**South Carolina General Assembly**

119th Session, 2011-2012

**S. 433**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hayes, Jackson, Setzler, Matthews, Rankin, Courson, Fair, Davis, Rose and Bryant

Document Path: l:\council\bills\agm\18345bh11.docx

Companion/Similar bill(s): 3013

Introduced in the Senate on January 26, 2011

Currently residing in the Senate Committee on **Finance**

Summary: Local school district exemptions/Charter schools

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/26/2011 Senate Introduced and read first time ([Senate Journal‑page 7](file:///h:\sj%20archive\2011\01-26-11.docx))

1/26/2011 Senate Referred to Committee on **Education** ([Senate Journal‑page 7](file:///h:\sj%20archive\2011\01-26-11.docx))

3/15/2011 Senate Committee report: Favorable with amendment **Education** ([Senate Journal‑page 17](file:///h:\sj%20archive\2011\03-15-11.docx))

3/15/2011 Senate Committed to Committee on **Finance** ([Senate Journal‑page 17](file:///h:\sj%20archive\2011\03-15-11.docx))

**VERSIONS OF THIS BILL**

[1/26/2011](file:///p:\pprever\2011-12\433_20110126.docx)

[3/15/2011](file:///p:\pprever\2011-12\433_20110315.docx)

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Indicates New Matter

COMMITTEE REPORT

March 15, 2011

**S. 433**

Introduced by Senators Hayes, Jackson, Setzler, Matthews, Rankin, Courson, Fair, Davis and Rose

S. Printed 3/15/11--S.

Read the first time January 26, 2011.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (S. 433) to amend the Code of Laws of South Carolina, 1976, by adding Section 59‑18‑1125 so as to require the State Board of Education to promulgate regulations that, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, deleting in its entirety Section 59‑20‑20(2)(c), as contained in SECTION 2, pages 3‑4, and inserting:

(c) ~~‘Pilot programs’, which shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the foundation program.~~

~~(d)~~ ‘Adult education’, which ~~shall mean~~ means public education dealing primarily with students ~~above eighteen years of~~ age seventeen and above not enrolled as full time public school students and not classified as students of technical schools, colleges or universities of the State. /

Amend the bill, as and if amended, by deleting in its entirety Section 59‑20‑20(2)(d), as contained in SECTION 2, page 4, lines 3-8, and inserting:

(~~e~~d) ‘~~Text books~~ Textbooks’, which ~~shall mean~~ means books, instructional materials, and digital materials and resources aligned with South Carolina content standards and distributed ~~under~~ pursuant to that system of rental and free ~~text books now~~ textbooks, electronic textbooks, instructional materials, and digital materials and the electronic devices necessary to capture the digital materials and resources operated by the Department of Education. /

Amend the bill further by deleting in its entirety Section 59‑20‑20(3), as contained in SECTION 2, pages 4‑7, and inserting:

/ (3) ‘Index of taxpaying ability’ means an index of ~~a local district’s~~ the relative fiscal capacity of a local school district in relation to that of all other districts of the State based on the ~~full market~~ assessed value of all taxable property of the district assessed on the basis of property classification assessment ratios ~~set forth~~ provided in Article 3, Chapter 43 ~~of~~, Title 12 for the second completed taxable year preceding the fiscal year in which the index is used and these assessments must be the audited assessments by school district contained in the annual report submitted yearly to the Office of the Comptroller ~~General’s office~~ General. The county auditor shall provide fiscal year‑end audited assessments of real and personal property to the Property Division of the Department of Revenue for each of the school districts of the county for the second completed taxable year preceding the fiscal year in which the index is used not later than October first of each year. The index must be used to calculate each district’s share of the revenue to be raised locally for the foundation program. The index must include an imputed value for the property tax base implicitly generating impact aid revenue. The property tax base must be imputed at two‑thirds the average ratio of all true value assessed property value statewide to prior year local revenue statewide in the foundation program, the resulting product multiplied times the average impact aid receipts during the prior three years. If impact aid receipts during the federal fiscal year are less than the average receipts for the prior three years, ~~then~~ state aid to the impact aid districts must be adjusted in the final payment for the state fiscal year. If the ~~State~~ Department of Education determines from fiscal simulations that the school finance system does not meet requirements of Section 5(D) of P. L. 81‑874, the Department of Revenue shall exclude an imputed value of impact aid receipts from the index of taxpaying ability.

The index must be determined annually by the Department of Revenue ~~from sales ratio data based on the most recent studies made which correspond with the base year assessments used to compute the current index pursuant to Section 12‑43‑250 for assessed property within a school district~~. The base year is the second completed taxable year preceding the fiscal year in which the index is used. The Department of Revenue shall provide a preliminary index by December first of each year end and a final index by February first of each year to the ~~State~~ Department of Education and to the auditor of each county who shall provide the index to any governmental entity responsible for approving or levying of millages for school purposes. Changes and corrections may be made to the index before February first but no change is allowed after that date. When the assessment of property is under appeal and the appeal extends beyond the year in which the assessment made pursuant to Section 12‑43‑305 is applied, the Department of Revenue shall adjust the index of taxpaying ability in the year in which the appeal is resolved by the amount of any difference between the assessments. ~~Any~~ A school district is entitled to a hearing before the Department of Revenue to review its designated index of taxpaying ability within thirty days of filing a request for the hearing. The data gathered by the Department of Revenue for the purpose of determining an annual index must be preserved as public records in the offices of the Department of Revenue for four years. The raw information gathered from the various county officers ~~reflecting the representative sales within the school districts, the consideration, and the reported market value or assessed value for each sale are~~ is a part of the public records so preserved. The Department of Revenue shall file a statement stating the methodology employed in making the annual determination of the index and refer to all sources of factual information used in making the determination. All work sheets, computer printouts, and the actual calculation must be included as the public records to be preserved by the Department of Revenue. ~~In determining sales to assessment ratio, the Department of Revenue shall use only reported consideration on sales for which deeds have been placed on public record. Where sufficient sales data is not available, the Department of Revenue shall make appraisals in lieu of sales in order to determine the index. The appraisals, including all working papers, must be included as the public records to be preserved by the Department of Revenue. With respect to school districts within counties where abstracts of duplicates reflecting the assessed value have been filed pursuant to Section 12‑39‑290, the same having been adopted by the auditors under Article 3, Chapter 43 of, Title 12, the index must be on the basis of the value of the property as stated in the abstracts as adjusted by sales ratio studies up to full assessments based on full fair market value.~~

The index of taxpaying ability for a particular current year ~~shall~~ may not include the assessed value of property in a school district which is classified ~~under Section~~ pursuant to Sections 12‑43‑220(a) and ~~Section~~ 12‑43‑220(e), which is at least fifteen percent of the total assessed value of real property in the school district, which on February first of the year has been in bankruptcy status for a minimum of thirty consecutive months, and on which no local school property taxes have been collected for at least two consecutive fiscal years. It is the responsibility of the county auditor to report ~~such~~ these exclusions from the index to the Department of Revenue and to ~~immediately~~ notify immediately the Department of Revenue of any change in the bankruptcy status of such real property or any collection of school property taxes from such real property.

For purposes of disbursing EFA funding and for purposes of the index of taxpaying ability, the value of a fee in lieu of taxes ~~shall~~ must be computed by the Department of Revenue by basing the computation on the net fee received and retained by the school district. The value thus computed ~~shall~~ may not be inflated by any portion of the fee shared with or used by any other local taxing authority. ~~Provided,~~ However, any revenue received by a taxing entity as a result of this section must be considered taxable property for purposes of bonded indebtedness pursuant to Sections 14 and 15 of Article X of the Constitution of this State, and for purposes of computing the ‘index of taxpaying ability’ pursuant to item (3) of this section.

