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## Senate Finance Committee



STATE SENATE  
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COLUMBIA, SOUTH CAROLINA 29202  
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## Senate Finance Committee

### Full Committee Meeting Tuesday, March 17, 2009 3:00 PM 105 Gressette Building

#### Agenda:

- |      |   |       |   |
|------|---|-------|---|
| I.   | S.577<br>Senator Leatherman<br>Concurrent Resolution Regarding the American Recovery and Reinvestment Act of 2009 | VI.   | Regulation 4003<br>Donors and Goods Given Away for Advertising Purposes |
| II.  | H. 3352<br>Representative Cooper<br>School District Flexibility   | VII.  | Regulation 4004<br>Federal Government Construction Contracts            |
| III. | H. 3378<br>Representative Cooper<br>State Agency Mandatory Furlough Terms   | VIII. | Regulation 4005<br>Deed Recording Fee                                   |
| IV.  | S. 388<br>Senator Leatherman<br>South Carolina Enterprise Information System Master Lease Program                 |       |   |
| V.   | S. 517<br>Senator Davis<br>Fee Increase Moratorium  |       |   |

**\*Agenda subject to change.**

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**South Carolina General Assembly**  
118th Session, 2009-2010

**S. 577**

**STATUS INFORMATION**

Concurrent Resolution

Sponsors: Senators Leatherman, Land, Setzler, Malloy, McGill, O'Dell, Reese, Nicholson, Williams, Elliott and Knotts

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Introduced in the Senate on March 12, 2009

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

Summary: Not yet available

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/12/2009	Senate	Introduced SJ-6
3/12/2009	Senate	Referred to Committee on <b>Finance</b> SJ-6

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**VERSIONS OF THIS BILL**

3/12/2009

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**A CONCURRENT RESOLUTION**

TO PROVIDE THAT PURSUANT TO HR-1 OF 2009, THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, THE GENERAL ASSEMBLY ACCEPTS THE USE OF FEDERAL STIMULUS FUNDS PROVIDED TO THIS STATE IN THIS ACT IF THE GOVERNOR OF SOUTH CAROLINA, WITHIN THE REQUIRED FORTY-FIVE DAY PERIOD, FAILS TO CERTIFY THAT HE WILL REQUEST AND USE THESE FUNDS FOR THIS STATE AND THE AGENCIES AND ENTITIES THEREOF IN THE MANNER PROVIDED IN THE FEDERAL ACT, AND TO PROVIDE FOR THE MANNER OF DISTRIBUTION OF THESE FUNDS.

Whereas, in Section 1607 of HR-1 of 2009, the American Recovery and Reinvestment Act of 2009, the Congress of the United States has provided as follows:

“(a) CERTIFICATION BY GOVERNOR. - Not later than 45 days after the date of enactment of this Act, for funds provided to any State or agency thereof, the Governor of the State shall certify that: (1) the State will request and use funds provided by this Act; and (2) the funds will be used to create jobs and promote economic growth.

(b) ACCEPTANCE BY STATE LEGISLATURE. - If funds provided to any State in any division of this Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

(c) DISTRIBUTION. - After the adoption of a State legislature’s concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State’s discretion.”; and

1 Whereas, pursuant to subsection (b) of the above provision, the  
2 South Carolina General Assembly accepts for use all or any  
3 applicable portion of the funds provided to the State of South  
4 Carolina or any agency thereof, if the Governor of South Carolina  
5 pursuant to subsection (a) above fails to certify not later than  
6 forty-five days after enactment of HR-1 of 2009, that he will on  
7 behalf of this State request the funds provided in HR-1 of 2009;  
8 and

9  
10 Whereas, pursuant to subsection (c) above, the South Carolina  
11 General Assembly declares the distribution of these funds to state  
12 agencies, entities, and any other political subdivision of this State,  
13 including those distributed to local governments through the State  
14 of South Carolina, shall be provided by formula or as directed by  
15 the General Assembly; and

