**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3963**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Battle, Miller, Harvin, Sellers, Vick, Funderburk, McLeod, Anderson, Clyburn, Agnew, Gilliard, Alexander, Anthony, Bales, Branham, G.A. Brown, Cobb‑Hunter, Hayes, Hosey, Hutto, Jefferson, Jennings, Mack, J.H. Neal, J.M. Neal, Neilson, Ott, J.E. Smith, Whipper and Williams

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Currently residing in the House Committee on **Ways and Means**

Summary: Education

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[4/23/2009](file:///p:\pprever\2009-10\3963_20090423.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑20‑26 SO AS TO PROVIDE THAT THE LOCAL MATCH MUST BE REFERRED TO AS THE “INDEX OF SUPPORT” UNTIL THE TWENTY‑FIRST CENTURY FOUNDATION PROGRAM IS IMPLEMENTED AND TO PROVIDE THAT THE VALUE OF OWNER‑OCCUPIED PROPERTY MUST BE CALCULATED IN ITS CALCULATION UPON CERTAIN CONDITIONS; BY ADDING SECTION 59‑20‑90 SO AS TO PROVIDE THAT NEW FUNDS APPROPRIATED TO EDUCATION MUST BE USED TO FUND FULLY THE FOUNDATION PROGRAM AND PUPIL WEIGHTINGS BEGINNING IN 2010; BY ADDING SECTION 59‑20‑100 SO AS TO PROVIDE FOR THE CONSOLIDATION AND REALIGNMENT OF CERTAIN EIA FUNDS ACCORDING TO WEIGHTED PUPIL UNIT CATEGORIES, AND TO PROVIDE FOR THE TRANSFERENCE OF CERTAIN FUNDS FROM THE GENERAL FUND TO THE FOUNDATION PROGRAM; BY ADDING SECTION 59‑20‑110 SO AS TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO CREATE A COMPETITIVE GRANTS PROGRAM TO BE REFERRED TO AS THE “PUBLIC SCHOOL INNOVATION GRANT PROGRAM”, TO PROVIDE WHAT MUST BE INCLUDED IN A GRANT PROPOSAL, TO PROVIDE FOR THE FUNDING OF GRANTS FOR THREE TO FIVE YEARS, AND TO PROVIDE THAT DISTRICTS MAY CARRY FORWARD GRANT FUNDS IN SUBSEQUENT YEARS UNDER CERTAIN CONDITIONS; BY ADDING SECTION 59‑20‑120 SO AS TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO CREATE A STUDY COMMITTEE TO DETERMINE THE COMPONENTS OF A TWENTY‑FIRST CENTURY FOUNDATION PROGRAM, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE, TO PROVIDE FOR THE POWERS AND DUTIES OF THE COMMITTEE AND OF THE DEPARTMENT IN RELATION TO THE DEVELOPMENT OF THE TWENTY‑FIRST CENTURY FOUNDATION PROGRAM, TO PROVIDE FOR REPORTING REQUIREMENTS, AND TO REQUIRE THE STATE’S CHIEF ECONOMIST TO CONVENE A GROUP OF EXPERTS TO STUDY THE CURRENT INDEX OF TAXPAYING ABILITY AND TO RECOMMEND THE METHOD OF DETERMINING LOCAL SHARE OF THE TWENTY‑FIRST CENTURY FOUNDATION PROGRAM; BY ADDING SECTION 59‑20‑130 SO AS TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO PROVIDE DISTRICTS WITH INFORMATION CONCERNING FINANCIAL BEST PRACTICES, TO REQUIRE A FISCAL MANAGEMENT TEAM TO REVIEW DISTRICT FINANCIAL PRACTICES AND MAKE RECOMMENDATIONS, TO REQUIRE STRUGGLING DISTRICTS TO ACT ON THESE RECOMMENDATIONS WITHIN TWO MONTHS OF RECEIVING THEM, AND TO DEFINE CERTAIN TERMS; BY ADDING SECTION 59‑20‑140 SO AS TO URGE THE GENERAL ASSEMBLY TO GIVE FUNDING PRIORITY TO FULL‑DAY, FOUR‑YEAR‑OLD KINDERGARTEN FROM CHANGES MADE TO THE STATE TAX STRUCTURE; BY ADDING SECTION 59‑20‑150 SO AS TO PROVIDE THAT STATE FUNDS FOR SCHOOL DISTRICT EMPLOYER CONTRIBUTIONS MUST BE DISTRIBUTED IN THE SAME MANNER AS THE FOUNDATION PROGRAM; TO AMEND SECTION 11‑11‑156, AS AMENDED, RELATING TO REIMBURSEMENT OF SCHOOL DISTRICTS FROM THE HOMESTEAD EXEMPTION FUND, SO AS TO REVISE THE CALCULATION OF THE INFLATION FACTOR USED TO INCREASE TIER THREE REIMBURSEMENTS; TO AMEND SECTION 59‑20‑20, RELATING TO DEFINITIONS OF THE EDUCATION FINANCE ACT, SO AS TO DEFINE “INFLATION FACTOR”; TO AMEND SECTION 59‑20‑40, AS AMENDED, RELATING TO DETERMINATION OF ANNUAL ALLOCATIONS PURSUANT TO THE EDUCATION FINANCE ACT, SO AS TO REVISE WEIGHTING CATEGORY DESIGNATIONS, DELETE ADD‑ON WEIGHTINGS FOR EARLY CHILDHOOD, ADD ADD‑ON WEIGHTINGS FOR ACADEMICALLY AND ARTISTICALLY HIGH ACHIEVING PUPILS, LIMITED ENGLISH PROFICIENT PUPILS, AND PUPILS AT RISK, AND TO DEFINE CERTAIN TERMS; TO AMEND SECTION 59‑21‑1030, RELATING TO MAINTENANCE OF EFFORT, SO AS TO DELETE THE REQUIREMENT THAT SCHOOL DISTRICTS MAINTAIN THE LEVEL OF PER PUPIL FINANCIAL EFFORT, TO REQUIRE DISTRICTS TO MAINTAIN THE LEVEL OF EFFORT PER PUPIL FOR NONCAPITAL PROGRAMS UNTIL THE TWENTY‑FIRST CENTURY FOUNDATION PROGRAM IS IMPLEMENTED FULLY, AND TO DELETE THE PROVISION THAT PROVIDES FOR THE VOIDING OF WAIVERS BY THE STATE BOARD OF EDUCATION UPON A DECLINE IN THE MEASURED ACADEMIC SUCCESS OF THE STUDENTS OF THE DISTRICT.

