appropriations by September 30, 2011, for the purposes stated:

- (1) H63-Department of Education
  - (a) EFA Base Student Cost \$ 56,174,107;
  - (b) Transportation \$ 3,000,000;
- (2) H03-Commission on Higher Education
  - SREB Dues \$ 591,019;
- (3) H59-State Board for Technical and Comprehensive Education
  - CATT Program \$ 1,000,000;
- (4) J02-Department of Health and Human Services
  - Medicaid Maintenance of Effort \$ 45,577,252;
- (5) R60-Department of Employment and Workforce
  - Unemployment Insurance Trust Fund \$ 146,000,000
- (6) P20-Clemson University-PSA
  - Agency Operations \$ 250,000;
- (7) K05-Department of Public Safety
  - Illegal Immigration \$ 611,766
- (8) E23-Commission on Indigent Defense
  - Civil Appointment Fund \$ 1,500,000;
- (9) J04-Department of Health and Environmental Control
  - Donate Life \$ 100,000; and
- (10) D10-State Law Enforcement Division
  - Methamphetamine Lab Clean-Up \$ 1,000,000;

The funds appropriated above to the Department of Employment and Workforce may only be used by the department to make payments on outstanding loans from the Unemployment Insurance Trust Fund. As soon as practicable after the effective date of this act, the Department of Employment and Workforce is directed to recalculate premium rates. The recalculated premium rates shall be retroactive to January 1, 2011. Any cost savings to employers in rate class 2-20 due to general fund appropriations in any particular year must be allocated proportionately to each employer with respect to each respective employer's responsibility in paying back the federal unemployment loan that particular year and must be administered by the department. Employers must be notified of changes in the premiums due and employer accounts must be credited and adjusted as appropriate. The Department of Employment and Workforce is directed to contact the Federal Government by August 1, 2011, to maximize efforts to buy the loan down to the greatest extent possible.

In the event that the Fiscal Year 2010-11 unobligated general fund revenue as certified by the Board of Economic Advisors does not total at least \$173,803,544, then the appropriations in subsection (B)(4) of this provision for Medicaid Maintenance of Effort shall be reduced to cover the amounts not realized. If the reduction in the Medicaid Maintenance of Effort appropriation is not sufficient to cover the amounts not realized, then the remaining appropriations in this provision shall be reduced on a pro-rata basis by an amount sufficient to cover the amounts not realized. In the event that \$7,000,000 is not transferred from the Department of Motor Vehicles, then the remaining appropriations in this provision shall be reduced on a pro-rata basis.

Unexpended funds appropriated pursuant to this provision may be carried forward to succeeding fiscal years and expended for the same purposes.

(C) For Fiscal Year 2011-12, the license plate replacement interval is suspended until the funds transferred from the department within this provision are repaid to the department or until such time as the Plate Replacement Fee Fund has a sufficient balance to reinstitute license plate replacement.

(D) From the escrow account established pursuant to Proviso 90.13 of Act 310 of 2008, the remaining funds shall be used to offset any operating shortfalls resulting from the Barnwell Low Level Waste Facility operations in order to preserve the economic viability of the facility. The amount distributed to offset any operating shortfalls shall be determined by calculating the difference between the allowable operating costs plus adjustments as approved by

the Public Service Commission, and the access fees paid by the Atlantic Compact generators. Funds remaining in the account to offset operating shortfalls shall also be used to maintain access fees to the facility for Fiscal Year 2011-12 at the Fiscal Year 2009-10 level. There shall also be paid from the escrow account the annual dues of the Southern States Energy Board.

**90.20.** (SR: Prohibits Public Funded Lobbyists) In order to eliminate taxpayer funded lobbying, the following state agencies and institutions, for Fiscal Year 2011-12, shall transfer the amounts indicated to the General Fund:

<u>Administrative Law Court</u>	<u>\$ 22,000</u>
<u>The Citadel</u>	<u>\$ 16,881</u>
<u>Clemson University</u>	<u>\$ 45,546</u>
<u>Coastal Carolina University</u>	<u>\$ 20,230</u>
<u>College of Charleston</u>	<u>\$ 34,000</u>
<u>Department of Health &amp; Environmental Control</u>	<u>\$ 26,553</u>
<u>State Board for Technical &amp; Comprehensive Education</u>	<u>\$ 22,431</u>
<u>Florence-Darlington Technical College</u>	<u>\$ 10,001</u>
<u>Greenville Technical College</u>	<u>\$ 31,783</u>
<u>Horry-Georgetown Technical College</u>	<u>\$ 1,183</u>
<u>Tri-County Technical College</u>	<u>\$ 55,545</u>
<u>Francis Marion University</u>	<u>\$ 23,500</u>
<u>Judicial Department</u>	<u>\$ 59,164</u>
<u>Medical University of South Carolina</u>	<u>\$ 80,380</u>
<u>Department of Natural Resources</u>	<u>\$ 17,157</u>
<u>Prosecution Coordination Commission</u>	<u>\$ 19,290</u>
<u>South Carolina State University</u>	<u>\$ 20,000</u>
<u>University Of South Carolina</u>	<u>\$ 53,368</u>
<u>University of South Carolina-Upstate</u>	<u>\$ 11,000</u>
<u>Winthrop University</u>	<u>\$ 9,300</u>
<u>Lander University</u>	<u>\$ 25,000</u>
<u>Total</u>	<u>\$ 604,312 .</u>

All state agencies and institutions are prohibited from using general fund appropriations to compensate employees who engage in lobbying on behalf of the state agency or institution. The State Ethics Commission shall require state agencies and institutions that report lobbying activities to the commission to certify that the lobbying activities were not funded by general fund appropriations.

