

**REPORT OF THE
GENERAL GOVERNMENT,
PERSONNEL & BENEFITS SUBCOMMITTEE**
(Herbkersman, White, J.H. Neal, Pitts & Umphlett - Staff Contact: Emily Heatwole)

HOUSE BILL 3404

H. 3404-- Reps. Cooper, Horne and Allison: A JOINT RESOLUTION TO REVISE THE METHOD OF CALCULATING THE INDEX OF TAXPAYING ABILITY FOR PURPOSES OF THE EDUCATION FINANCE ACT (EFA) FOR FISCAL YEARS 2011-2012 AND 2012-2013 BY IMPUTING AN INDEX VALUE FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY ASSESSED AT FOUR PERCENT OF VALUE AND TO PROVIDE THAT FOR THOSE YEARS, THE INDEX OF TAXPAYING ABILITY FOR REAL PROPERTY ASSESSED AT SIX PERCENT MUST BE CALCULATED USING SALES RATIO DATA.

Summary of Bill:

This joint resolution revises the method of calculating the index of taxpaying ability for purposes of the Education Finance Act (EFA) for fiscal years 2011-2012 and 2012-2013 by imputing an index value for owner-occupied residential property assessed at four percent of value and to provide that, for those years, the index of taxpaying ability for real property assessed at six percent must be calculated using sales ratio data.

Introduced: 1/20/2011

Received by Ways and Means: 1/20/2011

Estimated Fiscal Impact:

See Attached

Subcommittee Recommendation:

Favorable with Amendment

Full Committee Recommendation:

Pending

Other Notes/Comments:

South Carolina Office of Research and Statistics

Statement of Estimated Local Revenue Impact

Date: February 9, 2011

Bill Number: H.B. 3404

Authors: Cooper, Horne and Allison

Committee Requesting Impact: House Ways and Means

Bill Summary

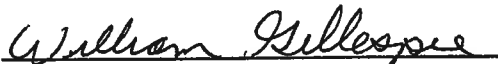
A Joint Resolution to revise the method of calculating the Index of Taxpaying Ability for purposes of the Education Finance Act (EFA) for fiscal years 2011-2012 and 2012-2013 by imputing an index value for owner-occupied residential property assessed at four percent of value and to provide that for those years, the index of taxpaying ability for real property assessed at six percent must be calculated using sales ratio data.

REVENUE IMPACT ^{1/}

This joint resolution is not expected to impact State revenues. EFA distributions to school districts will not change in total but will be redistributed among the school districts based on changes to each school districts index value.

Explanation

Prior to Tax Year 2008, the value of owner occupied residential property was included in the calculation of the index of taxpaying ability. However, since all owner-occupied homes are exempt from property taxes for school operating purposes as a result of Act 388 of 2006, the Department of Revenue no longer includes the value of owner occupied homes in the calculation of the index of taxpaying ability. This joint resolution will add an imputed value of owner-occupied homes back into the index of taxpaying ability. The value will be imputed based on the way fee in lieu of property tax values are currently imputed for the index. In essence, the total amount of money reimbursed to school districts from Tier I (the old \$100,000 exemption), Tier II (the \$50,000 Homestead Exemption for those 65 and over) and Tier III (owner-occupied homes exempted from school operating property taxes from Act 388) will be added together and divided by the school districts millage rate to impute a value for owner-occupied homes. This imputed value will then be added to the index. This change will have no effect on the total amount of money that goes to school districts under the EFA formula. It will change the amounts individual school districts receive based on changes to each school districts index value.



William C. Gillespie, Ph.D.
Chief Economist

Analyst: Gibson

^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

FISCAL IMPACT STATEMENT ON BILL NO. **H.3404**
(Doc. No. 9942htc11.docx)

TO: The Honorable Daniel T. "Dan" Cooper, Chairperson, House Ways and Means Committee
FROM: Office of State Budget, Budget and Control Board
ANALYSTS: K. Earle Powell
DATE: March 1, 2011 SBD: 2011105

AUTHOR: Representative Cooper PRIMARY CODE CITE: Joint Resolution
SUBJECT: Index of Taxpaying Ability

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
\$0 (No additional expenditures or savings are expected)

BILL SUMMARY:

House Bill 3404 is a joint resolution to revise the method of calculating the index of taxpaying ability for purposes of the Education Finance Act (EFA) for fiscal years 2011-2012 and 2012-2013 by imputing an index value for owner-occupied residential property assessed at four percent of value and to provide that, for those years, the index of taxpaying ability for real property assessed at six percent must be calculated using sales ratio data.

EXPLANATION OF IMPACT:

Department of Revenue

The Department reports that this Bill would have a minimal impact due to the adjustment needed in calculating the index of taxpaying ability.

Department of Education

The Department indicates that enactment of this Bill will have no impact on the General Fund of the State or on Federal and/or Other funds. The Bill will result in reallocation of available funds among local school districts.

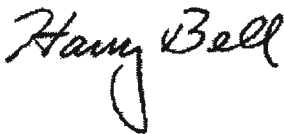
LOCAL GOVERNMENT IMPACT:

None.

SPECIAL NOTES:

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this Bill.