For Fiscal Year 2011‑2012, for purposes of calculating the index of taxpaying ability, the Department of Revenue shall impute an index value for owner‑occupied residential property qualifying for the special four percent assessment ratio allowed such residential property pursuant to Section 12‑43‑220(c) in the manner provided in this subsection. The Department of Revenue shall add the total of Tier 1, 2, and 3 reimbursements paid each school district in this State for property tax year 2009 pursuant to Section 11‑11‑156(A), not including the supplemental distribution paid pursuant to Section 11‑11‑156(B), and calculate an index value using the methodology the Department of Revenue uses to calculate such index value for fee‑in‑lieu of tax property. Fee‑in‑lieu of tax property is property for which an annual payment in lieu of property tax is required pursuant to Section 4‑29‑67; Chapter 12, Title 4; and Chapter 44, Title 12. For Fiscal Year 2012‑2013, the Department of Revenue shall include an index value for owner‑occupied residential property qualifying for the special four percent assessment ratio allowed such property pursuant to Section 12‑43‑220(c) in the manner provided in this subsection, except that the reimbursements to be included in the calculation are those paid to school districts for property tax year 2010. For Fiscal year 2013‑2014 and beyond, the index must be calculated in the same manner using subsequent property tax years. /

Amend the bill further by deleting in its entirety Section 59‑20‑20(5), as contained in SECTION 2, pages 7‑8, and inserting:

/ (~~6~~5) ‘Base student cost’ means ~~that student classification that represents the most economically educated pupil in the school system, those in grades four through eight in regular classroom settings. ‘Base student cost’ is the funding level necessary for providing a minimum foundation program which includes the funding level necessary for supporting the defined minimum program and to meet, as funds are available, needs identified by each district board of trustees’ annual report, which reflects the needs identified in the annual school reports of the district and other assessments, and which is calculated in 1976 dollars to be six hundred sixty‑five.~~

~~Provided, however, by July 1, 1983, that of the state and local monies generated by the base student cost above the cost of the defined minimum program, not more than fifty percent shall be used by the local school districts to meet the needs identified by the board of trustees’ annual report. Monies generated by weightings above 1.00 shall not be used for revisions of the defined minimum program~~ a level of funding to districts and schools to provide educational programs and services to an average student to ensure that the student achieves at the academic performance levels required by state law, including the Education Accountability Act, provided in Chapter 18, Title 59, and by federal law. The base student cost must provide funding to ensure that students receive quality instruction necessary to meet or exceed grade‑specific performance standards in the core academic areas of mathematics, English/language arts, social studies, and science for kindergarten through twelfth grade students while recognizing the importance of the arts, health, physical education, and foreign language in the overall academic, social, and physical development of students. /

Amend the bill further by deleting in its entirety Section 59‑20‑30(1), as contained in SECTION 1, page 9, lines 6‑17, and inserting:

/ (1) to guarantee to each student in the public schools of South Carolina the availability of ~~at least minimum~~ educational programs and services appropriate to his needs, using research‑based educational strategies that are successful in educating students to high academic standards, with the goal of ensuring that students achieve at the academic performance levels required by state law, including the Education Accountability Act, and by federal law and which are substantially equal to those available to other students with similar needs and reasonably comparable ~~from a program standpoint~~ to those students of all other classifications, notwithstanding geographic differences and varying local economic factors~~.~~; /

Amend the bill further by deleting in its entirety Section 59‑20‑40(A)(1)(c) as contained in SECTION 2, pages 10‑13, and inserting:

(c) Weightings, used to provide for relative cost differences~~,~~ between programs for different students, are established ~~in order that~~ so 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~~ 1.00

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

Elementary pupils (grades 1 through 5) 1.00

(3) ~~Elementary pupils (grades 4 through 8)~~

~~base students~~ Middle school pupils (grades 6 through 8) 1.00

(4) High school pupils (grades 9 through 12) ~~1.25~~ 1.00

Special Programs for Exceptional Students Weightings

(5) ~~Handicapped~~ Disabilities 1.74

a. ~~Educable mentally handicapped pupils~~ Mild intellectual disabled pupils

b. Learning disabilities pupils

(6) ~~Handicapped~~ Disabilities 2.04

a. ~~Trainable mentally handicapped pupils~~ Moderate intellectual disabled pupils

b. Emotionally ~~handicapped~~ disabled pupils

c. Orthopedically ~~handicapped~~ disabled pupils

(7) ~~Handicapped~~ Disabilities 2.57

a. Visually ~~handicapped~~ disabled pupils

b. Hearing ~~handicapped~~ disabled pupils

c. Pupils with autism

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

(9) Homebound pupils ~~2.10~~ 1.00

a. pupils who are homebound

b. pupils who reside in emergency shelters

~~Career and Technology Technical Programs~~ Vocational and Adult Education Programs Weightings

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

(11) ~~Career and technology~~ Adult education ~~1.29~~ 0.20

(12) Pupils residing in a residential treatment facility 2.10

~~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~~

~~Adult Education~~

~~(14)~~ ~~Adult Education~~ ~~0.15~~

Add‑on weightings for:

Gifted and talented education pupils 0.15

Academic Assistance 0.15

Poverty 0.20

Limited English proficiency 0.20

No local match is 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.

The add‑on weighting for gifted and talented students includes academically and artistically talented students eligible for and receiving services in grades three through twelve as well as students enrolled in Advanced Placement or International Baccalaureate courses. Twelve percent of the funds must be used to serve artistically gifted and talented students in grades three through twelve.

The add‑on weighting for poverty must provide additional revenues for students in kindergarten through grade twelve who qualify for Medicaid or who qualify for reduced or free lunches, or both. Revenues generated by this weighting must be used by districts and schools to provide services and research‑based strategies for addressing academic or health needs of these students to ensure their future academic success. These may include, but are not limited to, summer school, reduced class size, after school programs, extended day, instructional materials, or other research‑based educational strategy to improve student academic performance.

The add‑on weighting for limited English proficiency must provide additional revenues for students whose native language is not English; or who come from an environment where a language other than English is dominant; or who have difficulty speaking, reading, writing, or understanding the English language; or whose language assessment scores indicated that they are not proficient in the English language. Schools and districts shall use the revenues to provide services for assisting the students in improving their English proficiency.

The add‑on weighting for academic assistance must provide additional revenues for students who fail to meet state standards on grade level or course standards on state standards‑based assessments used in the state accountability system.

Each student in the State must be counted in only one of the first ~~eleven~~ twelve pupil classifications. ~~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~~ Each student is eligible for multiple add‑on weightings.

School districts may count each student who is instructed at home ~~under the provisions of~~ pursuant to Section 59‑65‑40 in the district’s weighted pupil units at a weighting of .25 for supervising, overseeing, or reviewing the student’s program of home instruction. ~~No~~ A local match is not required for students instructed at home ~~under the provisions of~~ pursuant to Section 59‑65‑40.~~”~~ /

Amend the bill further by deleting in its entirety Section 59‑20‑60(3) as contained in SECTION 2, page 20, lines 26‑36, and inserting:

/ ~~(5~~3) An annual district programmatic report to the parents and constituents of the school district must be developed by the local school board. Each report shall include the goals and objectives of the school district, the strategies implemented to meet the goals and objectives, and an evaluation of the outcomes. An annual school report to the parents and constituents of the school must be developed by the School Improvement Council and shall provide information on the school’s progress on meeting the school and district goals and objectives. These reports ~~shall~~ must be provided ~~by~~ ~~November fifteenth of each year~~ and made available for public viewing and downloading from the school’s Internet website no later than April thirtieth annually. /

Amend the bill further by deleting in its entirety Section 59‑20‑64, as contained in SECTION 2, pages 25‑26, and inserting:

/ Section 59‑20‑64. By June 1, 2012, the State Board of Education shall promulgate regulations to establish a framework by which a local school district may implement an incentive compensation system for teachers in the district that is technically sound and minimizes bias. The board shall seek input from a broad group of stakeholders in developing the regulations. The stakeholder group must include, but may not be limited to, the State Teacher of the Year, teachers representing elementary, middle, and high schools, teachers representing grades or subjects without state accountability assessments, leaders in school administration and school finance, community and business leaders, and parents. The stakeholder group must be appointed by the chairman of the State Board of Education in consultation with the State Superintendent of Education. The system may include incentives tied to responsibilities, assignments, instructional performances, and student achievement results. A local school district may decide to develop and implement a system, and if it chooses to do so, it shall use the framework provided in regulations promulgated by the board. The board shall provide the General Assembly with an interim report of the progress in developing the incentive compensation system by January 15, 2012. /

Amend the bill further by deleting in its entirety Section 59‑20‑40(A)(3), as contained in SECTION 2, pages 14‑15, and inserting:

(3) ~~Provisions for a phase‑in plan of implementation~~

~~(a)~~ ~~As a result of the cost of implementing the foundation program at both state and local level as calculated in this section, there will be a phase‑in implementation period of five years to assist in implementing the education finance program.~~