Whereas, the primary funding system for public schools was established over three decades ago with the enactment of the Education Finance Act of 1977; and

Whereas, South Carolina, through various acts and mandates, including the Education Accountability Act, has established for every student high, expected academic standards and performance levels as well as required critical thinking, problem solving, and digital information skills; and

Whereas, this State’s academic achievement standards are recognized as among the highest in the nation and there is a need to establish sustained state support for a suitable and efficient system of free public schools that advances each student’s attainment of these standards; and

Whereas, while resources have been added incrementally over the years to support various education reform efforts and modernize in some areas, this incremental approach does not help our schools meet the challenges our students face in a world that is changing rapidly; and

Whereas, the education funding system should recognize that student needs may be very different in one community than in another and that flexibility in funding, with accountability to the State for results, is needed for schools to resolve their own individual challenges. Now, therefore,

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

SECTION 1. The General Assembly finds:

(1) There is a need in South Carolina to create a public education funding system that is adequate, efficient, transparent, secure, and sustainable. The funding system must represent comprehensive change with the long‑term focus of supporting world class learning for every student in the twenty‑first century and must establish an adequate level of funding to schools to provide educational programs and services to ensure that students achieve at the academic performance levels required by the State constitution, state law, the Education Accountability Act of 1998, and federal law.

(2) The significant economic difficulties facing South Carolina and the entire nation must not interfere with the changes needed in public education funding. It is the intent of the General Assembly upon passage of this act to begin a phased‑in comprehensive approach to education funding reform. The initial phase of this reform, as outlined in this act, is a transitional step toward establishing a contemporary educational foundation program that prepares every student for world class learning in the twenty‑first century.

SECTION 2. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑26. Notwithstanding the computation for the index of taxpaying ability as provided in Section 59‑20‑20(3), for 2010 and until the recommendations of Section 59‑20‑120(D)(3) have been implemented, the local match must be known as the ‘index of support’ and must be computed as provided in Section 59‑20‑20(3) except that the value of owner‑occupied residential property must be calculated based on the net revenue received pursuant to Section 11‑11‑156. If this change in computation results in a reduction in state funding for a school district, the district shall receive, for one year, the funding it would have obtained using the computation for the index of taxpaying ability.”