Approved by:



Harry Bell
Assistant Director, Office of State Budget

FY 2012 EFA PROJECTIONS BY DISTRICT ITA COMPARISON

A	B	C	D	E	F	G	H	I
						\$1,788	\$1,788	\$1,788
						Current Statute 4% Removed	H 3404	Proviso 1.74 (Imputing the 4%)
DISTRICT NUMBER	DISTRICT	FY2012 ITA = SCDOR FEB 1	FY2012 ITA = SCDOR IMPUTED	FY 2010 ITA = SCDOR 2/1/2009	FY 2011 WPU 45DAY	FY2012 PROJECTED EFA: ITA=DOR- FEB2011; BSC=\$1788; WPU=45DAY- FY2011	FY2012 PROJECTED EFA: ITA=DOR- IMPUTED; BSC=\$1788; WPU=45DAY- FY2011	FY2012 PROJECTED EFA: ITA=SCDOR 2/1/2009; BSC=\$1788; WPU=45DAY- FY2011
0160	ABBEVILLE	0.00252	0.00274	0.00275	3,837.75	\$5,697,023	\$5,595,327	\$5,590,705
0201	AIKEN	0.02440	0.02586	0.02237	29,265.47	\$41,047,719	\$40,372,831	\$41,986,090
0301	ALLEDALE	0.00116	0.00103	0.00099	1,787.42	\$2,659,695	\$2,719,788	\$2,738,278
0401	ANDERSON 1	0.00702	0.00815	0.00765	11,076.09	\$16,559,042	\$16,036,697	\$16,267,823
0402	ANDERSON 2	0.00224	0.00256	0.00262	4,663.05	\$7,302,090	\$7,154,169	\$7,126,434
0403	ANDERSON 3	0.00181	0.00180	0.00186	3,237.91	\$4,952,707	\$4,957,330	\$4,929,595
0404	ANDERSON 4	0.00488	0.00474	0.00500	3,493.25	\$3,990,143	\$4,054,858	\$3,934,672
0405	ANDERSON 5	0.01257	0.01298	0.01345	15,248.55	\$21,453,903	\$21,264,380	\$21,047,122
0501	BAMBERG 1	0.00080	0.00082	0.00078	1,799.48	\$2,847,669	\$2,838,424	\$2,856,914
0502	BAMBERG 2	0.00059	0.00058	0.00055	1,036.18	\$1,579,961	\$1,584,584	\$1,598,451
0619	BARNWELL 19	0.00054	0.00051	0.00046	1,020.27	\$1,574,627	\$1,588,494	\$1,611,607
0629	BARNWELL 29	0.00075	0.00068	0.00067	1,202.56	\$1,803,488	\$1,835,846	\$1,840,469
0645	BARNWELL 45	0.00141	0.00140	0.00137	3,018.36	\$4,745,053	\$4,749,675	\$4,763,543
0701	BEAUFORT	0.09963	0.09597	0.09748	23,261.23	(\$4,463,059)	(\$2,771,217)	(\$3,469,218)
0801	BERKELEY	0.03476	0.03538	0.03254	35,649.23	\$47,672,954	\$47,386,358	\$48,699,153
0901	CALHOUN	0.00430	0.00374	0.00354	2,052.75	\$1,682,635	\$1,941,496	\$2,033,946
1001	CHARLESTON	0.13113	0.13167	0.15064	51,571.80	\$31,595,311	\$31,345,696	\$22,576,781
1101	CHEROKEE	0.00888	0.00865	0.00748	10,644.76	\$14,926,649	\$15,034,354	\$15,575,188
1201	CHESTER	0.00511	0.00491	0.00482	6,629.18	\$9,490,868	\$9,583,318	\$9,624,921
1301	CHESTERFIELD	0.00600	0.00558	0.00490	9,168.91	\$13,620,501	\$13,814,647	\$14,128,978
1401	CLARENDON 1	0.00177	0.00162	0.00174	1,085.31	\$1,122,349	\$1,191,687	\$1,136,216
1402	CLARENDON 2	0.00245	0.00247	0.00256	3,836.26	\$5,726,716	\$5,717,471	\$5,675,868
1403	CLARENDON 3	0.00037	0.00040	0.00043	1,499.87	\$2,510,734	\$2,496,867	\$2,482,999
1501	COLLETON	0.00938	0.00845	0.00980	7,404.79	\$8,903,843	\$9,333,738	\$8,709,698
1601	DARLINGTON	0.01068	0.00990	0.00974	13,031.52	\$18,363,509	\$18,724,066	\$18,798,026
1703	DILLON 3	0.00083	0.00082	0.00074	1,959.03	\$3,119,077	\$3,123,699	\$3,160,679
1704	DILLON 4	0.00274	0.00267	0.00242	5,208.03	\$8,045,388	\$8,077,746	\$8,193,308
1802	DORCHESTER 2	0.01544	0.01884	0.01969	27,571.88	\$42,161,355	\$40,589,699	\$40,196,785
1804	DORCHESTER 4	0.00295	0.00271	0.00270	2,637.36	\$3,351,957	\$3,462,898	\$3,467,520
1901	EDGEFIELD	0.00317	0.00342	0.00327	4,896.50	\$7,289,604	\$7,174,041	\$7,243,379
2001	FAIRFIELD	0.00665	0.00568	0.00555	3,721.14	\$3,579,424	\$4,027,809	\$4,087,901
2101	FLORENCE 1	0.01816	0.01783	0.01685	19,379.03	\$26,255,215	\$26,407,758	\$26,860,764
2102	FLORENCE 2	0.00064	0.00070	0.00062	1,496.44	\$2,379,794	\$2,352,059	\$2,389,039
2103	FLORENCE 3	0.00259	0.00247	0.00228	4,316.89	\$6,521,367	\$6,576,838	\$6,664,665
2104	FLORENCE 4	0.00120	0.00108	0.00099	989.20	\$1,213,988	\$1,269,458	\$1,311,060
2105	FLORENCE 5	0.00057	0.00060	0.00068	1,829.31	\$3,007,323	\$2,993,455	\$2,956,475
2201	GEORGETOWN	0.02904	0.02715	0.02910	11,728.38	\$7,546,554	\$8,420,209	\$7,518,819
2301	GREENVILLE	0.08593	0.09279	0.08263	87,516.12	\$116,757,533	\$113,586,486	\$118,282,964