~~(b)~~ ~~Each year of the phase‑in period the General Assembly shall specify the base student cost and the percentage of the difference between current funding and full funding of the defined minimum program which shall be achieved each year. It is the intent of this chapter that the full implementation of the foundation program from present funding level in present financing plans, in terms of real dollars, be achieved in substantially equal annual intervals over a period of five years; provided, that if a district increases its local effort annually by at least five percent in real dollars, the period of time for full implementation may be extended five years. However, it is recognized that, during periods of abnormally low growth in state revenue, appropriations may necessarily have to be reduced below the anticipated trend and that during periods of abnormally high revenue growth an effort would be made to restore progress in funding to achieve full implementation during the five year phase period. It is recognized further that, should the trend of growth in state revenue diverge substantially from historical experience, then the length of the phase period might be increased or decreased accordingly. Each local school district shall progress annually in eliminating the difference between its current funding and full funding of the defined minimum program at the same percentage as mandated by the General Assembly for statewide progress toward full funding; provided, that each district shall increase its local effort annually by at least the amount required in this section or by five percent in real dollar terms, or shall increase its millage for the local share of expenditures under the foundation program by at least two and one‑half mills. Any district failing to make either the required local effort or the five percent increase in real dollars terms or the two and one‑half mill increase will have its entitled increase in state aid reduced by the proportion that its actual increase in local effort falls below its required increase of five percent in real dollars, or two and one‑half mills, whichever is less~~ The General Assembly shall specify the base student cost each year in the annual General Appropriations Act. Implementation of the new weighting system as prescribed herein is subject to the availability of state funding and will be implemented beginning July 1, 2012. In the first year of implementation a school district may not receive less state funds than it received in the prior fiscal year. /

Renumber sections to conform.

Amend title to conform.

JOHN E. COURSON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑18‑1125 SO AS TO REQUIRE THE STATE BOARD OF EDUCATION TO PROMULGATE REGULATIONS THAT PROVIDE A SYSTEM FOR GRANTING SCHOOL DISTRICTS EXEMPTION FROM BOARD REGULATIONS, AND TO PROVIDE WHAT THE REQUEST FOR EXEMPTION MUST INCLUDE AND WHO SHALL MAKE THE REQUEST; TO AMEND CHAPTER 20, TITLE 59, RELATING TO THE EDUCATION FINANCE ACT, SO AS TO REVISE DEFINITIONS; TO REVISE THE METHOD OF CALCULATING THE INDEX OF TAXPAYING ABILITY FOR FISCAL YEARS 2011‑2012, 2012‑2013, AND 2013‑2014 AND BEYOND BY IMPUTING AN INDEX VALUE FOR OWNER‑OCCUPIED RESIDENTIAL PROPERTY ASSESSED AT FOUR PERCENT OF VALUE; TO REVISE PURPOSES OF THE CHAPTER; TO REVISE STUDENT CLASSIFICATION WEIGHTINGS AND TO INCLUDE A WEIGHTING FOR YOUNG ADULT EDUCATION AND ADD‑ON WEIGHTINGS FOR GIFTED AND TALENTED PUPILS, ACADEMIC ASSISTANCE, POVERTY, LIMITED ENGLISH PROFICIENCY PUPILS, AND PUPILS ENROLLED IN VIRTUAL OR BRICK AND MORTAR CHARTER SCHOOLS SPONSORED BY THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT; TO PROVIDE THE CALCULATION FOR WHAT THE STATE SHALL ALLOCATE TO THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT; TO ALLOW SCHOOL DISTRICTS TO TRANSFER AND EXPEND CERTAIN FUNDS UPON CERTAIN CONDITIONS, TO ALLOW DISTRICTS TO CARRY FORWARD UNEXPENDED FUNDS, AND TO PROVIDE CERTIFICATION AND REPORTING REQUIREMENTS; TO REQUIRE SCHOOL DISTRICTS TO MAINTAIN TRANSACTION REGISTERS ON THEIR WEBSITES, TO PROVIDE WHAT THE REGISTER MUST INCLUDE, TO REQUIRE DISTRICTS TO POST ON THEIR WEBSITES MONTHLY STATEMENTS FOR ALL DISTRICT CREDIT CARDS, AND TO REQUIRE THE COMPTROLLER GENERAL TO POST ON ITS OWN WEBSITE DISTRICT TRANSACTION REGISTERS FOR DISTRICTS THAT DO NOT MAINTAIN THEIR OWN WEBSITES, AND TO DISTRIBUTE A METHODOLOGY FOR COMPLIANCE WITH THE TRANSACTION REGISTER PROVISION; TO REQUIRE THE STATE BOARD OF EDUCATION TO ESTABLISH A FRAMEWORK WHEREBY A DISTRICT MAY IMPLEMENT AN INCENTIVE COMPENSATION SYSTEM FOR TEACHERS; TO REVISE THE DATE BY WHICH SCHOOL IMPROVEMENT COUNCIL REPORTS MUST BE PROVIDED AND ADVERTISED; AND TO DELETE OBSOLETE REFERENCES; TO AMEND SECTION 59‑40‑140, AS AMENDED, RELATING TO DISTRIBUTION OF RESOURCES TO CHARTER SCHOOLS, SO AS TO PROVIDE THAT STATE FUNDS MUST BE DISTRIBUTED TO CHARTER SCHOOLS BASED ON THE TOTAL WEIGHTED PUPIL UNITS DERIVED FROM STUDENTS ENROLLED IN THAT SCHOOL; AND TO REPEAL SECTIONS 59‑18‑1110 AND 59‑18‑1120 BOTH RELATING TO FLEXIBILITY OF EXEMPTION FROM REGULATIONS AND STATUTES.

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

SECTION 1. Article 11, Chapter 18, Title 59 of the 1976 Code is amended by adding:

“Section 59‑18‑1125. The State Board of Education shall promulgate regulations that establish a system whereby a local school district board of trustees of this State may request exemption from regulations promulgated by the State Board of Education. The regulations must include the duration of the exemption and renewal procedures. The request must indicate specific justification for the exemption and also must contain an evaluation component to document the success of the exemption, including provisions for suspension of the exemption should the evaluation denote lack of success. The request must be made to the State Board of Education by the chair of the district board of trustees, the superintendent of the district, and the principals of the affected schools, as appropriate.”

SECTION 2. Chapter 20, Title 59 of the 1976 Code is amended to read:

“CHAPTER 20

Education Finance Act ~~of 1977~~

Section 59‑20‑10. This chapter ~~shall be~~ is known and may be cited as the ‘South Carolina Education Finance Act ~~of 1977~~’.

Section 59‑20‑20. As used in this chapter:

(1) ‘Foundation program’ means the ~~program proposed to establish substantially equitable current operation funding levels for programs for South Carolina’s public school students, regardless of their geographic location, after the students are transported to school and housed in school plants~~ provision of revenues per‑pupil for the districts and schools to implement and deploy research‑based educational strategies and practices to educate students to high academic standards as specified in Sections 59‑18‑300 and 59‑18‑310.

(2) ‘Educational programs or elements of programs not included in the foundation program’ means:

(a) ‘Transportation’, ~~which shall mean transportation to and from public schools for the students of South Carolina’s public schools provided by state, local or federal funds, or a combination thereof~~ which means the purchase and maintenance of school buses.

(b) ‘Capital outlay’, which ~~shall mean~~ means those funds used for the construction, improving, equipping, renovating or major repairing of school buildings or other school facilities, or the cost of acquisition of land ~~whereon~~ on which to construct or establish ~~such~~ these school facilities in accordance with the definition provided in Section 59‑21‑310.

(c) ‘~~Pilot programs’, which shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the foundation program.~~

~~(d)~~ ‘Adult education’, which ~~shall mean~~ means public education dealing primarily with students ~~above eighteen~~ seventeen through twenty‑one years of age not enrolled as full time public school students and not classified as students of technical schools, colleges or universities of the State.

(~~e~~d) ‘~~Text books~~ Textbooks’, which ~~shall mean~~ means books, instructional materials, and digital materials and resources aligned with South Carolina content standards and distributed ~~under~~ pursuant to that system of rental and free ~~text books now~~ textbooks, instructional materials, and digital materials and resources operated by the Department of Education.

(~~f~~e) ‘Food service programs’, which ~~shall mean~~ means those programs dealing directly with the nutritional welfare of the student, such as the school lunch and school breakfast programs.

(~~g~~f) ‘Employee benefits’, which ~~shall mean~~ means those benefits received by employees of the state public school systems and paid at least in part by the State, such as retirement, social security, and health insurance.