16  
17 Whereas, to enhance the General Assembly's ability to utilize  
18 these funds to create the most jobs and promote as much economic  
19 growth as possible, the General Assembly shall create a joint  
20 review committee to provide recommendations to both the General  
21 Assembly and the executive branch regarding the most efficient  
22 policy for the receipt, appropriation, expenditure, and reporting of  
23 these funds. Now, therefore,

24  
25 Be it resolved by the Senate, the House of Representatives  
26 concurring:

27  
28 That the South Carolina General Assembly, pursuant to HR-1 of  
29 2009, the American Recovery and Reinvestment Act of 2009,  
30 accepts the use of federal stimulus funds provided to this State if  
31 the Governor of South Carolina within the required forty-five day  
32 period fails to certify that he will request and use these funds for  
33 this State and to create jobs and promote economic growth.

34  
35 Be it further resolved that the South Carolina General Assembly  
36 further declares that the manner of distribution of these funds shall  
37 be as stipulated in this resolution.

38  
39 Be it further resolved that a copy of this resolution be forwarded to  
40 the United States Senate, the United States House of  
41 Representatives, and to each member of the South Carolina  
42 Congressional Delegation.

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## State of South Carolina

### Office of the Governor

MARK SANFORD  
GOVERNOR

Post Office Box 12287  
COLUMBIA 29211

March 11, 2009

The Honorable Barack Obama  
President  
United States of America  
1600 Pennsylvania Avenue, Southwest  
Washington, D.C. 20502

Dear Mr. President,

It is with great respect and equal concern that I write today seeking more flexibility with regard to the stimulus dollars headed to South Carolina.

Specifically, I am requesting a waiver to direct the \$700 million in the stimulus' Fiscal and Education Stabilization Funds to paying down our state's very sizable debt and contingent liabilities. As we both know, the nation's governors have been granted some degree of discretion over these funds. Retiring this debt would represent in comparable terms paying down \$400 billion of the national debt and would give our state greater flexibility in dealing with the financial storm now facing our nation. We believe this financial flexibility vital to our state in weathering these challenging economic times. The other \$2.1 billion in the stimulus package for our state would be spent in accordance with the existing federal programs now in place.

As you know, I've been an outspoken opponent of the stimulus legislation. I continue to believe that the massive spending involved will not achieve the economic stimulus proponents suggest, and will instead create an unprecedented level of debt for our children and grandchildren. That said, the legislation did win approval by Congress, and our team has spent the weeks since you signed it into law carefully examining the direct implications for current and future South Carolinians - and we have come to the following conclusions.

First, given the age-old notion that when one is in a hole the first order of business is stop digging, we think it is not in our state's best interest to spend all of these monies. In our case, 75 percent would be spent and 25 percent would prudently be used to pay down debt so that our state would have more flexibility should the recession be protracted - as I firmly believe it will. To do otherwise and spend it all would not only be financially reckless in our case, but over the next two years it would create a \$1.2 billion financial hole. Unless your intention is to borrow

The Honorable Barack Obama

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more money that we don't have to send to states like ours in 24 months. I don't know how we would dig out of this hole without substantially raising taxes and in turn making our state economy less competitive in producing jobs.

Second, this annualizations problem compounds the more treacherous issue of our state's long-term liabilities. South Carolina has roughly \$20 billion in unfunded political promises and stands at the unenviable position of being number one in the entire Southeast in per capita debt – 57 percent above the Southeastern average and three times higher than neighboring Georgia.

Third, in the same way one could argue that the restructuring essential to the long-term survival and prosperity of General Motors (GM) was only postponed by federal aid, we believe these stimulus monies would postpone changes essential to South Carolina's competitiveness in the global economy. Just months after GM received billions in bailout funds it has returned to Congress asking for billions more and suggesting if these monies didn't come they would be faced with impending bankruptcy – which is the same thing they said the first time. In that exchange the taxpayers are poorer as billions have been spent with no effect – as is the company itself as it has been robbed of time it could have used in beginning the difficult, but necessary, process of restructuring. This illustrates an often debilitating aspect of federal money – it forestalls much-needed and admittedly difficult choices on restructuring and updating our government that in our case are vital to making South Carolina more competitive in producing jobs in the global economy.