DISTRICT NUMBER	DISTRICT	FY2012 ITA = SCDOR FEB 1	FY2012 ITA = SCDOR IMPUTED	FY 2010 ITA = SCDOR 2/1/2009	FY 2011 WPU 45DAY	FY2012 PROJECTED EFA: ITA=DOR-FEB2011; BSC=\$1788; WPU=45DAY-FY2011	FY2012 PROJECTED EFA: ITA=DOR-IMPUTED; BSC=\$1788; WPU=45DAY-FY2011	FY2012 PROJECTED EFA: ITA=SCDOR 2/1/2009; BSC=\$1788; WPU=45DAY-FY2011
2450	GREENWOOD 50	0.00969	0.00941	0.00847	10,879.78	\$14,973,828	\$15,103,258	\$15,537,775
2451	GREENWOOD 51	0.00065	0.00066	0.00063	1,220.29	\$1,881,415	\$1,876,792	\$1,890,660
2452	GREENWOOD 52	0.00349	0.00304	0.00250	1,902.57	\$1,788,537	\$1,996,550	\$2,246,166
2501	HAMPTON 1	0.00152	0.00154	0.00139	3,019.04	\$4,695,421	\$4,686,176	\$4,755,514
2502	HAMPTON 2	0.00084	0.00076	0.00060	1,271.58	\$1,885,294	\$1,922,274	\$1,996,234
2601	HORRY	0.10875	0.09347	0.11082	47,059.14	\$33,871,869	\$40,935,075	\$32,915,008
2701	JASPER	0.00702	0.00603	0.00536	3,751.76	\$3,463,140	\$3,920,769	\$4,230,478
2801	KERSHAW	0.00873	0.00971	0.00931	12,676.53	\$18,630,178	\$18,177,172	\$18,362,072
2901	LANCASTER	0.01175	0.01231	0.01115	14,264.34	\$20,073,182	\$19,814,321	\$20,350,533
3055	LAURENS 55	0.00419	0.00443	0.00392	7,041.63	\$10,653,600	\$10,542,659	\$10,778,408
3056	LAURENS 56	0.00239	0.00242	0.00202	3,743.62	\$5,588,811	\$5,574,943	\$5,759,844
3101	LEE	0.00176	0.00180	0.00157	2,744.45	\$4,093,514	\$4,075,024	\$4,181,341
3201	LEXINGTON 1	0.01586	0.01950	0.01921	27,403.20	\$41,665,609	\$39,983,013	\$40,117,066
3202	LEXINGTON 2	0.01136	0.01119	0.01061	10,831.35	\$14,115,274	\$14,193,857	\$14,461,963
3203	LEXINGTON 3	0.00184	0.00193	0.00205	2,376.97	\$3,399,479	\$3,357,877	\$3,302,406
3204	LEXINGTON 4	0.00136	0.00147	0.00143	4,099.23	\$6,700,761	\$6,649,913	\$6,668,403
3205	LEXINGTON 5	0.01548	0.01972	0.01967	20,583.16	\$29,647,034	\$27,687,086	\$27,710,199
3301	McCORMICK	0.00185	0.00196	0.00196	975.15	\$888,403	\$837,555	\$837,555
3401	MARION 1	0.00179	0.00182	0.00171	3,408.93	\$5,267,736	\$5,253,869	\$5,304,716
3402	MARION 2	0.00106	0.00117	0.00115	2,263.84	\$3,557,759	\$3,506,911	\$3,516,156
3407	MARION 7	0.00050	0.00051	0.00051	837.19	\$1,265,770	\$1,261,147	\$1,261,147
3501	MARLBORO	0.00355	0.00317	0.00292	5,351.41	\$7,927,328	\$8,102,983	\$8,218,546
3601	NEWBERRY	0.00557	0.00575	0.00615	7,046.59	\$10,024,561	\$9,941,356	\$9,756,455
3701	OCONEE	0.02600	0.02465	0.02167	13,035.77	\$11,289,412	\$11,913,452	\$13,290,962
3803	ORANGEBURG 3	0.00341	0.00316	0.00319	3,616.12	\$4,889,344	\$5,004,907	\$4,991,040
3804	ORANGEBURG 4	0.00377	0.00332	0.00289	4,718.79	\$6,694,508	\$6,902,521	\$7,101,289
3805	ORANGEBURG 5	0.00855	0.00789	0.00757	7,987.23	\$10,328,915	\$10,634,001	\$10,781,922
3901	PICKENS	0.01843	0.01994	0.01822	19,876.30	\$27,019,525	\$26,321,525	\$27,116,598
4001	RICHLAND 1	0.03935	0.03715	0.03652	29,082.48	\$33,809,869	\$34,826,823	\$35,118,042
4002	RICHLAND 2	0.01960	0.02215	0.02143	31,181.76	\$46,692,853	\$45,514,111	\$45,846,933
4101	SALUDA	0.00191	0.00203	0.00189	2,584.51	\$3,738,203	\$3,682,733	\$3,747,448
4201	SPARTANBURG 1	0.00302	0.00415	0.00403	6,009.05	\$9,348,181	\$8,825,837	\$8,881,307
4202	SPARTANBURG 2	0.00621	0.00762	0.00700	11,885.68	\$18,381,013	\$17,729,238	\$18,015,834
4203	SPARTANBURG 3	0.00309	0.00281	0.00284	3,667.43	\$5,129,007	\$5,258,438	\$5,244,570
4204	SPARTANBURG 4	0.00191	0.00204	0.00207	3,428.49	\$5,247,239	\$5,187,147	\$5,173,279
4205	SPARTANBURG 5	0.01074	0.00990	0.00906	9,139.68	\$11,377,164	\$11,765,456	\$12,153,747
4206	SPARTANBURG 6	0.01174	0.01155	0.01098	12,660.17	\$17,209,549	\$17,297,377	\$17,560,860
4207	SPARTANBURG 7	0.00922	0.00919	0.00906	8,834.35	\$11,533,857	\$11,547,725	\$11,607,817
43xx	SUMTER	0.01365	0.01422	0.01279	20,496.20	\$30,337,470	\$30,073,986	\$30,735,006
4401	UNION	0.00313	0.00332	0.00286	5,339.44	\$8,100,071	\$8,012,243	\$8,224,879
4501	WILLAMSBURG	0.00485	0.00437	0.00379	6,028.25	\$8,536,590	\$8,758,471	\$9,026,577
4601	YORK 1	0.00375	0.00413	0.00388	6,218.64	\$9,385,484	\$9,209,829	\$9,325,392
4602	YORK 2	0.01443	0.01303	0.01158	7,657.52	\$7,021,354	\$7,668,506	\$8,338,771
4603	YORK 3	0.01716	0.01863	0.01738	21,224.07	\$30,016,398	\$29,336,888	\$29,914,702
4604	YORK 4	0.01002	0.01163	0.01048	12,567.54	\$17,838,999	\$17,094,774	\$17,626,364
	STATE TOTAL	1.00000	1.00000	1.00000	861,762.48	\$1,078,578,217	\$1,078,579,607	\$1,078,579,601

