~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 10, 2016

**S. 72**

Introduced by Senators Campsen and Grooms

S. Printed 2/10/16--S.

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 72) to amend Section 59‑39‑112 of the 1976 Code, relating to elective credit for released time classes in religious instruction for high school students, to provide 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, by striking all after the enacting words and inserting therein the following:

/ SECTION 1. Section 59-39-112 of the 1976 Code is amended to read:

“Section 59‑39‑112. (A) A school district board of trustees may award high school students no more than two elective Carnegie units for the completion of released time classes in religious instruction as specified in Section 59‑1‑460 if:

(1) for the purpose of awarding elective Carnegie units, the released time classes in religious instruction are evaluated on the basis of purely secular criteria that are substantially the same criteria used to evaluate similar classes at established private high schools for the purpose of determining whether a student transferring to a public high school from a private high school will be awarded elective Carnegie units for such classes. However, any criteria that released time classes must be taken at an accredited private school is not applicable for the purpose of awarding Carnegie unit credits for released time classes; and

(2) the decision to award elective Carnegie units is neutral as to, and does not involve any test for, religious content or denominational affiliation.

(B) For the purpose of subsection (A)(1), secular criteria may include, but are not limited to, the following:

(1) number of hours of classroom instruction time;

(2) review of the course syllabus which reflects the course requirements and materials used;

(3) methods of assessment used in the course; and

(4) whether the course was taught by a certified teacher.

(C) The provisions of subsection (A)(1) are satisfied if a school district leaves the evaluation and assessment function for an off-campus released time class to an accredited private school, and accepts the off-campus released time transfer of credit without individually assessing the quality or subject matter of the class, trusting the private school accreditation process to ensure adequate academic standards.”

SECTION 2. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, 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 the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no impact to the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill would allow local school districts to accept released time credits as transfer credits from an accredited private school that has awarded private school credits for a released time program in religious instruction operated by an unaccredited entity.

The State Department of Education indicates this bill would have no expenditure impact to the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 59‑39‑112 OF THE 1976 CODE, RELATING TO ELECTIVE CREDIT FOR RELEASED TIME CLASSES IN RELIGIOUS INSTRUCTION FOR HIGH SCHOOL STUDENTS, TO PROVIDE THAT THE SCHOOL DISTRICT BOARD OF TRUSTEES MAY, AS A MEANS TO ENSURE EVALUATION OF INSTRUCTION ON THE BASIS OF PURELY SECULAR CRITERIA, ACCEPT TIME RELEASED CREDITS AS TRANSFER CREDITS FROM AN ACCREDITED PRIVATE SCHOOL THAT HAS AWARDED PRIVATE SCHOOL CREDITS FOR A RELEASED TIME PROGRAM OPERATED BY AN UNACCREDITED ENTITY.

Whereas, the South Carolina General Assembly finds that:

(1) The free exercise of religion is an inherent, fundamental, and inalienable right secured by the First Amendment to the United States Constitution.

(2) The free exercise of religion is important to the intellectual, moral, civic, and ethical development of students in South Carolina, and that any such exercise must be conducted in a constitutionally appropriate manner.

(3) The United States Supreme Court, in its decision, *Zorach v. Clauson*, 343 U.S. 306 (1952), upheld the constitutionality of released time programs for religious instruction during the school day if the programs take place away from school grounds, school officials do not promote attendance at religious classes, and solicitation of students to attend is not done at the expense of public schools.

(4) The United States Fourth Circuit Court of Appeals, in *Moss v. Spartanburg County School District Seven*, 683 F.3d 599 (4th Cir. 2012), held, without requiring the practice, that a public school district could constitutionally accept credits for a released time program approved by an accredited private school but operated by an unaccredited private entity.

(5) The federal Constitution and state law allow the state's school districts to offer religious released time education for the benefit of the state's public school students.

(6) The purpose of this act is to incorporate a constitutionally acceptable method of allowing school districts to award the state's public high school students elective Carnegie unit credits for classes in religious instruction taken during the school day in released time programs, because the absence of an ability to award such credits has essentially eliminated the school districts' ability to accommodate parents' and students' desires to participate in released time programs. Now, therefore,

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

SECTION 1. Section 59‑39‑112(A) of the 1976 Code is amended to read:

“Section 59‑39‑112. (A) A school district board of trustees may award high school students no more than two elective Carnegie units for the completion of released time classes in religious instruction as specified in Section 59‑1‑460 if:

(1) for the purpose of awarding elective Carnegie units, the released time classes in religious instruction are evaluated on the basis of purely secular criteria that are substantially the same criteria used to evaluate similar classes at established private high schools for the purpose of determining whether a student transferring to a public high school from a private high school will be awarded elective Carnegie units for such classes. To ensure the school district board of trustees evaluates the instruction on the basis of purely secular criteria, the school district may accept released time credits as transfer credits from an accredited private school that has awarded private school credits for a released time program operated by an unaccredited entity. ~~However, any~~ Any criteria that released time classes must be taken at an accredited private school is not applicable for the purpose of awarding Carnegie unit credits for released time classes; and

(2) the decision to award elective Carnegie units is neutral as to, and does not involve any test for, religious content or denominational affiliation.”

SECTION 2. This act takes effect upon approval by the Governor.

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