(3) ‘Index of taxpaying ability’ means an index of ~~a local district’s~~ the relative fiscal capacity of a local school district in relation to that of all other districts of the State based on the full market value of all taxable property of the district assessed on the basis of property classification assessment ratios ~~set forth~~ provided in Article 3, Chapter 43 ~~of~~, Title 12 for the second completed taxable year preceding the fiscal year in which the index is used and these assessments must be the audited assessments by school district contained in the annual report submitted yearly to the Office of the Comptroller ~~General’s office~~ General. The county auditor shall provide fiscal year‑end audited assessments of real and personal property to the Property Division of the Department of Revenue for each of the school districts of the county for the second completed taxable year preceding the fiscal year in which the index is used not later than October first of each year. The index must be used to calculate each district’s share of the revenue to be raised locally for the foundation program. The index must include an imputed value for the property tax base implicitly generating impact aid revenue. The property tax base must be imputed at two‑thirds the average ratio of all true value assessed property value statewide to prior year local revenue statewide in the foundation program, the resulting product multiplied times the average impact aid receipts during the prior three years. If impact aid receipts during the federal fiscal year are less than the average receipts for the prior three years, ~~then~~ state aid to the impact aid districts must be adjusted in the final payment for the state fiscal year. If the ~~State~~ Department of Education determines from fiscal simulations that the school finance system does not meet requirements of Section 5(D) of P. L. 81‑874, the Department of Revenue shall exclude an imputed value of impact aid receipts from the index of taxpaying ability.

The index must be determined annually by the Department of Revenue from sales ratio data based on the most recent studies made which correspond with the base year assessments used to compute the current index pursuant to Section 12‑43‑250 for assessed property within a school district. The base year is the second completed taxable year preceding the fiscal year in which the index is used. The Department of Revenue shall provide a preliminary index by December first of each year end and a final index by February first of each year to the ~~State~~ Department of Education and to the auditor of each county who shall provide the index to any governmental entity responsible for approving or levying of millages for school purposes. Changes and corrections may be made to the index before February first but no change is allowed after that date. When the assessment of property is under appeal and the appeal extends beyond the year in which the assessment made pursuant to Section 12‑43‑305 is applied, the Department of Revenue shall adjust the index of taxpaying ability in the year in which the appeal is resolved by the amount of any difference between the assessments. ~~Any~~ A school district is entitled to a hearing before the Department of Revenue to review its designated index of taxpaying ability within thirty days of filing a request for the hearing. The data gathered by the Department of Revenue for the purpose of determining an annual index must be preserved as public records in the offices of the Department of Revenue for four years. The raw information gathered from the various county officers reflecting the representative sales within the school districts, the consideration, and the reported market value or assessed value for each sale are a part of the public records so preserved. The Department of Revenue shall file a statement stating the methodology employed in making the annual determination of the index and refer to all sources of factual information used in making the determination. All work sheets, computer printouts, and the actual calculation must be included as the public records to be preserved by the Department of Revenue. In determining sales to assessment ratio, the Department of Revenue shall use only reported consideration on sales for which deeds have been placed on public record. Where sufficient sales data is not available, the Department of Revenue shall make appraisals in lieu of sales in order to determine the index. The appraisals, including all working papers, must be included as the public records to be preserved by the Department of Revenue. With respect to school districts within counties where abstracts of duplicates reflecting the assessed value have been filed pursuant to Section 12‑39‑290, the same having been adopted by the auditors ~~under~~ pursuant to Article 3, Chapter 43 ~~of~~, Title 12, the index must be on the basis of the value of the property as stated in the abstracts as adjusted by sales ratio studies up to full assessments based on full fair market value.

The index of taxpaying ability for a particular current year ~~shall~~ may not include the assessed value of property in a school district which is classified ~~under Section~~ pursuant to Sections 12‑43‑220(a) and ~~Section~~ 12‑43‑220(e), which is at least fifteen percent of the total assessed value of real property in the school district, which on February first of the year has been in bankruptcy status for a minimum of thirty consecutive months, and on which no local school property taxes have been collected for at least two consecutive fiscal years. It is the responsibility of the county auditor to report ~~such~~ these exclusions from the index to the Department of Revenue and to ~~immediately~~ notify immediately the Department of Revenue of any change in the bankruptcy status of such real property or any collection of school property taxes from such real property.

For purposes of disbursing EFA funding and for purposes of the index of taxpaying ability, the value of a fee in lieu of taxes ~~shall~~ must be computed by the Department of Revenue by basing the computation on the net fee received and retained by the school district. The value thus computed ~~shall~~ may not be inflated by any portion of the fee shared with or used by any other local taxing authority. ~~Provided,~~ However, any revenue received by a taxing entity as a result of this section must be considered taxable property for purposes of bonded indebtedness pursuant to Sections 14 and 15 of Article X of the Constitution of this State, and for purposes of computing the ‘index of taxpaying ability’ pursuant to item (3) of this section.

For Fiscal Year 2011‑2012, for purposes of calculating the index of taxpaying ability, the Department of Revenue shall impute an index value for owner‑occupied residential property qualifying for the special four percent assessment ratio allowed such residential property pursuant to Section 12‑43‑220(c) in the manner provided in this subsection. The Department of Revenue shall add the total of Tier 1, 2, and 3 reimbursements paid each school district in this State for property tax year 2009 pursuant to Section 11‑11‑156(A), not including the supplemental distribution paid pursuant to Section 11‑11‑156(B), and calculate an index value using the methodology the Department of Revenue uses to calculate such index value for fee‑in‑lieu of tax property. Fee‑in‑lieu of tax property is property for which an annual payment in lieu of property tax is required pursuant to Section 4‑29‑67; Chapter 12, Title 4; and Chapter 44, Title 12. For Fiscal Year 2012‑2013, the Department of Revenue shall include an index value for owner‑occupied residential property qualifying for the special four percent assessment ratio allowed such property pursuant to Section 12‑43‑220(c) in the manner provided in this subsection, except that the reimbursements to be included in the calculation are those paid to school districts for property tax year 2010. For Fiscal year 2013‑2014 and beyond, the index must be calculated in the same manner using subsequent property tax years.

(4) ~~‘Defined minimum program (DMP)’ means the program established annually by the State Board of Education that is necessary to provide public school students in the State with minimum educational programs designed to meet their needs. The State Board of Education shall transmit a per‑weighted pupil estimate of the full implementation of the defined minimum program to the State Budget and Control Board and the General Assembly for each proposed budgetary year. The State Board of Education shall transmit any suggested changes in the basic programs and their weightings as evidenced by changing requirements and practices.~~

~~(5)~~ ‘Weightings’ means those cost figures assigned to student classifications in Section 59‑20‑40(1)(c) which are based on different relative cost of their educational programs in relation to that of the base student which is given the weighting of 1.00. The weightings must provide revenues for students with special needs in order to provide additional educational services to ensure that the students achieve at high academic levels.

(~~6~~5) ‘Base student cost’ means ~~that student classification that represents the most economically educated pupil in the school system, those in grades four through eight in regular classroom settings. ‘Base student cost’ is the funding level necessary for providing a minimum foundation program which includes the funding level necessary for supporting the defined minimum program and to meet, as funds are available, needs identified by each district board of trustees’ annual report, which reflects the needs identified in the annual school reports of the district and other assessments, and which is calculated in 1976 dollars to be six hundred sixty‑five.~~

~~Provided, however, by July 1, 1983, that of the state and local monies generated by the base student cost above the cost of the defined minimum program, not more than fifty percent shall be used by the local school districts to meet the needs identified by the board of trustees’ annual report. Monies generated by weightings above 1.00 shall not be used for revisions of the defined minimum program~~ a level of funding to districts and schools to provide educational programs and services to an average student to ensure that the student achieves at the academic performance levels required by state constitution and by state law, including the Education Accountability Act, provided in Chapter 18, Title 59, and by federal law. The base student cost must provide funding to ensure that students receive quality instruction necessary to meet or exceed grade‑specific performance standards in the core academic areas of mathematics, English/language arts, social studies, and science for kindergarten through twelfth grade students while recognizing the importance of the arts, health, physical education, and foreign language in the overall academic, social, and physical development of students.

Section 59‑20‑23. When an appeal of the assessed value of property assessed pursuant to Section 12‑43‑220(a) extends for more than two years and the amount in dispute is more than thirty percent of the total of assessed value of property in the school district in which the property under appeal is located, the index of taxpaying ability for the school district must be calculated using the value asserted by the taxpayer in the appeal.