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/MELTON
FEBRUARY 8, 2011

CLERK OF THE HOUSE

REP. PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 3404 (COUNCIL\BBM\10037HTC11):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE JOINT RESOLUTION, AS AND IF
AMENDED, IN SECTION 1(B), PAGE 2, BY
STRIKING ITEM (3).**

RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.

H 3404 - Index of Taxpaying Ability Joint Resolution

- Resolution to cover a two year period
 - The resolution would include revisions to the index published in February for use in 2011-12 school year.
 - The resolution would direct DOR to use the same method for creating the index in December 2011 for use in the 2012-13 school year.
- Calculation of 4% property as currently calculated for Fee-In-Lieu-Of property
 - For purposes of calculating the value of 4% owner occupied properties in the index, the value of the property will be imputed based on Tier One, Tier Two, and Tier Three reimbursements. The additional funds paid to the counties to bring Tier Three reimbursements to a \$2.5 million total shall not be included [11-11-156 (B)(1)].
 - This calculation would continue for the creation of the 2012 index.

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A JOINT RESOLUTION

11 TO REVISE THE METHOD OF CALCULATING THE INDEX
12 OF TAXPAYING ABILITY FOR PURPOSES OF THE
13 EDUCATION FINANCE ACT (EFA) FOR FISCAL YEARS
14 2011-2012 AND 2012-2013 BY IMPUTING AN INDEX VALUE
15 FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY
16 ASSESSED AT FOUR PERCENT OF VALUE AND TO
17 PROVIDE THAT FOR THOSE YEARS, THE INDEX OF
18 TAXPAYING ABILITY FOR REAL PROPERTY ASSESSED
19 AT SIX PERCENT MUST BE CALCULATED USING SALES
20 RATIO DATA.

21
22 Be it enacted by the General Assembly of the State of South
23 Carolina:

24
25 SECTION 1. (A) As used in this section:

26 (1) "EFA" means Chapter 20, Title 59 of the 1976 Code, the
27 Education Finance Act of 1977;

28 (2) "department" means the South Carolina Department of
29 Revenue;

30 (3) "fee in lieu of tax property" means property for which an
31 annual payment in lieu of property tax is required pursuant to
32 Section 4-29-67, Chapter 12, Title 4, and Chapter 44, Title 12, all
33 of the 1976 Code;

34 (4) "index of taxpaying ability" means the annual calculation
35 made by the department required pursuant to the EFA and other
36 applicable provisions of law.

37 (B)(1) Notwithstanding any other provision of law, and for the
38 purpose of calculating the index of taxpaying ability applicable for
39 fiscal year 2011-2012 only, the department shall impute an index
40 value for owner-occupied residential property qualifying for the
41 special four percent assessment ratio allowed such residential
42 property pursuant to Section 12-43-220(c) of the 1976 Code in the

1 manner provided in this subsection. The department shall add the
2 total of Tier 1, 2, and 3 reimbursements paid each school district in
3 this state for property tax year 2009 pursuant to Section
4 11-11-156(A) of the 1976 Code, not including the supplemental
5 distribution paid pursuant to Section 11-11-156(B) of the 1976
6 Code, and calculate an index value using the methodology the
7 department uses to calculate such index value for fee-in-lieu of tax
8 property.

9 (2) For the index of taxpaying ability calculated by the
10 department applicable for fiscal year 2012-2013, the department
11 shall include an index value for owner-occupied residential
12 property qualifying for the special four percent assessment ratio
13 allowed such property pursuant to Section 12-43-220(c) of the
14 1976 Code in the manner provided in item (1) of this subsection,
15 except that the reimbursements to be included in the calculation
16 are those paid to school districts for property tax year 2010.

17 (3) For fiscal years 2011-2012 and 2012-2013 for real
18 property assessed at six percent pursuant to Section 12-43-220(e)
19 of the 1976 Code, the calculation of the index of taxpaying ability
20 must be made from sales ratio data in the manner provided in
21 Section 59-20-20(3) of the 1976 Code.

22

23 SECTION 2. This joint resolution takes effect upon approval by
24 the Governor.

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**REPORT OF THE
GENERAL GOVERNMENT,
PERSONNEL & BENEFITS SUBCOMMITTEE**

(Herbkersman, White, J.H. Neal, Pitts & Umphlett - Staff Contact: Katie Owen)

HOUSE BILL 3190

H. 3190 -- Rep. Herbkersman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11 TO CHAPTER 6, TITLE 44 SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, FIRST ON A PILOT-TESTING AND THEN ON A PERMANENT BASIS, SHALL IMPLEMENT A PROGRAM THAT PROVIDES SELECTED MEDICAID RECIPIENTS WITH AN IN-HOME HEALTH CARE SYSTEM THAT PROVIDES AROUND THE CLOCK ACCESS TO MEDICAL ASSESSMENT CARE AND ADDITIONALLY PROVIDES AN EMERGENCY RESPONSE FUNCTION THAT GIVES THEM THE ABILITY TO CONTACT A NATIONAL EMERGENCY RESPONSE CENTER, ALL FOR THE PURPOSE OF PROVIDING BETTER HEALTH CARE, REDUCING THE AMOUNT OF EMERGENCY ROOM VISITS IN NONEMERGENCY CASES, AND FOR OTHER RELATED PURPOSES.