Finally, we believe strongly in the Founding Fathers' notion of federalism, and specifically in the Jeffersonian precept that government closest to the people governs best. This idea of states being laboratories of democracy has a direct bearing on the stimulus in that it offers an opportunity to adapt solutions to each unique state environment. Under the budget conditions that prevail in many states, it may very well make sense to accept the funds. But in our state – where we have a retirement system less than 70 percent funded, the highest per capita debt load in the Southeast, and would look at beginning next year's budget \$740 million in the hole if we took all of this money – we believe not spending all the money to be the most prudent course of action. Accordingly, we respectfully ask for the flexibility inherent in staying true to the larger precept of federalism.

As you know, approximately 75 percent of the stimulus money is directed by federal statute to flow through programmatic means to South Carolina. Our waiver as expressed earlier in this letter would not impact these funds and this \$2.1 billion would be spent in accordance with the stimulus bill. The discretion to our nation's governors over the remaining 25 percent – including the Education and Fiscal Stabilization Funds – is the sole area for which we are requesting this waiver.

The Honorable Barack Obama

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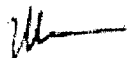
March 11, 2009

In all this I would like to underscore the degree to which I would rather not be making this request. Doing so invites all sorts of criticism, and the \$1.2 billion financial hole that would be created in simply accepting the money would not come due for 24 months – though my term ends in roughly 20 months. So if I took the money my administration would avoid the criticism – and dealing with this extreme financial shortfall in 24 months would fall to the work of whoever follows me in this job and the future legislative leadership in our House and Senate. While it would be the easier decision, I do not believe it would be a wise course of action given its consequences for the near five million people I represent in South Carolina. Accordingly, I send you this waiver and humbly ask that you grant it to the people of this state.

In my opinion, this course will do more to ensure South Carolina's long-term economic strength, and help in avoiding our state's structural budget shortcomings, than would other contemplated uses of the funds. If your administration determines that it is unable to grant us this flexibility, we will in turn opt not to pursue these funds.

I would respectfully ask that you consider this request with all due haste, and we look forward to working with your administration during these challenging times.

Sincerely,



Mark Sanford







EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

THE DIRECTOR

March 16, 2009

The Honorable Mark Sanford  
Governor of South Carolina  
Columbia, SC 29211

Dear Governor Sanford:

Thank you for your letter to the President dated March 11, 2009. He has asked me to respond on his behalf.

During this severe economic downturn, Congress and the President wanted to provide States and localities with emergency funding in order to prevent the layoffs of teachers, police officers, and other vital public servants; spur economic activity and private sector job growth; and make critical investments in providing every child with a world-class education thus improving long-term economic growth. Thus, in the American Recovery and Reinvestment Act of 2009 (ARRA), Congress appropriated \$53.6 billion for the State Fiscal Stabilization Fund to be administered by the Department of Education. Of this amount, nearly \$48.6 billion is to be made available to the States.

Specifically, by statute, the State allocation must be used as follows:

- 81.8 percent “for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.” (ARRA § 14002(a)(1)).
- 18.2 percent “for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building system.” (ARRA § 14002(b)(1)).

Congress has not authorized the Executive branch to waive any of the above statutory requirements governing the State Fiscal Stabilization Fund. Accordingly, States’ spending under the State Fiscal Stabilization Fund must satisfy the statutory requirements.

Sincerely,

Peter R. Orszag  
Director

Act on health insurance premiums, overall health care costs, adoption of electronic health records by providers, and reduction in medical errors and other quality improvements.

(f) **STUDY.**—The Secretary shall study the definition of “psychotherapy notes” in section 164.501 of title 45, Code of Federal Regulations, with regard to including test data that is related to direct responses, scores, items, forms, protocols, manuals, or other materials that are part of a mental health evaluation, as determined by the mental health professional providing treatment or evaluation in such definitions and may, based on such study, issue regulations to revise such definition.