If the final settlement of the appeal provides for an assessed value greater than the value asserted in the taxpayer’s appeal, the local school district, within twelve months, ~~must~~ shall remit to the general fund of the State any additional funds received from the ~~State~~ Department of Education due to the utilization of the value of the facility asserted in the taxpayer’s appeal.

~~Any~~ Funds remitted to the general fund of the State pursuant to this section are considered current fiscal year funds appropriated ~~under~~ pursuant to the Education Finance Act and must be included in the next distribution of ~~such~~ those funds to school districts.

Section 59‑20‑25. For the purposes of computing the ‘index of taxpaying ability’ pursuant to item (3) of Section 3 of Act 163 of 1977 (South Carolina Education Finance Act) for any area in which tax increment financing plan is in effect the value to be used ~~shall~~ must be the original assessed value plus any portion of the captured assessed value which is distributed among taxing authorities ~~pursuant to Section 31‑8‑120~~.

Section 59‑20‑30. It is the purpose of the General Assembly in this chapter:

(1) to guarantee to each student in the public schools of South Carolina the availability of ~~at least minimum~~ educational programs and services appropriate to his needs, using research‑based educational strategies that are successful in educating students to high academic standards, with the goal of ensuring that students achieve at the academic performance levels required by state constitution and state law, including the Education Accountability Act, and by federal law and which are substantially equal to those available to other students with similar needs and reasonably comparable ~~from a program standpoint~~ to those students of all other classifications, notwithstanding geographic differences and varying local economic factors~~.~~;

(2) to encourage school district initiative in seeking more effective and efficient means of achieving the educational goals of the ~~various programs.~~ State;

(3) to establish a procedure for the distribution of ~~a specified portion of~~ the state education funds so as to ensure that the funds are provided on the basis of student need to the extent set forth by this chapter ~~in order~~ to guarantee a ~~minimum~~ level of funding for each weighted pupil unit in the State~~.~~;

(4) to ~~make it possible for each school district to provide the defined minimum program within approximately five years from July 2, 1978, and to do so with an equal local tax effort.~~ give schools and districts flexibility in implementing research‑based programs and strategies that are effective in educating students; and

(5) ~~To establish a reasonable balance between the portion of the funds to be paid by the State and the portion of the funds to be paid by the districts collectively in support of the foundation program. For the initial stage of this program the proportionate state share of the funds for this program shall be approximately seventy percent statewide and the remainder of the program shall be financed from local revenue sources.~~

~~(6)~~ ~~To require each local school district to contribute its fair share to the required local effort, which is to be in direct proportion to its relative taxpaying ability.~~

~~(7)~~ to ensure that tax dollars spent in public schools are utilized effectively and to ensure that adequate programs serve ~~all~~ the children of the State.

Section 59‑20‑40. (A) The annual allocation to each school district for the operation of the foundation program as it relates to the school district ~~shall~~ must be determined as follows:

(1) Computation of the basic amount to be included for current operation in the foundation program:

(a) Each school district shall maintain a program membership of each school by compiling the student membership of each classification. The cumulative one hundred thirty‑five day average daily membership of each school district by program classification ~~will determine~~ determines its monetary entitlement. The district’s average daily membership (ADM) ~~will~~ must be computed, currently maintained, and reported in accordance with the regulations of the State Board of Education. Funds for the state’s portion of the per‑pupil cost of the foundation program ~~shall~~ must be disbursed monthly to the various school districts. End‑of‑year adjustments in state funds ~~shall~~ must be made based on the one hundred thirty‑five day student average daily membership in each classification.

(b) The base student cost ~~shall~~ must be established annually by the General Assembly. ~~The base student cost shall be established in such a manner that five years after July 2, 1978, the funding level shall approximate the cost of the defined minimum program as set forth by the State Board of Education.~~

Each year the Division of Research and Statistics of the State Budget and Control Board shall submit to the ~~Legislature~~ General Assembly an estimate of the projected rate of inflation for the fiscal year to be budgeted, and the base student cost ~~shall~~ must be adjusted to incorporate the inflated cost of providing the ~~Defined Minimum Program~~ foundation program.

(c) Weightings, used to provide for relative cost differences~~,~~ between programs for different students, are established ~~in order that~~ so 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~~ 1.00

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

Elementary pupils (grades 1 through 5) 1.00

(3) ~~Elementary pupils (grades 4 through 8)~~

~~base students~~ Middle school pupils (grades 6 through 8) 1.00

(4) High school pupils (grades 9 through 12) ~~1.25~~ 1.00

Special Programs for Exceptional Students Weightings

(5) ~~Handicapped~~ Disabilities 1.74

a. ~~Educable mentally handicapped pupils~~ Mild intellectual disabled pupils

b. Learning disabilities pupils

(6) ~~Handicapped~~ Disabilities 2.04

a. ~~Trainable mentally handicapped pupils~~ Moderate intellectual disabled pupils

b. Emotionally ~~handicapped~~ disabled pupils

c. Orthopedically ~~handicapped~~ disabled pupils

(7) ~~Handicapped~~ Disabilities 2.57

a. Visually ~~handicapped~~ disabled pupils

b. Hearing ~~handicapped~~ disabled pupils

c. Pupils with autism

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

(9) Homebound pupils ~~2.10~~ 1.00

a. pupils who are homebound

b. pupils who reside in emergency shelters

~~Career and Technology Technical Programs~~ Vocational and Young Adult Education Programs Weightings

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

(11) ~~Career and technology~~ Young adult education ~~1.29~~ 0.20

~~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~~

~~Adult Education~~

~~(14)~~ ~~Adult Education~~ ~~0.15~~

Add‑on weightings for:

Gifted and talented education pupils 0.15

Academic Assistance 0.15

Poverty 0.20

Limited English proficiency 0.20

Pupils enrolled in virtual charter schools sponsored by the South Carolina Public Charter School District 0.62

Pupils enrolled in brick and mortar charter schools sponsored by the South Carolina Public Charter School District 0.93

~~No local match is 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.~~

The weighting for young adult education is for services to individuals between the ages of seventeen to twenty‑one years who are pursuing a diploma or GED through adult education or other means but who are no longer enrolled as full‑time students.

The add‑on weighting for gifted and talented students includes academically and artistically talented students eligible for and receiving services in grades three through twelve as well as students enrolled in Advanced Placement or International Baccalaureate courses. Twelve percent of the funds must be used to serve artistically gifted and talented students in grades three through twelve.

The add‑on weighting for poverty must provide additional revenues for students in kindergarten through grade twelve who qualify for Medicaid or who qualify for reduced or free lunches, or both. Revenues generated by this weighting must be used by districts and schools to provide services and research‑based strategies for addressing academic or health needs of these students to ensure their future academic success. These may include, but are not limited to, summer school, reduced class size, after school programs, extended day, instructional materials, or other research‑based educational strategy to improve student academic performance.

The add‑on weighting for limited English proficiency must provide additional revenues for students whose native language is not English; or who come from an environment where a language other than English is dominant; or who have difficulty speaking, reading, writing, or understanding the English language; or whose language assessment scores indicated that they are not proficient in the English language. Schools and districts shall use the revenues to provide services for assisting the students in improving their English proficiency.

The add‑on weighting for academic assistance must provide additional revenues for students who fail to meet state standards on grade level or course standards on state standards‑based assessments used in the state accountability system.

The add‑on weighting for students enrolled in virtual or brick and mortar charter schools sponsored by the South Carolina Public Charter School District does not require a local match.

Each student in the State must be counted in only one of the first eleven pupil classifications. ~~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~~ Each student is eligible for multiple add‑on weightings.

School districts may count each student who is instructed at home ~~under the provisions of~~ pursuant to Section 59‑65‑40 in the district’s weighted pupil units at a weighting of .25 for supervising, overseeing, or reviewing the student’s program of home instruction. ~~No~~ A local match is not required for students instructed at home ~~under the provisions of~~ pursuant to Section 59‑65‑40.~~”~~

(d) The basic amount for the foundation program for each district ~~shall~~ must be computed as follows:

(1) The calculated average daily membership in each student classification ~~shall~~ must be multiplied by the weighting factor for that respective classification.

(2) The subtotals (totals in each student classification) in ~~all~~ the classifications ~~shall~~ must be added to get the district’s total weighted pupil units.