Summary of Bill:

This bill provides that for the purpose of providing better health care, reducing the amount of emergency room visits in on-emergency cases, and other related purposes, the Department of Health and Human Services, first on a pilot-testing and then on a permanent basis, shall implement a program that provides selected Medicaid recipients with an in-home health care system that provides around the clock access to medical assessment care and an emergency response function that gives them the ability to contact a national emergency response center.

Introduced: 1/11/2011

Received by Ways and Means: 1/20/2011

Estimated Fiscal Impact:

The Department of Health and Human Services indicates implementation of an In-Home Health Care System for Medicaid recipients would result in total recurring costs of \$182,021,054. Total costs to the General Funds of the State would be \$54,533,508 and \$127,487,546 in Federal Funds, considering a 29.96%/70.04% State-Federal matching rate. The Department reports the Medicaid populations of Charleston, Greenville, Horry, Richland, and Spartanburg have the highest emergency

room utilization with participation estimated to be 44,839 recipients and 39,228 households. The Department indicates current agency programs similar to the in-home health care system operate on a daily participant cost of \$10 per day with an additional \$468 per household. The Department indicates it is unable to estimate any potential cost savings to other programs as a result of diverting recipients to In-Home Health Care if this Bill is enacted.

Subcommittee Recommendation: Favorable with Amendment

Full Committee Recommendation: Pending

Other Notes/Comments: [CLICK HERE](#) to Edit Notes/Comments

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

DRAFFIN/PAIR
MARCH 3, 2011

CLERK OF THE HOUSE

General Government, Personnel and Benefits

Subcommittee PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 3190 (H-WM\LEGISLATION\GENERAL
GOVERNMENT, PERSONNEL AND BENEFITS\2011-
12\AMENDMENTS\H3190):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED,
SECTION 1, PAGE 2, BEGINNING ON LINE 12, BY
STRIKING SECTION 44-6-1120 IN ITS ENTIRETY
AND INSERTING:**

**/ SECTION 44-6-1120. THE PURPOSE OF THE
PROGRAM IS TO REDUCE THE AMOUNT OF
EMERGENCY ROOM VISITS IN NONEMERGENCY
CASES IN ORDER TO SAVE ON THE COST OF
PROVIDING THIS CARE AND IN ORDER TO**

PROVIDE BETTER HEALTH CARE. MEDICAID RECIPIENTS SELECTED BY THE DEPARTMENT TO PARTICIPATE IN THIS PROGRAM ARE REQUIRED TO PARTICIPATE AS A CONDITION OF RECEIVING THESE BENEFITS. /

AMEND FURTHER, SECTION 1, PAGE 2, BEGINNING ON LINE 20, BY STRIKING SECTION 44-6-1130 IN ITS ENTIRETY, AND INSERTING:

/ SECTION 44-6-1130. IN DEVELOPING ITS PILOT-TESTING PROGRAM, AND IN SELECTING INDIVIDUAL CLIENTS/PATIENTS TO PARTICIPATE IN THE PROGRAM, SINCE THE TWO LARGEST USERS OF EMERGENCY ROOM SERVICES ARE INFANTS AND SENIORS, THE DEPARTMENT SHALL GIVE PRIORITY IN PARTICIPATION TO SENIORS OVER SIXTY-FIVE YEARS OF AGE, PREGNANT WOMEN IN THEIR THIRD TRIMESTER, AND PARENTS WITH INFANTS UNDER SIX MONTHS OF AGE. THE GOAL OF THIS PRIORITY ORDER IS THE ELIMINATION OF UNNECESSARY EMERGENCY

ROOM VISITS, DEFENSIVE MEDICINE AND OPTIMIZING TO THE CORRECT LEVEL OF HEALTH CARE, AND PRODUCING THE FASTEST AND LARGEST HEALTH CARE SAVINGS. IN ADDITION, THE DEPARTMENT SHALL SELECT AS PRIORITY PARTICIPANTS NEW PARENTS THAT ARE ECONOMICALLY IMPOVERISHED, AND PARENTS THAT ARE POORLY EDUCATED, AND SENIORS THAT ARE ECONOMICALLY IMPOVERISHED, AND SENIORS THAT ARE LIVING ALONE. /

AMEND FURTHER, SECTION 1, PAGE 3, LINE 17, BY STRIKING SECTION 44-6-1140(C)(2), AND INSERTING:

/(2) A NURSE CALL CENTER OR EMERGENCY CALL CENTER MUST BE LOCATED IN THIS STATE; /

AMEND FURTHER, PAGE 4, SECTION 44-6-1150, AS CONTAINED IN SECTION 1, BY INSERTING AFTER LINE 19 A NEW SUBSECTION TO READ:

/(C) THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL ADMINISTER AND OVERSEE THE PROGRAM ESTABLISHED BY THIS ARTICLE AND MAY APPOINT A COMMITTEE OF EMERGENCY ROOM PHYSICIANS TO ASSIST HIM IN EVALUATING THE PROGRAM. /