SECTION 3. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑90. Beginning in 2010, it is the intent of the General Assembly that new funds appropriated to education must be used to fund fully the foundation program and pupil weightings.”

SECTION 4. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑100. (A) Notwithstanding another provision of law, and for the purpose of providing student‑centered services, appropriations from the Education Improvement Act Fund for:

(1) Advanced Placement (AP), gifted and talented, and the Junior Scholars program must be consolidated under academically and artistically advanced programs and must be used and dispersed, to the extent possible, according to the academically and artistically advanced pupil weighting category; however, two student counts are included in this weight:

(a) the number of students served in academically and artistically gifted and talented programs; and

(b) the number of students taking AP or International Baccalaureate (IB) exams in the prior year.

At least eighty‑five percent of the funds appropriated for each student classified pursuant to this category must be spent for instruction and instructional support for students who generated the funds. This funding must assist in meeting the full funding of the weighted pupil units in this category. However, for the first year the total funding generated by these programs for each district must be the same amount received in 2010;

(2) high school diploma credits, teacher salary supplements, excellence in middle schools, and principal salary supplements must be realigned under educator salaries in order to give districts and schools the flexibility to most efficiently and effectively serve students. These funds must be allocated based on the number of staff in positions previously funded by the realigned categories. For the first year, the total funding generated by these programs for each district must be the amount received in 2010;

(3) academic assistance, alternative schools, parent support, family literacy, and summer school must be realigned under the category of ‘pupils in poverty’ to give districts and schools the flexibility to most efficiently and effectively provide services and implement strategies for addressing the academic needs of eligible students. These funds must be distributed pursuant to the pupils in poverty weight, to the extent possible; however, the total funding generated by these programs for each district for the first year must be the amount received in 2010. This funding must assist in meeting the full funding of the weighted pupil units in this category;

(4) trainable and profoundly mentally disabled must be disbursed based on the trainable disabled weight, to the extent possible. However, the total funding generated by these programs for each district for the first year must be the amount received in 2010. This funding must assist in meeting the full funding of the weighted pupil units in this category;

(5) critical teaching needs, professional development, NSF grants, and professional development on the standards must be realigned and used for professional development and distributed on district weighted pupil units; however, the funding generated by this program for each district for the first year must be the amount received in 2010;

(6) arts in education and competitive teacher grants must be realigned and used for a competitive innovation grants program to be established by the Department of Education pursuant to Section 59‑20‑110;

(7) institute of reading and reading recovery must be used to implement comprehensive programs to improve reading achievement;

(8) Education Oversight Committee (EOC) public relations, EOC agencies and entities, EOC four‑year‑old evaluation, and EOC family involvement must be realigned into Education Oversight Committee and used for the same purposes; and

(9) support services, training, and accountability review by the Department of Education must total no less than two percent of the total funding.

(B) Appropriations from the General Fund for profoundly mentally disabled, finance and operations, distributions to subdivisions, aid to other entities, character education, SAT improvement, physical education, and the lunch program must be transferred to the foundation program; however, the total funding generated by these programs for each district for the first year must be the amount received in 2010.”

SECTION 5. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑110. (A) With funds provided by the General Assembly for this purpose, the State Department of Education shall create a competitive innovation grants program to be referred to as the Public School Innovation Grants Program to support school districts, schools, and communities as they develop and strive to implement innovative measures to address their needs. To receive funding, a comprehensive plan must be submitted as required by the department. The plan must address challenges and create opportunities which may include, but not be limited to, the following:

(1) curriculum;

(2) professional development;

(3) graduation rates;

(4) learning choices for students;

(5) implementation of pay‑for‑performance strategies;

(6) innovative practices in curriculum instruction;

(7) assessment in the visual and performing arts; and

(8) more choice opportunities within the public schools that may include, but not be limited to, fine arts‑infused programs, world language‑infused programs, science and math programs, virtual school programs, extended day or school year programs, flexible school scheduling programs, Montessori programs, single‑gender programs, learning‑team programs, magnet school programs, and school‑within‑a‑school programs.