(3) The district’s weighted pupil units ~~shall~~ must be multiplied by the base student cost figure as established annually by the General Assembly to determine the total allocation to each district.

(e) Computation of the required local revenue in support of the foundation program.

The amount that each school district shall provide toward the cost of the ~~South Carolina~~ foundation program ~~shall~~ must be computed by determining the total statewide collective local share (approximately thirty percent) of the total cost of the foundation program, and multiplying this by the index of taxpaying ability of each district as defined in Section 59‑20‑20.

(f) Computation of the required state effort.

The amount that the State shall provide to each school district toward the cost of the foundation program ~~shall~~ must be the difference between the district’s basic amount as computed in ~~subsection~~ subitem (d) minus the required amount raised locally as computed in ~~subsection~~ subitem (e).

(g) Notwithstanding the provisions of this section, state aid to ~~any~~ a school district ~~shall~~ must be reduced in proportion to the ratio that its local school tax effort falls below that required by subsection (2) of Section 59‑20‑50.

(2) ~~Reserved~~ Notwithstanding the provisions of this chapter, the South Carolina Public Charter School district shall receive from the State for the operation of its educational program an amount computed pursuant to subsection (A)(1)(d) of this section.

(3) ~~Provisions for a phase‑in plan of implementation~~

~~(a)~~ ~~As a result of the cost of implementing the foundation program at both state and local level as calculated in this section, there will be a phase‑in implementation period of five years to assist in implementing the education finance program.~~

~~(b)~~ ~~Each year of the phase‑in period the General Assembly shall specify the base student cost and the percentage of the difference between current funding and full funding of the defined minimum program which shall be achieved each year. It is the intent of this chapter that the full implementation of the foundation program from present funding level in present financing plans, in terms of real dollars, be achieved in substantially equal annual intervals over a period of five years; provided, that if a district increases its local effort annually by at least five percent in real dollars, the period of time for full implementation may be extended five years. However, it is recognized that, during periods of abnormally low growth in state revenue, appropriations may necessarily have to be reduced below the anticipated trend and that during periods of abnormally high revenue growth an effort would be made to restore progress in funding to achieve full implementation during the five year phase period. It is recognized further that, should the trend of growth in state revenue diverge substantially from historical experience, then the length of the phase period might be increased or decreased accordingly. Each local school district shall progress annually in eliminating the difference between its current funding and full funding of the defined minimum program at the same percentage as mandated by the General Assembly for statewide progress toward full funding; provided, that each district shall increase its local effort annually by at least the amount required in this section or by five percent in real dollar terms, or shall increase its millage for the local share of expenditures under the foundation program by at least two and one‑half mills. Any district failing to make either the required local effort or the five percent increase in real dollars terms or the two and one‑half mill increase will have its entitled increase in state aid reduced by the proportion that its actual increase in local effort falls below its required increase of five percent in real dollars, or two and one‑half mills, whichever is less~~ Reserved.

(4) ~~Impact aid revenue shall be counted as local effort for purposes of computing actual local effort, in order to meet requirements of Section 59‑20‑40(3) (b). Provided, however, that should the degree of equality achieved under this chapter prove insufficient to qualify South Carolina for utilizing impact aid in the school finance equalization plan, then impact aid would not be counted as local revenue~~ Reserved.

(5)(a) To qualify for funds provided in this chapter, each district must attain an average pupil‑teacher ratio based on average daily membership in the basic skills of reading and mathematics in grades one through three of 21:1.

(b) ~~Provided, That any~~ A local district may apply to the State Board of Education for approval of a waiver to this subsection by submitting and justifying an alternative educational program to serve the basic skill needs of average daily membership in grades one through three.

(c) The State Board of Education shall approve or disapprove of ~~such~~ the waiver forty‑five days after receipt of ~~such~~ the application. ~~Provided, Further, That~~ Beginning with Fiscal Year ~~1978‑79~~ 1978‑1979, if a school district violates the provisions of this subsection, the state aid for the ensuing fiscal year to ~~such~~ that school district ~~shall~~ must be reduced by the percentage variance that the actual pupil‑teacher ratios in ~~such~~ the school district has to the required pupil‑teacher ratios ~~mandated~~ required in this subsection.

(d) ~~Provided, that~~ Notwithstanding the provisions of this ~~section~~ subsection, the State Board of Education ~~is authorized to~~ must waive the pupil‑teacher requirements specified ~~herein~~ in this subsection upon a finding that a good faith effort is being made by the school district ~~concerned~~ to comply with the ratio provisions but that for lack of classroom space which was beyond its control it is physically impossible for the district to comply for the Fiscal Years 1978‑1979 and 1979‑1980 and the cost of temporary classroom space cannot be justified.

(B) It is the intent of the General Assembly that the average daily membership pupil‑teacher ratio for grades ~~1~~ one through ~~3~~ three stipulated in the chapter be implemented to the extent possible on an individual class basis and that the pupil enrollment in these grades should not exceed twenty‑eight pupils in each class.

~~(6)~~ ~~No district shall be required to increase local revenue if combined state and local revenue exceeds the amount necessary to meet the base student cost of the minimum foundation program at full implementation.~~

~~(7)~~ ~~[Deleted]~~

~~(8)~~ ~~The General Assembly shall annually provide the portion of the local required support of the foundation program required by the South Carolina Education Improvement Act of 1984 on the basis of the district’s taxpaying ability in the annual general appropriation act.~~

Section 59‑20‑41. Notwithstanding ~~any other~~ another provision of law:

~~All~~ School districts providing educational services to children admitted or committed to residential institutions of the Department of Mental Health ~~are authorized to~~ may count children admitted or committed to residential institutions of the Department of Mental Health from the first day of residency in ~~such~~ these institutions, provided, that the first day is within the particular district’s school year. The inclusion of these children is for the purpose of participation in the districts’ educational programs for handicapped children supported under the Education Finance Act ~~of South Carolina~~.

Section 59‑20‑50. (1) Notwithstanding the computations prescribed in Section 59‑20‑40, the level of state contributions to each district ~~shall~~ may not be reduced to a per‑pupil level of foundation program funds below that per‑pupil level of state funding of programs for the fiscal years ~~prior to~~ before implementation of this chapter which will be incorporated in the foundation program.

Provided, ~~no~~ a district ~~shall~~ may not receive annually an increase in state funds less than the full rate of the inflationary adjustment in the base student cost specified in Section 59‑20‑40(A)(1)(b). This increase ~~shall~~ must be computed annually ~~over and~~ above the amount actually received from the State for the foundation program in the prior fiscal year.

Provided, further, after the fiscal year ~~1982‑83 no~~ 1982‑1983 a district ~~shall~~ may not receive annually an increase in state funds less than four‑fifths of the inflationary adjustment in the base student cost specified in Section 59‑20‑40(A)(1)(b). This increase ~~shall~~ must be computed annually ~~over and~~ above the amount actually received from the State for the foundation program in the prior fiscal year.

~~Beginning July 1, 1994, no additional school district shall receive hold‑harmless funds under this subsection due to decreases in student numbers or upward adjustments in the index of taxpaying ability.~~

(2) Notwithstanding any provisions of this chapter, any local school district may increase the local effort above the foundation program funding level as deemed necessary to meet the aspirations of the people of the district.

(3) Eighty‑five percent of the funds appropriated through state and local effort for each weighted classification ~~shall~~ must be spent in direct and indirect aid in the specific area of the program planned to serve those children who generated the funds. Districts expending less than the required eighty‑five percent of the appropriated amount ~~shall~~ must be subject to a penalty the following fiscal year in the amount equal to the difference between the amount spent and the required eighty‑five percent figure.

However, this requirement ~~shall~~ does not apply to the funds generated by children in the pupil classification ‘Speech ~~Handicapped~~ Disabled Pupils’.

(4)(a) Each school district shall pay each certified teacher or administrator an annual salary at least equal to the salary stated in the statewide minimum salary schedule for the person’s experience and class. ~~No~~ A teacher or an administrator employed in the same position, over the same time period, ~~shall~~ may not receive less total salary, including ~~any~~ a normal incremental increase, than that teacher or administrator received for the fiscal year before the implementation of this article.