All state agencies and institutions are prohibited from entering into contracts using general fund appropriations to provide lobbying services to the agency or institution. **NEW PROVISIO IN FY12**

## **LEGISLATION**

### ***Bills ENACTED or Pending Final Action of the General Assembly***

(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.). For a listing of all legislation passed in FY2011, see <http://www.scstatehouse.gov/newlaws.php> .

**Act 74, S.172** The Higher Education Efficiencies and Administrative Procedures Act was signed into law on August 1. This bill relates regulatory reforms for higher education and implements transparency provisions concerning the posting of online transaction registers. (For a brief summary prepared by CHE staff, [click here](#).)

**Act 58, H.3748** extends the authorization of the Education Economic and Development Act Coordinating Council until July 1, 2012.

**S.211** amends the Code of Laws of South Carolina, 1976, by adding chapter 54 to title 11 so as to establish the "I-95 Corridor Authority Act" and to provide for the composition, duties, and powers of

the authority. NOTE: This legislation was vetoed by the Governor and is pending consideration of the veto when the General Assembly returns in January.

**[Act 69, S.20](#)** relates to immigration reform and provides for changes to the state's recently passed law concerning immigration.

**[Act 25, S.494](#)** is an Act to amend the Code of Laws of South Carolina, 1976, by adding section **[40-15-265](#)** so as to authorize an intern or resident in an oral surgery training program to treat conditions required by the training program under the supervision of a licensed physician or dentist and to provide that a pharmacist may fill a prescription issued by an intern or resident during the course of the training program.

### ***CHE REGULATIONS Approved During the Session***

***At the beginning of the session, CHE submitted the following updated regulations, concerning scholarship and grant programs that took effect in June. The synopsis from the regulation is copied below and a link to the full text is provided.***

- ***Document #4145, SC HOPE Scholarship*** – Regulation approved 5/24/11 by expiration of legislative review period and final published 6/24/11. For a copy of the Regulation see <http://www.scstatehouse.gov/regnsrch.php> and enter 4145 . This proposed regulation will clarify the policies and procedures for administering the SC HOPE Scholarship Program at the public and independent colleges and universities in the state. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing the SC HOPE Scholarship funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.
- ***Document #4146, LIFE Scholarship*** – Regulation approved 5/24/11 by expiration of legislative review period and final published 6/24/11. For a copy of the Regulation see <http://www.scstatehouse.gov/regnsrch.php> and enter 4146. Description (Regulation Synopsis): The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62 regulation, R.62-1200.1 through 62-1200.75, LIFE Scholarship Program. In 2008, the SC General Assembly passed the SC Illegal Immigration Reform Act, which required the verification of lawful status for all LIFE Scholarship recipients. The proposed regulation will ensure the LIFE Scholarship Program is compliant with the mandates of Act 280. The proposed regulation provides the eligibility criteria that students must meet in order to be awarded a LIFE Scholarship and a LIFE Scholarship Enhancement. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing LIFE Scholarship and LIFE Scholarship Enhancement funds to eligible students.
- ***Document #4147, Lottery Tuition Assistance*** – Regulation approved 5/24/11 by expiration of legislative review period and final published 6/24/11. For a copy of the Regulation see <http://www.scstatehouse.gov/regnsrch.php> and enter 4147 . Description (Regulation Synopsis): This proposed regulation will clarify the policies and procedures for administering the Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions in the state. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing the Lottery Tuition Assistance funds to eligible students in accordance with the SC Illegal Immigration Reform Act.

This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

- **Document #4148, SC Need-based Grant Program** – Regulation approved 5/24/11 by expiration of legislative review period and final published 6/24/11. For a copy of the Regulation see <http://www.scstatehouse.gov/regnsrch.php> and enter 4148. Description (Regulation Synopsis): The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62 regulation, R.62-450 through 62-505, South Carolina Need-based Grants Program. The proposed regulation will provides the eligibility criteria that students must meet in order to be awarded a South Carolina Need-based Grant. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing the South Carolina Need-based Grant funds to eligible students.
- **Document #4149, Palmetto Fellows Scholarship** – Regulation approved 5/24/11 by expiration of legislative review period and final published 6/24/11. For a copy of the Regulation see <http://www.scstatehouse.gov/regnsrch.php> and enter 4149. Description (Regulation Synopsis): The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62 regulation, R.62-300 through 62-375, Palmetto Fellows Scholarship Program and Palmetto Fellows Scholarship Enhancement. The proposed regulation will provides the eligibility criteria that students must meet in order to be awarded a Palmetto Fellows Scholarship and a Palmetto Fellows Scholarship Enhancement. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds to eligible students. Clarification of the policies and procedures for administering the Palmetto Fellows Scholarship Program at the public and independent colleges and universities in the state is made. The proposed regulation includes the addition of the Pharmacy programs at Presbyterian College to the Palmetto Fellows Scholarship Program. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.