## **TITLE XIV—STATE FISCAL STABILIZATION FUND**

### **DEPARTMENT OF EDUCATION**

#### **STATE FISCAL STABILIZATION FUND**

For necessary expenses for a State Fiscal Stabilization Fund, \$53,600,000,000, which shall be administered by the Department of Education.

#### **GENERAL PROVISIONS—THIS TITLE**

##### **SEC. 14001. ALLOCATIONS.**

(a) **OUTLYING AREAS.**—From the amount appropriated to carry out this title, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) **ADMINISTRATION AND OVERSIGHT.**—The Secretary may, in addition, reserve up to \$14,000,000 for administration and oversight of this title, including for program evaluation.

(c) **RESERVATION FOR ADDITIONAL PROGRAMS.**—After reserving funds under subsections (a) and (b), the Secretary shall reserve \$5,000,000,000 for grants under sections 14006 and 14007.

(d) **STATE ALLOCATIONS.**—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) **STATE GRANTS.**—From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) **REALLOCATION.**—The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

##### **SEC. 14002. STATE USES OF FUNDS.**

(a) **EDUCATION FUND.**—

(1) **IN GENERAL.**—For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 14001(d) for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

(2) **RESTORING STATE SUPPORT FOR EDUCATION.**—

(A) **IN GENERAL.**—The Governor shall first use the funds described in paragraph (1)—

(i) to provide the amount of funds, through the State's primary elementary and secondary funding formulae, that is needed—

(I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

(ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

(B) **SHORTFALL.**—If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(C) **FISCAL YEAR.**—For purposes of this paragraph, the term "fiscal year" shall have the meaning given such term under State law.

(3) **SUBGRANTS TO IMPROVE BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.**—After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) **OTHER GOVERNMENT SERVICES.**—

(1) **IN GENERAL.**—The Governor shall use 18.2 percent of the State's allocation under section 14001 for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(2) AVAILABILITY TO ALL INSTITUTIONS OF HIGHER EDUCATION.—A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding for modernization, renovation, and repairs within the State that—

(A) qualifies as an institution of higher education, as defined in subsection 14013(3); and

(B) continues to be eligible to participate in the programs under title IV of the Higher Education Act of 1965.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

**SEC. 14003. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES.**

(a) IN GENERAL.—A local educational agency that receives funds under this title may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (“IDEA”), the Adult and Family Literacy Act (20 U.S.C. 1400 et seq.), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (“the Perkins Act”) or for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) PROHIBITION.—A local educational agency may not use funds received under this title for—

(1) payment of maintenance costs;

(2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(3) purchase or upgrade of vehicles; or

(4) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

**SEC. 14004. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.**

(a) IN GENERAL.—A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of institution of higher education facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) PROHIBITION.—An institution of higher education may not use funds received under this title to increase its endowment.

(c) ADDITIONAL PROHIBITION.—No funds awarded under this title may be used for—

(1) the maintenance of systems, equipment, or facilities;

(2) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(3) modernization, renovation, or repair of facilities—

- (A) used for sectarian instruction or religious worship;
- or
- (B) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

**SEC. 14005. STATE APPLICATIONS.**

(a) **IN GENERAL.**—The Governor of a State desiring to receive an allocation under section 14001 shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) **APPLICATION.**—In such application, the Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation, including whether the State will use such allocation to meet maintenance of effort requirements under the ESEA and IDEA and, in such cases, what amount will be used to meet such requirements.

(c) **INCENTIVE GRANT APPLICATION.**—The Governor of a State seeking a grant under section 14006 shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (d), and the strategies the State is employing to help ensure that students in the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (20 U.S.C. 6311(b)(2)(C)(v)(II)) who have not met the State's proficiency targets continue making progress toward meeting the State's student academic achievement standards;

(3) describe the achievement and graduation rates (as described in section 1111(b)(2)(C)(vi) of the ESEA (20 U.S.C. 6311(b)(2)(C)(vi)) and as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations) of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2)) in the State continue making progress toward meeting the State's student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need local educational agencies; and

(5) include a plan for evaluating the State's progress in closing achievement gaps.