(b) The state minimum salary schedule must be based on the state minimum salary schedule index in effect as of July 1, 1984. In Fiscal Year 1985, the 1.000 figure in the index is $14,172. (This figure is based on a 10.27% increase pursuant to the South Carolina Education Improvement Act of 1984.) Beginning with Fiscal Year 1986, the 1.000 figure in the index must be adjusted on a schedule to stay at the southeastern average as projected by the Division of Research and Statistical Services and provided to the State Budget and Control Board and General Assembly during their deliberations on the annual appropriations bill. The southeastern average teacher salary is the average of the average teachers’ salaries of the southeastern states. In projecting the southeastern average, the division shall include in the South Carolina base teacher salary all local teacher supplements and all incentive pay. Under this schedule, school districts are required to maintain local salary supplements per teacher no less than their prior fiscal level. In Fiscal Year 1986 and thereafter teacher pay raises through adjustments in the state’s minimum salary schedule may be provided only to teachers who demonstrate minimum knowledge proficiency by meeting one of the following criteria:

(1) holding a valid professional certificate;

(2) having a score of 425 or greater on the Commons Examination of the National Teachers Examinations;

(3) meeting the minimum qualifying score on the appropriate area teaching examination; or

(4) meeting the minimum standards on the basic skills examinations as prescribed by the State Board of Education provided in Section 59‑26‑20.

Section 59‑20‑55. Beginning July 1, 1986, and thereafter, employment may be provided only to teachers who demonstrate minimum knowledge proficiency by meeting one of the criteria outlined in Section 59‑20‑50(4)(b). The criteria do not have to be met by teachers having twenty‑five years or more of teaching service as of the effective date of the South Carolina Education Improvement Act of 1984 in order for them to be employed.

Section 59‑20‑60. (1) ~~School districts shall give first spending priority of funds allocated under this chapter to full implementation of the defined minimum program.~~

~~(2)~~ ~~The State Board of Education shall audit the programmatic and fiscal aspects of this chapter, including the degree to which a school meets all prescribed standards of the defined minimum program and shall report the results in the Annual Report of the State Superintendent of Education. Schools which have been classified as ‘dropped’ by the defined minimum program accreditation procedures are not eligible for funding in the following fiscal year until an acceptable plan to eliminate the deficiencies is submitted and approved by the State Board of Education.~~

~~(3)~~ Each school district board of trustees shall cause the district and each school in the district to develop comprehensive five‑year plans with annual updates to outline the District and School Improvement Plans. Districts which have not begun a strategic planning cycle ~~must~~ shall do so and develop a plan no later than the ~~1994‑95~~ 1994‑1995 school year. Districts which have undertaken ~~such a~~ this planning process may continue in their planning cycle as long as the process meets the intent of this section and the long‑range plans developed or under development can be amended to encompass the requirements of this section. For school year ~~1993‑94~~ 1993‑1994, districts may submit either the improvement plan consistent with State Department guidelines or their five‑year comprehensive plan.

The State Board of Education shall recommend a format for the plans which will be flexible and adaptable to local planning needs while encompassing certain state mandates, including the early childhood and academic assistance initiative plans pursuant to Section 59‑139‑10 and the provision of services for students in poverty. ~~All~~ District and school plans must be reviewed and approved by the board of trustees. The district plan should integrate the needs, goals, objectives, strategies, and evaluation methods outlined in the school plans. Measures of effectiveness must include outcome and process indicators of improvement and must provide data regarding what difference the strategies have made. Staff professional development must be a priority in the development and implementation of the plans and must be based on an assessment of needs. Long and short‑range goals, objectives, strategies, and time lines need to be included.

(~~4~~2) Each plan shall provide for an Innovation Initiative, designed to encourage innovative and comprehensive approaches based on strategies identified in the research literature to be effective. The Innovation Initiative must be utilized by school districts to implement innovative approaches designed to improve student learning and accelerate the performance of all students. Funds may be expended on strategies in one or more of the following four categories:

(a) new approaches to what and how students learn by changing schooling in ways that provide a creative, flexible, and challenging education for all students, especially for those at risk. Performance‑based outcomes which support a pedagogy of thinking and active approaches for learning must be supported;

(b) applying different teaching methods permitting professional educators at every level to focus on educational success for all students and on critical thinking skills and providing the necessary support for educational successes are encouraged;

(c) redefining how schools operate resulting in the decentralization of authority to the school site and allowing those closest to the students the flexibility to design the most appropriate education location and practice;

(d) creating appropriate relationships between schools and other social service agencies by improving relationships between the school and community agencies (health, social, mental health), parents and the business community, and by establishing procedures that cooperatively focus the resources of the greater community upon barriers to success in school, particularly in the areas of early childhood and parenting programs, after‑school programs, and adolescent services.

~~Funds for the Innovation Initiative must be allocated to districts based upon a fifty percent average daily membership and fifty percent pursuant to the Education Finance Act formula. At least seventy percent of the funds must be allocated on a per school basis for school based innovation in accord with the District‑School Improvement Plan. Up to thirty percent may be spent for district‑wide projects with direct services to schools. District and school administrators must work together to determine the allocation of funds.~~

~~For 1993‑94, districts and schools may use these funds for designing their Innovation Initiatives to be submitted to the peer review process established in Section 59‑139‑10 prior to implementation of the innovations in 1994‑95. Notwithstanding any other provisions of law, districts may carry over all unexpended funds in 1993‑94, and up to twenty‑five percent of allocated funds each year thereafter in order to build funds for an approved program initiative.~~

~~(5~~3) An annual district programmatic report to the parents and constituents of the school district must be developed by the local school board. Each report shall include the goals and objectives of the school district, the strategies implemented to meet the goals and objectives, and an evaluation of the outcomes. An annual school report to the parents and constituents of the school must be developed by the School Improvement Council and shall provide information on the school’s progress on meeting the school and district goals and objectives. These reports ~~shall~~ must be provided by ~~November fifteenth of each year~~ and advertised no later than April thirtieth annually.

(~~6~~4) Each school board of trustees shall establish an improvement council at each school in the district and this council is to be involved in improvement and innovation efforts at the school. The council ~~shall~~ must be composed of at least two parents, elected by the parents of the children enrolled in the school; at least two teachers, elected by the faculty; at least two students in schools with grades nine and above elected by the students; other representatives of the community and persons appointed by the principal. The elected members of the council shall comprise at least a two‑thirds majority of the elected and appointed membership of the council. The council should also include ex‑officio members such as the principal and others holding positions of leadership in the school or school organizations, such as parent‑teacher groups, booster clubs, and federal program advisory groups. Each council shall assist in the preparation of the five‑year plan and annual updates required in this section, assist with the development and monitoring of school improvement and innovation, provide advice on the use of school incentive grant awards, and provide assistance as the principal may request as well as carrying out any other duties prescribed by the local school board. The local school board shall make provisions to allow any council to file a separate report to the local school board if the council considers it necessary. However, no council has any of the powers and duties reserved by law or regulation to the local school board. Notwithstanding any other provisions of this subsection, an area vocational center’s school improvement council must be composed as defined exclusively by federal law. The council shall perform all duties and responsibilities provided for in any state or federal law which applies to these councils.

In order to provide additional accountability for funds expended under statutory requirements, the elected members of the school improvement council shall serve a minimum term of two years. Parents of students or students in their last year of enrollment at an individual school may serve terms of one year only. The terms must be staggered and initially determined by lot. Elections of members to school improvement councils shall occur no later than October fifteenth of the school year. The elections must be organized to ensure that every parent and faculty member has an opportunity to vote each year. Within thirty days following the election, the names, addresses, terms of service, and status of all council members as a parent, teacher, student, or representative of the community must be provided to the School Improvement Council Assistance at the University of South Carolina for the purpose of sharing information. The district board of trustees shall include in its annual district report a summary of the training opportunities provided or to be provided for school improvement council members and professional educators in regard to council‑related tasks and a summary of programs and activities involving parents and citizens in the school.