(B) The plan must provide evidence of the success of the strategy in promoting dramatic improvement in student learning. Priority in awarding grants must be given to those plans that support the goals and strategies established in the district strategic or school improvement plan.

(C) Grants must be funded for three to five years, depending on the established need and plan and strategies for continuing support beyond the grant period. Notwithstanding another provision of law, districts may carry over all unexpended grant funds in the first year and up to twenty five percent of allocated funds each year thereafter in order to efficiently and effectively use these funds for the approved innovation.”

SECTION 6. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑120. (A) The State Department of Education shall assemble a study committee comprised of representatives from business, education finance, classroom teachers, parents, community members, and education administrators to review and reassess components of the Education Finance Act of 1977, identified as needed in a twenty‑first century foundation program. The committee must be convened by the State Superintendent of Education no later than two months after passage of this act to examine the twenty‑first century foundation program components to ensure the components address educational challenges, identified by research, students face when they live in high concentrations of poverty.

(B) After the committee reviews twenty‑first century foundation program components, the department, with input from the committee, shall:

(1) determine the cost of each component;

(2) provide data as to the appropriateness of the weights currently contained in the Education Finance Act, and advise as to whether particular weights should be add‑ons, whether the EFA should provide for additional multiple weightings per student as appropriate, and whether a weight is appropriate to support new school openings; and

(3) prioritize the components of the twenty‑first century foundation program in the order of preferred inclusion in the base student cost funding.

(C) The department must report its initial findings from the committee by March 15, 2010. The committee must submit its final report on the components of the twenty‑first century foundation program to the General Assembly no later than December 15, 2010.

(D) The state’s Chief Economist shall convene representatives from the Department of Revenue and Office Research and Statistics as well as individuals with experience in economics, business, and finance to review and reassess the index of taxpaying ability as a measure of relative school district ability to support the twenty‑first century foundation program. Additional representatives of education, business officials, district superintendents, and boards of trustees must be appointed by the State Superintendent of Education. This group must be convened by the Chief Economist no later than two months after passage of this act to:

(1) examine the workings of the current index and its relationship to the resources available to individual school districts in support of the education program required by the state;

(2) review previous recommended changes for determining local shares; and

(3) recommend to the General Assembly and any appropriate groups studying the realignment of the state’s tax structure, no later than eight months from the convening of the group, the method to be used as the measure of relative school district ability to support the twenty‑first century foundation program.”

SECTION 7. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑130. (A) The State Department of Education must provide training and assistance to school districts on best financial practices including:

(1) managing the complexities of education funding;

(2) implementing improved business practices; and

(3) identifying cost savings in operations and maintenance.

If the department establishes that a school district has fiscal management difficulties, a fiscal management team must be created to review local district practices and make recommendations to the local district board of trustees and the State Superintendent of Education. These teams shall consist of individuals experienced in business and education finance.

(B) Within two months of receiving the recommendations of the fiscal management team, the school district board of trustees must develop a fiscal improvement plan to remedy areas identified by the management team report. After approval of the plan by the department, the district must implement the plan immediately. A district that fails to take steps to implement its plan must appear before the State Board of Education to explain the lack of action.

(C) For the purposes of this section, ‘fiscal difficulties’ means:

(1) inability to pay debts as they fall due or in the usual course of business;

(2) insufficient funds, not related to revenue shortfalls, to cover payroll, salary, employment benefits, or legal tax obligations;

(3) unpaid tuition due another school district or other state institution on or after January first of the year following the school year it was due, provided there is no dispute regarding the validity or amount of the claim;

(4) contract for a loan not authorized by law;

(5) operation with a negative fund balance beyond one year;

(6) local, state, or federal audit exceptions, act or violation determined to jeopardize the fiscal integrity of a school district; or

(7) evidence of gross mismanagement.

(D) The State Board of Education shall promulgate regulations to implement this section.”

SECTION 8. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑140. The General Assembly is urged to give first priority to funding full‑day, four‑year‑old kindergarten for at‑risk students from changes made to the state tax structure based on recommendations identified and implemented from reports of a taxation study committee. ‘At‑risk students’ means those students eligible for the federal free and reduced lunch program or Medicaid‑eligible students.”