(d) **ASSURANCES.**—An application under subsection (b) shall include the following assurances:

(1) **MAINTENANCE OF EFFORT.**—

(A) **ELEMENTARY AND SECONDARY EDUCATION.**—The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) **HIGHER EDUCATION.**—The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for public institutions of higher education (not including support for capital projects or for research and development

or tuition and fees paid by students) at least at the level of such support in fiscal year 2006.

(2) **ACHIEVING EQUITY IN TEACHER DISTRIBUTION.**—The State will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) of the ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

(3) **IMPROVING COLLECTION AND USE OF DATA.**—The State will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).

(4) **STANDARDS AND ASSESSMENTS.**—The State—

(A) will enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a));

(B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of the ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of the IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with section 6401(e)(1)(9)(A)(ii) of the America COMPETES Act.

(5) **SUPPORTING STRUGGLING SCHOOLS.**—The State will ensure compliance with the requirements of section 1116(a)(7)(C)(iv) and section 1116(a)(8)(B) of the ESEA with respect to schools identified under such sections.

#### **SEC. 14006. STATE INCENTIVE GRANTS.**

(a) **IN GENERAL.**—

(1) **RESERVATION.**—From the total amount reserved under section 14001(c) that is not used for section 14007, the Secretary may reserve up to 1 percent for technical assistance to States to assist them in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(2) **REMAINDER.**—Of the remaining funds, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(b) **BASIS FOR GRANTS.**—The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 14005 and such other criteria as the Secretary determines appropriate, which may include a State's need for assistance to help meet the objective of paragraphs (2), (3), (4), and (5) of section 14005(d).

(c) **SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.**—Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

**SEC. 14007. INNOVATION FUND.**

(a) **IN GENERAL.**—

(1) **ELIGIBLE ENTITIES.**—For the purposes of this section, the term “eligible entity” means—

- (A) a local educational agency; or
- (B) a partnership between a nonprofit organization and—
  - (i) one or more local educational agencies; or
  - (ii) a consortium of schools.

(2) **PROGRAM ESTABLISHED.**—From the total amount reserved under section 14001(c), the Secretary may reserve up to \$650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) **BASIS FOR AWARDS.**—The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

- (A) to allow such eligible entities to expand their work and serve as models for best practices;
- (B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and
- (C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) **ELIGIBILITY.**—To be eligible for such an award, an eligible entity shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State’s annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of the ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

(c) **SPECIAL RULE.**—In the case of an eligible entity that includes a nonprofit organization, the eligible entity shall be considered to have met the eligibility requirements of paragraphs (1), (2), (3) of subsection (b) if such nonprofit organization has a record of meeting such requirements.



**SEC. 14008. STATE REPORTS.**

For each year of the program under this title, a State receiving funds under this title shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

- (1) the uses of funds provided under this title within the State;
- (2) how the State distributed the funds it received under this title;
- (3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;
- (4) tax increases that the Governor estimates were averted because of the availability of funds from this title;
- (5) the State's progress in reducing inequities in the distribution of highly qualified teachers, in implementing a State longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;
- (6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases;
- (7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance; and
- (8) a description of each modernization, renovation and repair project funded, which shall include the amounts awarded and project costs.

**SEC. 14009. EVALUATION.**

The Comptroller General of the United States shall conduct evaluations of the programs under sections 14006 and 14007 which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

**SEC. 14010. SECRETARY'S REPORT TO CONGRESS.**

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 14008 and the information required by section 14005(b)(3) including State-by-State information.

**SEC. 14011. PROHIBITION ON PROVISION OF CERTAIN ASSISTANCE.**

No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.