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

South Carolina General Assembly
119th Session, 2011-2012

H. 3190

STATUS INFORMATION

General Bill

Sponsors: Rep. Herbkersman

Document Path: I:\council\bill\dka\3163sd11.docx

Introduced in the House on January 11, 2011

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

Summary: Department of Health and Human Services

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/14/2010	House	Prefiled
12/14/2010	House	Referred to Committee on Medical, Military, Public and Municipal Affairs
1/11/2011	House	Introduced and read first time (<u>House Journal-page 76</u>)
1/11/2011	House	Referred to Committee on Medical, Military, Public and Municipal Affairs (<u>House Journal-page 77</u>)
1/19/2011	House	Recalled from Committee on Medical, Military, Public and Municipal Affairs (<u>House Journal-page 30</u>)
1/19/2011	House	Referred to Committee on Ways and Means (<u>House Journal-page 30</u>)

View the latest [legislative information](#) at the LPITS web site

VERSIONS OF THIS BILL

12/14/2010

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A BILL

10

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING ARTICLE 11 TO CHAPTER 6, TITLE 44
13 SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH
14 AND HUMAN SERVICES, FIRST ON A PILOT-TESTING
15 AND THEN ON A PERMANENT BASIS, SHALL
16 IMPLEMENT A PROGRAM THAT PROVIDES SELECTED
17 MEDICAID RECIPIENTS WITH AN IN-HOME HEALTH
18 CARE SYSTEM THAT PROVIDES AROUND THE CLOCK
19 ACCESS TO MEDICAL ASSESSMENT CARE AND
20 ADDITIONALLY PROVIDES AN EMERGENCY RESPONSE
21 FUNCTION THAT GIVES THEM THE ABILITY TO
22 CONTACT A NATIONAL EMERGENCY RESPONSE
23 CENTER, ALL FOR THE PURPOSE OF PROVIDING BETTER
24 HEALTH CARE, REDUCING THE AMOUNT OF
25 EMERGENCY ROOM VISITS IN NONEMERGENCY CASES,
26 AND FOR OTHER RELATED PURPOSES.

27

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

30

31 SECTION 1. Chapter 6, Title 44 of the 1976 Code is amended by
32 adding:

33

“Article 11

34

35

In-Home Health Care Systems
for Medicaid Recipients

36

37

38

39 Section 44-6-1110. The Department of Health and Human
40 Services, during the fiscal year 2011-2012, within the funds
41 appropriated or made available by the General Assembly or within
42 federal Medicaid funds made available for this purpose upon

1 application by the department, shall pilot test an in-home health
2 care system in not more than the five counties of this State with the
3 highest incidence of emergency room use during fiscal year
4 2009-2010 by Medicaid recipients, including seniors and children
5 covered by Medicaid or SCHIP. This program shall provide a
6 state-of-the-art in-home health care system which provides around
7 the clock access to medical assessment care and additionally
8 provides an emergency response function that gives a Medicaid
9 recipient the ability to contact a national emergency response
10 center.

11

12 Section 44-6-1120. The purpose of the program is to reduce the
13 amount of emergency room visits in nonemergency cases and to
14 reduce the amount of visits to other medical care facilities in order
15 to save on the cost of providing this care and in order to provide
16 better health care. Medicaid recipients selected by the department
17 to participate in this program are required to participate as a
18 condition of receiving these benefits.

19

20 Section 44-6-1130. In developing its pilot-testing program,
21 and in selecting individual clients/patients to participate in the
22 program, since the two largest users of emergency room services
23 are infants and seniors, the department shall give priority in
24 participation to seniors over sixty-five years of age, pregnant
25 women in their third trimester, and parents with infants under six
26 months of age. The goal of this priority order is the elimination of
27 unnecessary emergency room visits, unnecessary physician visits,
28 'defensive medicine' and optimizing to the correct level of health
29 care, and producing the fastest and largest health care savings. In
30 addition, the department shall select as priority participants new
31 parents that are economically impoverished, and parents that are
32 poorly educated, and seniors that are economically impoverished,
33 and seniors that are living alone.

34

35 Section 44-6-1140. (A) The in-home health care system must
36 consist of three main components:

37 (1) the medical console and wireless transmitter;

38 (2) the medical triage center;

39 (3) the emergency response call center.

40 (B) The medical console and wireless transmitter must have the
41 following capabilities:

42 (1) The medical console must be capable of communication
43 between two separate call centers, one of which is a monitoring

1 facility to provide certified medical triage care twenty-four hours a
2 day and the other of which is a monitoring facility to provide
3 emergency response services twenty-four hours a day.

4 (2) The wireless transmitter for the medical console must
5 have two buttons, one for transmitting a signal to the console to
6 contact the emergency response monitoring facility, and the second
7 button also must send a wireless signal to the console to trigger
8 contact with the medical triage center.

9 (3) The medical console must be able to send a report/event
10 code to the emergency response call center after a medical triage
11 center call has been placed.

12 (4) An emergency button on the medical console must
13 include Braille for the sight impaired.

14 (C) The medical triage center must have or be:

15 (1) open twenty-four hours a day, three hundred sixty-five
16 days a year;

17 (2) a call center must be located in the United States;

18 (3) Utilization Review Accreditation Commission (URAC)
19 accredited;

20 (4) on call physician availability, twenty-four hours, seven
21 days a week for guidance or review of clinical calls as needed;

22 (5) registered nurses with a minimum of ten years
23 experience available to answer all calls;

24 (6) all calls digitally recorded and archived, and a triage
25 report prepared and sent;

26 (7) daily monitoring of communications with the call center;

27 (8) fully HIPPA compliant;

28 (9) bilingual staff in English and Spanish;

29 (10) a mechanism that ensures that a caller will never receive
30 a busy signal or voice mail when accessing the nurse advice line;

31 (11) clinical staff able to serve pediatric, adolescent, adult,
32 and senior populations, as well as health care expertise in a variety
33 of clinical areas such as emergency room, pediatrics, critical care,
34 oncology, cardiology, pulmonary, geriatrics, obstetrics/gynecology
35 and general medicine; and

36 (12) the infrastructure in place to allow the telephone network
37 to digitally communicate with the medical console for incoming
38 call connection, call disconnect, and client file access.