SECTION 9. Chapter 20, Title 59 of the 1976 Code is amended by adding:

“Section 59‑20‑150. Notwithstanding another provision of law, state funds allocated for school district employer contributions must be allocated on the same percentage as the state and local district shares of the foundation program based on the index in effect pursuant to Section 59‑20‑20. This allocation must be used first by each district to cover the cost of fringe benefits for personnel required by the foundation program, food service personnel, and other personnel required by law.”

SECTION 10. Section 11‑11‑156(A)(3) of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read:

“(3)(a) Beginning with the fiscal year ~~2008‑2009~~ 2009‑2010 reimbursements, these tier three reimbursements must be increased on an annual basis by an inflation factor equal to the percentage increase in the previous year of the ~~Consumer Price Index, Southeast Region, as published by the United States Department of Labor, Bureau of Labor Statistics~~ wages of public school employees in the Southeast as projected annually by the Office of Research and Statistics plus the percentage increase in the previous year in the population of the State as determined by the Office of Research and Statistics of the State Budget and Control Board. Distribution of these reimbursement increases must be as provided in this subsection.

(b) If the total increase provided pursuant to subitem (a) of this item is less than four percent, then to the extent revenues are available in the Homestead Exemption Fund, the ~~CPI~~ inflation factor/population increase provided pursuant to subitem (a) of this item is further increased, not to exceed a total of four percent.”

SECTION 11. Section 59‑20‑20 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“(7) ‘Inflation factor’ means the projected rate of inflation established annually by the Office of Research and Statistics to match inflation wages of public school employees in the Southeast.”

SECTION 12. Section 59‑20‑40(1)(c) of the 1976 Code, as last amended by Act 49 of 2005, is further amended to read:

“(c) Weightings, used to provide for relative cost differences~~,~~ between programs for different students, are established in order that funds may be equitably distributed on the basis of pupil needs. The criteria for qualifications for each special classification must be established by the State Board of Education according to definitions established in this article and in accordance with Sections 59‑21‑510, 59‑35‑10, 59‑53‑1860, and 59‑53‑1900. Cost factors enumerated in this section must be used to fund programs approved by the State Board of Education. Pupil data received by the Department of Education is subject to audit by the department. Cost factors or weightings are as follows:

Pupil Classification Weightings

(1) Kindergarten pupils 1.30

(2) Primary pupils (grades 1 through 3) 1.24

(3) Elementary pupils (grades 4 through 8)

base students 1.00

(4) High school pupils (grades 9 through 12) 1.25

Special Programs for Exceptional Students Weightings

(5) ~~Handicapped~~ Disabled 1.74

a. Educable mentally ~~handicapped~~ disabled pupils

b. Learning disabilities pupils

(6) ~~Handicapped~~ Disabled 2.04

a. Trainable mentally ~~handicapped~~ disabled pupils

b. Emotionally ~~handicapped~~ disturbed pupils

c. Orthopedically ~~handicapped~~ impaired pupils

(7) ~~Handicapped~~ Disabled 2.57

a. ~~Visually handicapped~~ Vision impaired pupils

b. Hearing ~~handicapped~~ impaired pupils

c. Pupils with autism

(8) Speech ~~handicapped~~ impaired pupils 1.90

(9) Homebound pupils 2.10

a. pupils who are medically homebound

b. pupils who reside in emergency shelters

Career and Technology Technical Programs Weightings

(10) ~~Pre career and technology 1.20~~

~~(11)~~ Career and technology pupils 1.29

Add‑on Weights ~~for Early Childhood~~ Weightings

~~Development and Academic Assistance~~

~~(12) Early childhood assistance 0.26~~

~~(13) Grades 4 12 academic assistance 0.114~~

(11) Academically and artistically advanced pupils 0.25

(12) Limited English proficiency pupils 0.60

(13) Pupils in poverty 0.20

Adult Education

(14) Adult education pupils 0.15

~~No~~ A local match is not required for adult education and the number of weighted pupil units funded depends on funding available from the general fund of the State and the Education Improvement Act of 1984 Fund.

Each student in the State must be counted in only one of the first ~~eleven~~ ten pupil classifications as outlined in this section and defined by and served in accordance with state law and State Board of Education regulations. ~~Students shall generate funds for early childhood assistance and grades 4‑12 academic assistance in accordance with Section 59‑139‑20. The State Board of Education must determine the qualifications for each classification in accordance with Sections 59‑21‑510, 59‑35‑10, 59‑53‑1860, 59‑53‑1900, and Chapter 30 of this title.~~ The program for each classification must meet specifications approved by the State Board of Education.