**SEC. 14012. FISCAL RELIEF.**

(a) IN GENERAL.—For the purpose of relieving fiscal burdens on States and local educational agencies that have experienced

a precipitous decline in financial resources, the Secretary of Education may waive or modify any requirement of this title relating to maintaining fiscal effort.

(b) DURATION.—A waiver or modification under this section shall be for any of fiscal year 2009, fiscal year 2010, or fiscal year 2011, as determined by the Secretary.

(c) CRITERIA.—The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State or local educational agency receiving such waiver or modification will not provide for elementary and secondary education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State or local educational agency than the amount provided for such purpose in the preceding fiscal year.

(d) MAINTENANCE OF EFFORT.—Upon prior approval from the Secretary, a State or local educational agency that receives funds under this title may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), administered by the Secretary.

(e) SUBSEQUENT LEVEL OF EFFORT.—Notwithstanding (d), the level of effort required by a State or local educational agency for the following fiscal year shall not be reduced.

#### SEC. 14013. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

(1) the terms “elementary education” and “secondary education” have the meaning given such terms under State law;

(2) the term “high-need local educational agency” means a local educational agency—

(A) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(B) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line;

(3) the term “institution of higher education” has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(4) the term “Secretary” means the Secretary of Education;

(5) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) any other term used that is defined in section 9101 of the ESEA (20 U.S.C. 7801) shall have the meaning given the term in such section.

## TITLE XV—ACCOUNTABILITY AND TRANSPARENCY

#### SEC. 1501. DEFINITIONS.

In this title:

(1) AGENCY.—The term “agency” has the meaning given under section 551 of title 5, United States Code.

LIMIT ON FUNDS

SEC. 1604. None of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

BUY AMERICAN

SEC. 1605. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

WAGE RATE REQUIREMENTS

SEC. 1606. Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

ADDITIONAL FUNDING DISTRIBUTION AND ASSURANCE OF  
APPROPRIATE USE OF FUNDS

\*  
SEC. 1607. (a) CERTIFICATION BY GOVERNOR.—Not later than 45 days after the date of enactment of this Act, for funds provided to any State or agency thereof, the Governor of the State shall certify that: (1) the State will request and use funds provided by this Act; and (2) the funds will be used to create jobs and promote economic growth.

(b) ACCEPTANCE BY STATE LEGISLATURE.—If funds provided to any State in any division of this Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

(c) DISTRIBUTION.—After the adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

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ECONOMIC STABILIZATION CONTRACTING

SEC. 1608. REFORM OF CONTRACTING PROCEDURES UNDER EESA. Section 107(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended by inserting "and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term 'individual with disability' has the same meaning as the term 'handicapped individual' as that term is defined in section 3(f) of the Small Business Act (15 U.S.C. 632(f)), after "(12 U.S.C. 1441a(r)(4)),".

SEC. 1609. (a) FINDINGS.—

(1) The National Environmental Policy Act protects public health, safety and environmental quality: by ensuring transparency, accountability and public involvement in federal actions and in the use of public funds;

(2) When President Nixon signed the National Environmental Policy Act into law on January 1, 1970, he said that the Act provided the "direction" for the country to "regain a productive harmony between man and nature";

(3) The National Environmental Policy Act helps to provide an orderly process for considering federal actions and funding decisions and prevents litigation and delay that would otherwise be inevitable and existed prior to the establishment of the National Environmental Policy Act.

(b) Adequate resources within this bill must be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and that the shortest existing applicable process under the National Environmental Policy Act shall be utilized.

(c) The President shall report to the Senate Environment and Public Works Committee and the House Natural Resources Committee every 90 days following the date of enactment until September 30, 2011 on the status and progress of projects and activities funded by this Act with respect to compliance with National Environmental Policy Act requirements and documentation.