(~~7~~5) Each school district board of trustees shall:

(a) review each school improvement plan and the annual updates for integration with district plans and objectives and school progress in meeting those goals and objectives;

(b) cause to be prepared an annual written report to account for funds expended in each pupil classification as prescribed by the State Board of Education;

(c) participate in the statewide testing program as prescribed by the State Board of Education;

(d) maintain an ongoing systematic evaluation of the educational program needs in the district and shall develop a comprehensive annual and long‑range plan for meeting these program needs. These plans shall include an assessment of needs. At minimum, the process of assessing needs and establishing goals and objectives must be carried out for each of the program classifications specified in Section 59‑20‑40(A)(1)(c). Each school district board of trustees shall develop and execute a method of evaluating the extent to which the goals and objectives specified in its comprehensive plan are being achieved and shall annually report the results of its evaluation to the people of the school district and to the State Board of Education~~.~~;

(e) provide a program for staff development for all educational personnel. A portion of the funds in the foundation program must be used for this staff development that may include, but not be limited to:

(~~1~~i) college courses in education, subject area of certification or management;

(~~2~~ii) teaching center offerings;

(~~3~~iii) State Department of Education workshops; ~~and~~

(~~4~~iv) district‑wide or in‑school training for the purpose of fostering professional growth or improving the competency of all educational personnel~~.~~; and

(v) professional development opportunities for both teachers and administrators on the standards in the core academic areas of mathematics, English/language arts, social studies, and science for kindergarten through twelfth grade and on research‑based best practices for teaching those standards.

(f) in accordance with the format approved by the State Board of Education, annually submit to the State Board of Education and to the people of the district that district’s fiscal report.

(~~8~~6) The State Department of Education shall:

(a) ~~develop, by September, 1993, a plan for offering help to districts and schools in designing and implementing the district and school comprehensive improvement plan;~~

~~(b)~~ ~~develop, by December, 1993, with approval by the State Board of Education, criteria for monitoring the district and school plans;~~

~~(c)~~ review each district’s annual fiscal report;

~~(d) provide assistance to school districts in improving the programs, correcting the deficiencies, and in carrying out its staff development program;~~

~~(e)~~ ~~develop or select and field test a competency‑based student assessment program;~~

(~~f~~b) prepare an annual fiscal and programmatic report to the Governor and the General Assembly each year to assess compliance with this chapter and to make recommendations concerning necessary changes in this chapter;

(~~g~~c) in compliance with the intent of the chapter, waive the prescribed reporting practices if considered necessary by the State Board of Education and authorize the substitution of alternate reporting practices which accomplish the objectives implied in this section. This waiver may not be utilized to avoid full accountability and implementation of this chapter~~.~~; and

(d) administer a statewide assessment program to measure student performance on state standards pursuant to Article 3, Chapter 18, Title 59.

(~~9~~7) The Legislative Audit Council shall audit to assess compliance with this chapter as requested by the General Assembly. On the basis of these audits, the Legislative Audit Council shall make recommendations to the General Assembly concerning necessary changes in this chapter.

~~(10)~~ ~~A twelve‑member Education Finance Review Committee must be established to advise the General Assembly and review its implementation of this chapter. This advice and review may include, but not be limited to:~~

~~(a)~~ ~~the cost of the defined minimum program;~~

~~(b)~~ ~~provisions included in the defined minimum program;~~

~~(c)~~ ~~the pupil classification weights in Section 59‑20‑40;~~

~~(d)~~ ~~the formula for computing required local effort;~~

~~(e)~~ ~~the ongoing evaluation of the education program needs of the school districts.~~

~~The committee must be made up of three representatives from each of the following committees of the General Assembly ‑ Senate Education, Senate Finance, House Education and Public Works, and House Ways and Means ‑ appointed by each respective chairman. The committee shall seek the advice of professional educators and all other interested persons when formulating its recommendations.~~

Section 59‑20‑62. (A) School districts and special schools of this State may transfer and expend funds among appropriated state general fund revenues, Education Improvement Act funds, Education Lottery Act funds, and funds received from the Children’s Education Endowment Fund for school facilities and fixed equipment assistance, to ensure the delivery of academic and arts instruction to students. However, a school district may not transfer funds required for debt service or bonded indebtedness.

(B) A school district that chooses to utilize the provisions of subsection (A) shall spend at least seventy percent of the district’s per‑pupil expenditures within the In$ite categories of instruction, instructional support, and noninstruction pupil services. No portion of the seventy percent may be used for business services, debt service, capital outlay, program management, and leadership services, as defined by In$ite. The district shall report to the Department of Education the actual percentage of its per‑pupil expenditures used for classroom instruction, instructional support, and noninstructional pupil services by December first of each year. Salaries of on‑site principals must be included in the calculation of the district’s per‑pupil expenditures. As used in this section, ‘In$ite’ means the financial analysis model for education programs utilized by the Department of Education.

(C) School districts and special schools of this State may carry forward unexpended funds from the prior fiscal year into the current fiscal year.

(D) Annually, the chairman of each school district board of trustees and the superintendent of the district shall certify the specific actions taken to provide financial flexibility to the district. The certification must be made in writing, signed by the chairman and superintendent, and delivered electronically to the State Superintendent of Education. Additionally, the certification must be presented publicly at a regularly‑called school board meeting, and the certification must be posted on the Internet website maintained by the district.

(E) The provisions of this section do not otherwise relieve a local school district from its obligation to provide any element of its education program prescribed by statute or regulation.

Section 59‑20‑63. (A) A school district of this State shall maintain a transaction register that includes a complete record of all funds expended over one hundred dollars, from whatever source, for whatever purpose. The register must be prominently posted on the district’s Internet website and made available for public viewing and downloading.

(1) The register must include for each expenditure:

(a) the transaction amount;

(b) the name of the payee; and

(c) a statement providing a detailed description of the expenditure.

(2) The register may not include an entry for salary, wages, or other compensation paid to individual employees, nor may it include information that can be used to identify an individual employee. The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure. The register must be searchable and updated at least monthly.

(B) A school district also shall maintain on its Internet website a copy of each monthly statement for all of the credit cards maintained by the entity, including credit cards issued to its officers or employees for official use. The credit card number on each statement must be redacted prior to posting on the Internet website. Each credit card statement must be posted by the thirtieth day after the first day that any portion of the balance as shown on the statement is paid.

(C) The Comptroller General shall establish and maintain an Internet website to contain the information required by this section from a school district that does not maintain its own Internet website. The Internet website must be organized so that the public can differentiate among the school districts and search for the information they are seeking.

(D) The Comptroller General shall distribute to the districts a methodology for compliance.

(E) The provisions of this section do not amend, suspend, supersede, replace, revoke, restrict, or otherwise affect the South Carolina Freedom of Information Act, as provided in Chapter 4, Title 30.

Section 59‑20‑64. By June 1, 2012, the State Board of Education shall promulgate regulations to establish a framework by which a local school district may implement an incentive compensation system for teachers in the district that is technically sound and minimizes bias. The system may include incentives tied to responsibilities, assignments, instructional performances, and student achievement results. A local school district may decide to develop and implement a system, and if it chooses to do so, it shall use the framework provided in regulations promulgated by the board.

Section 59‑20‑65. The State Board of Education, acting through the existing School Council Assistance Project at the University of South Carolina, shall provide services and training activities to support school improvement councils and their efforts in preparing an annual school improvement report as required in this section.

Section 59‑20‑70. Notwithstanding any other provisions of law, any school district which complies with the provisions of Section 59‑20‑60 is exempted from the provisions of Article 15 ~~of~~, Chapter 1 ~~of~~, Title 1 relating to the fiscal accountability of state agencies, departments and institutions.

Section 59‑20‑80. Notwithstanding any other provision of law, each school board of trustees in this State shall annually make available to the general public its budget for that year, which budget shall include an itemized list of the average salaries paid to the superintendents, supervisors, administrators, principals, consultants, counselors and teachers employed by the district. No state aid shall be given to any school district whose board of trustees fails to comply with the provisions of this chapter.

Section 59‑20‑90. The State Superintendent of Education and the State Board of Education shall review and recommend to the General Assembly changes to or deletions of regulations which are inconsistent with the intent of this chapter.”

SECTION 3. Section 59‑40‑140(B) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(B) The South Carolina Public Charter School District shall receive and distribute state funds as allocated pursuant to Section 59‑20‑40(A)(2) to the charter school ~~as determined by the following formula: the current year’s base student cost, as funded by the General Assembly, multiplied by the weighted students enrolled in the charter school, which must be subject to adjustment for student attendance and state budget allocations~~ based on the total weighted pupil units derived from students enrolled in that school. These state funds are in addition to other funds to be received and distributed by the South Carolina Public Charter School District pursuant to subsections (C) and (D) of this section and Section 59‑40‑220(A). However, the South Carolina Public Charter School District may not retain more than two percent of its gross revenue for its internal administrative and operating expenses.”

SECTION 4. Sections 59‑18‑1110 and 59‑18‑1120 of the 1976 Code are repealed.

SECTION 5. This act takes effect upon approval by the Governor.

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