39 (D) The emergency response call center:

40 (1) must be open twenty-four hours a day, three hundred
41 sixty-five days a year;

42 (2) must be located in the United States;

1 (3) must maintain a digital receiver capable of processing
2 two-way voice audio using multiple formats.

3 (E) Both facilities, emergency response and the medical triage
4 center, shall offer all selected recipients unlimited use of services
5 provided by the emergency monitoring and medical triage facilities
6 at no additional cost burden to the State.

7
8 Section 44-6-1150. (A) The pilot-testing program provided in
9 this article must be conducted for a period of three fiscal years
10 beginning with 2011-2012 and, thereafter, must be converted by
11 the department into a statewide program within the funds made
12 available for this purpose. The department in developing and
13 administering this program is authorized to take such actions as
14 may be required, including making requests for Medicaid waivers
15 when necessary.

16 (B) The department, in implementing this program on a
17 pilot-testing and statewide basis, also is authorized to contract with
18 a third-party provider or vendor to furnish and operate the
19 program.”

20
21 SECTION 2. This act takes effect upon approval by the Governor.

22 ----XX----

23

**REPORT OF THE
GENERAL GOVERNMENT,
PERSONNEL & BENEFITS SUBCOMMITTEE**

(Herbkersman, White, J.H. Neal, Pitts & Umphlett - Staff Contact: Katie Owen)

HOUSE BILL 3456

H. 3456-- Reps. White, G.M. Smith, Pitts and Battle: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-11-240 SO AS TO CREATE THE OTHER FUNDS OVERSIGHT COMMITTEE TO REVIEW AND EXAMINE THE SOURCE OF OTHER FUNDS IN THIS STATE AND TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY, TO PROVIDE FOR ITS MEMBERSHIP, TO PROVIDE THAT ALL AGENCIES MUST COOPERATE WITH THE COMMITTEE, AND TO REQUIRE THE STATE BUDGET OFFICE TO NOTIFY THE COMMITTEE OF ANY REQUEST FOR AN INCREASE IN INTERIM BUDGET AUTHORIZATION.

Summary of Bill:

This bill creates the Other Funds Oversight Committee to review and examine the source of other funds in this state and to make recommendations to the General Assembly. The legislation establishes the membership of the committee, provides that all agencies must cooperate with the committee, and requires the State Budget Office to notify the committee of any request for an increase in interim budget authorization.

Introduced: 1/26/2011

Received by Ways and Means: 1/26/2011

Estimated Fiscal Impact:

The Legislature indicates there will be an additional cost for the proposed Bill. The committee will consist of 8 legislators. The cost per legislator per one-day meeting is \$245 per person. The total cost per one-day meeting will be \$1,960.

Subcommittee Recommendation: Favorable

Full Committee Recommendation: Pending

Other Notes/Comments: [CLICK HERE](#) to Edit Notes/Comments

FISCAL IMPACT STATEMENT ON BILL NO. **H.3456**

(Doc. No. 11168dg11.docx)

TO: The Honorable Daniel T. "Dan" Cooper, Chairperson, House Ways and Means Committee
FROM: Office of State Budget, Budget and Control Board
ANALYSTS: Beth Quick
DATE: March 7, 2011 SBD: 2011203

AUTHOR: Representative White PRIMARY CODE CITE: 11-11-240
SUBJECT: Other Funds Oversight Committee

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
\$0 (No additional expenditures or savings are expected)

BILL SUMMARY:

House Bill 3456 would create the Other Funds Oversight Committee to review and examine the source of other funds in this State and to make recommendations to the General Assembly.

EXPLANATION OF IMPACT:

The Senate and the House of Representatives

The Legislature indicates there will be an additional cost for the proposed Bill. The committee will consist of 8 legislators. The cost per legislator per one-day meeting is \$245 per person. The total cost per one-day meeting will be \$1,960.

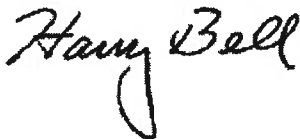
LOCAL GOVERNMENT IMPACT:

None.

SPECIAL NOTES:

None.

Approved by:



Harry Bell
Assistant Director, Office of State Budget

South Carolina General Assembly
119th Session, 2011-2012

H. 3456

STATUS INFORMATION

General Bill

Sponsors: Reps. White, G.M. Smith, Pitts and Battle

Document Path: l:\council\bills\nbd\11168dg11.docx

Companion/Similar bill(s): 419

Introduced in the House on January 26, 2011

Currently residing in the House Committee on Ways and Means

Summary: Other Funds Oversight Committee

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/26/2011	House	Introduced and read first time (<u>House Journal-page 13</u>)
1/26/2011	House	Referred to Committee on Ways and Means (<u>House Journal-page 13</u>)

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VERSIONS OF THIS BILL

1/26/2011

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A BILL

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11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 11-11-240 SO AS TO CREATE
13 THE OTHER FUNDS OVERSIGHT COMMITTEE TO REVIEW
14 AND EXAMINE THE SOURCE OF OTHER FUNDS IN THIS
15 STATE AND TO MAKE RECOMMENDATIONS TO THE
16 GENERAL ASSEMBLY, TO PROVIDE FOR ITS
17 MEMBERSHIP, TO PROVIDE THAT ALL AGENCIES MUST
18 COOPERATE WITH THE COMMITTEE, AND TO REQUIRE
19 THE STATE BUDGET OFFICE TO NOTIFY THE
20 COMMITTEE OF ANY REQUEST FOR AN INCREASE IN
21 INTERIM BUDGET AUTHORIZATION.