SEC. 1610. (a) None of the funds appropriated or otherwise made available by this Act, for projects initiated after the effective date of this Act, may be used by an executive agency to enter into any Federal contract unless such contract is entered into in accordance with the Federal Property and Administrative Services Act (41 U.S.C. 253) or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

(b) All projects to be conducted under the authority of the Indian Self-Determination and Education Assistance Act, the Tribally-Controlled Schools Act, the Sanitation and Facilities Act, the

## Estimated Allocations to South Carolina American Recovery and Reinvestment Act of 2009 (ARRA)

The numbers listed below are preliminary estimates and are subject to change. This document was last updated March 13, 2009.

Please Note: The list below is by no means inclusive of all funding allocations contained in the ARRA. Estimates may differ from other published numbers depending on the source providing the information.

South Carolina will receive approximately \$3.4 billion in direct appropriations. This figure does not include tax relief; federal agencies must still finalize funding formulas; and a large portion of the funds will be in the form of competitive grants that have yet to be awarded.

### FISCAL STABILIZATION FUND

General Purpose (Flex Fund)	126,318,970
Education	<u>567,741,302</u>
Total Stabilization Fund	694,060,272

### MEDICAID

FMAP	860,000,000
Disproportionate Share Hospitals (DSH)	16,000,000

### TRANSPORTATION:

Highways and Bridges	
Highways and Bridges	310,000,000
Highways and Bridges - Suballocation to Locals ( <i>\$139 m, of which \$44m must go to MPOs with population over 200,000</i> )	139,000,000
Highways and Bridges - Enhancement Projects	14,000,000
Transit Capital Grants	
Transit Capital Grants - Urban	24,700,000
Transit Capital Grants - Rural	16,500,000

### WATER AND SEWER:

Drinking Water SRF	19,700,000
Clean Water SRF	40,055,697

### ENERGY:

Weatherization	61,500,000
State Energy Program	50,200,000

### HEALTH AND HUMAN SERVICES:

Emergency Food and Shelter	2,000,000
Commodity Assistance/TEFAP	1,700,000
Supplemental Nutrition Assistance Program (SNAP) ( <i>Formerly Food Stamps</i> )	365,600,000
Child Care	35,700,000
Child Support Enforcement	13,300,000

Elderly Nutrition	1,900,000
Community Services Block Grant	15,500,000
Community Development Block Grants	5,900,000
Independent Living	242,913

**HOUSING:**

HOME Affordable Housing Construction	25,600,000
Homelessness Prevention	15,900,000
Public Housing Capital	36,100,000

**EDUCATION:**

Head Start	9,400,000
Title 1 - Grants to Local Educational Agencies	142,874,121
Title 1 - School Improvement	43,574,000
IDEA Special Education	
Special Education - Part B (Ages 3-21)	173,239,745
Special Education - Part B (Preschool Programs)	7,572,406
Special Education - Part C	5,891,870
Vocational Rehabilitation State Grants	9,686,547
Education Technology	9,155,842
School Lunch Equipment	1,400,000
Federal Work Study	2,654,967
Education of the Homeless	615,000

**STATE AND LOCAL LAW ENFORCEMENT:**

Crime Victims Assistance Grants and Compensation	700,986
Internet Crimes Against Children	1,200,000
Violence Against Women	2,600,000
Byrne / Justice Assistance Grants ( <i>\$14.8 m to locals &amp; \$23.2 m to state for distribution</i> )	37,983,730

**WORKFORCE/EMPLOYMENT SERVICES:**

Unemployment Insurance	
<i>1/3 Share -To receive, state must have an alternative base period for determining eligibility</i>	32,486,497
<i>Remaining 2/3 Share - To receive, state must enact at least 2 out of a possible 4 policy changes.</i>	64,972,993
Unemployment Insurance - State Admin Grants	6,961,392
WIA – Adult	10,500,000
WIA – Youth	25,000,000
WIA Dislocated Workers	28,700,000

Sources: The list above was compiled from many sources some of which include: US Dept of Education, US Dept of Health & Human Services, Center for Law and Social Policy, National Employment Law Project, US Department of Agriculture, Council of State Governments, National Governor's Association, National Conference of State Legislatures.