Adult education pupils are those students sixteen years or older working toward a high school diploma or General Education Degree (GED) in an approved adult education program. These students must be counted annually for funding purposes by counting the number of persons who attend a minimum of twelve hours in the prior fiscal year multiplied by the weighted category. These weighted pupil units must be multiplied by the base student cost figure. Funding for adult education may decrease with a reduction in enrollment; however, overall levels of state funding must meet the federal requirement of state maintenance of effort.

The academically and artistically advanced add‑on weight refers to students who demonstrate high performance ability or potential in academic or artistic areas and therefore require services or programs not ordinarily provided by the regular school program and as specified and provided in state board regulations. Two student counts are included in this weight: (1) the number of students served in academically and artistically gifted and talented programs; and (2) the number of students taking Advanced Placement (AP) or International Baccalaureate (IB) exams in the prior year. At least eighty‑five percent of the funds appropriated for each student classified pursuant to this weighting must be spent for instruction and instructional support for students who generated the funds.

Limited English proficient refers to students who have a predominant language other than English and who are identified as not proficient in the English language by standards established by the South Carolina Department of Education. A student may receive scheduled English language instruction for no more than three years, regardless of the district in which the student is enrolled.

School districts may count each student who is instructed at home under the provisions of Section 59‑65‑40 in the district’s weighted pupil units at a weighting of .25 for the district’s supervising, overseeing, or reviewing the student’s program of home schooled instruction. No local match is required for students instructed at home under the provisions of Section 59‑65‑40.

Pupils in poverty refers to students who face challenges in succeeding in school. Pupils in poverty includes students eligible for the federal free and reduced price lunch program or Medicaid as well as students who may be at risk of not graduating from high school because they failed either the English language arts or mathematics portion of the High School Assessment Program on first attempt or because they scored ‘not met’ on grades three through eight in the reading or mathematics state assessments.”

SECTION 13. Section 59‑21‑1030 of the 1976 Code is amended to read:

“~~Except as provided in this section, school district boards of trustees or any other appropriate governing body of a school district shall maintain at least the level of per pupil financial effort established as provided in fiscal year 1983‑84. Beginning in 1985‑86, local financial effort for noncapital programs must be adjusted for an inflation factor estimated by the Division of Research and Statistical Services.~~

~~Thereafter~~ Until the twenty‑first century foundation program is implemented fully, school district boards of trustees or other governing bodies of school districts shall maintain at least the average level of financial effort per pupil for noncapital programs ~~as in~~ for the prior ~~year~~ three years adjusted for an inflation factor estimated by the Division of Research and Statistical Services. The county auditor shall establish a millage rate so that the level of financial effort per pupil for noncapital programs adjusted for an inflation factor estimated by the Division of Research and Statistical Services is maintained as a minimum effort. No school district which has not complied with this section may receive funds from the South Carolina Education Improvement Act of 1984 Fund. School district boards of trustees may apply for a waiver to the State Board of Education from the requirements of this section if:

(1) the district has experienced a loss in revenue because of reduction in assessed valuation of property or has had a significant increase in one hundred thirty‑five average daily membership;

(2) the district has experienced insignificant growth in revenue collections from the previous year;

(3) the district has demonstrated for one year that it has achieved operating efficiencies and all education requirements are being met;

(4) a midyear revenue shortfall results in a reduction of funds ~~appropriated in accordance with Chapter 20 of Title 59 (The Education Finance Act). A decline in the measured academic achievement of the students must immediately cause the State Board of Education to void all waivers provided under this section and make the district ineligible to apply for any waivers under this section for two consecutive years. If the decline in student achievement occurs, the district shall revert to the minimum effort requirement, adjusted for the prior years inflation factor. Waiver (4) does not apply to funds needed to meet the Minimum Salary Schedule for teachers in South Carolina. A school district is eligible for an annual renewal of the waiver provided the district meets one of the above criteria and meets the minimum effort requirement of the previous year and at least the minimum required effort of the Education Finance Act~~.”

SECTION 14. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 15. This act takes effect upon approval by the Governor.

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