22

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

25

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

28

29 "Section 11-11-240. (A) There is created the Other Funds
30 Oversight Committee, a joint committee of the Senate and the
31 House of Representatives. The committee shall consist of eight
32 members as follows: the Chairman of the Senate Finance
33 Committee, or his designee; one member of the Senate Finance
34 Committee appointed by the Chairman of the Senate Finance
35 Committee; the Chairman of the House of Representatives Ways
36 and Means Committee, or his designee; one member of the House
37 Ways and Means Committee appointed by the Chairman of the
38 House Ways and Means Committee; the Senate Majority Leader,
39 or his designee; the Senate Minority Leader, or his designee; the
40 House Majority Leader, or his designee; and the House Minority
41 Leader, or his designee.

1 (B) The committee shall review and examine the source of
2 other funds in this State and recommend to the General Assembly
3 the appropriate policy for the receipt, appropriation, expenditure,
4 and reporting of other funds. In making its determination, the
5 committee shall solicit and receive testimony from state agencies,
6 departments, boards or commissions regarding the status of the
7 receipt of other funds, the conditions of receipt, the expenditure of
8 other funds, and any relevant statistic or measurement. The
9 committee shall make recommendations to the General Assembly
10 regarding any necessary action.

11 (C) Each state agency, department, board, or commission shall
12 cooperate with the committee and provide any information the
13 committee determines is necessary.

14 (D) The Office of State Budget must notify the committee of
15 any request for an increase in interim budget authorization
16 resulting from other funds collections that is made by any state
17 agency, department, board, or commission. The committee shall
18 review each request and recommend appropriate action.

19 (E) Members of the committee shall serve without
20 compensation, but are allowed the usual per diem and mileage as
21 provided by law for members of boards, commissions, and
22 committees while on official business.

23 (F) For purposes of the section, 'other funds' means any
24 revenues received by an agency which are not federal funds and
25 are not general funds appropriated by the General Assembly in an
26 appropriations act."

27
28 SECTION 2. This act takes effect upon approval by the Governor.

29 -----XX-----
30

**REPORT OF THE
GENERAL GOVERNMENT,
PERSONNEL & BENEFITS SUBCOMMITTEE**

(Herbkersman, White, J.H. Neal, Pitts & Umphlett - Staff Contact: Katie Owen)

HOUSE BILL 3709

H. 3709 -- Rep. Cooper: A BILL TO AMEND SECTION 1-30-80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM, SO AS TO TRANSFER THE SOUTH CAROLINA MUSEUM COMMISSION, THE SOUTH CAROLINA STATE MUSEUM AND THE SOUTH CAROLINA ARTS COMMISSION AND THEIR POWERS AND DUTIES TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM; TO AMEND ARTICLE 1, CHAPTER 13, TITLE 60, RELATING TO THE SOUTH CAROLINA MUSEUM COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION IS UNDER THE ADMINISTRATION AND SUPERVISION OF THE DEPARTMENT OF PARKS, RECREATION AND TOURISM AND THAT THE SOUTH CAROLINA STATE MUSEUM IS A STATE PARK IN THE STATE PARK SYSTEM; TO AMEND CHAPTER 15, TITLE 60, RELATING TO THE SOUTH CAROLINA ARTS COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION IS UNDER THE ADMINISTRATION AND SUPERVISION OF THE DEPARTMENT OF PARKS, RECREATION AND TOURISM; AND TO PROVIDE TRANSITION PROVISIONS.

Summary of Bill:

This bill transfers the powers, obligations, and duties of the State Museum and the Arts Commission to the Department of Parks, Recreation, and Tourism. The bill provides for the transfer of all funds, employees, property, and contractual rights associated with these agencies.

Introduced: 02/17/2011

Received by Ways and Means: 02/17/2011

Estimated Fiscal Impact:

PENDING

Subcommittee Recommendation:

Favorable with Amendment

Full Committee Recommendation:

Pending

Other Notes/Comments:

[CLICK HERE](#) to Edit Notes/Comments

FISCAL IMPACT STATEMENT ON BILL NO. **H.3709**

(Doc. No. 11307ac11.docx)

TO: The Honorable Daniel T. "Dan" Cooper, Chairperson, House Ways and Means Committee
FROM: Office of State Budget, Budget and Control Board
ANALYSTS: Nicole Ford-Jennings and R.J. Stein
DATE: March 25, 2011 SBD: 2011184

AUTHOR: Representative Cooper PRIMARY CODE CITE: 1-30-80
SUBJECT: Transfer of Arts Commission and State Museum Commission to the Department of Parks,
Recreation and Tourism

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
See Below

BILL SUMMARY:

This Bill transfers the State Museum Commission and the Arts Commission to the Department of Parks, Recreation and Tourism.

EXPLANATION OF IMPACT:

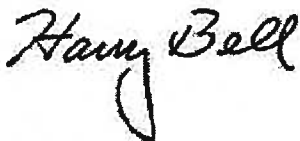
Consolidating the Department of Parks, Recreation & Tourism, the Arts Commission, and the State Museum into one agency should eventually result in greater efficiencies as a result of economies of scale primarily within the area of agency administration. The combined FY 2010-11 State General Fund appropriations for these two agencies is \$23.3 million. If the consolidated agencies could eliminate overlapping management positions within the areas of Human Resources, Information Technology, Procurement, Public Information and Finance, the potential annual savings could be estimated at \$450,000 in total funds. However, the agencies would need to evaluate their total workforce needs upon consolidation before reducing staff through either attrition or a Reduction in Force. The potential impact on State General Funds would depend on which specific positions might be eliminated.

Both the Arts Commission and State Museum Commission indicate there would be costs associated with changes to printed items, promotional supplies and advertising materials. However, these costs should be minimal. The Department of Parks, Recreation & Tourism further indicates that the physical locations and staffing levels upon consolidation as well as the specific conditions governing building lease or ownership agreements would have an impact on the costs or savings associated with implementation.

SPECIAL NOTES:

None.

Approved by:



Harry Bell
Assistant Director, Office of State Budget

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CUSHMAN/DOWNEY
MARCH 2, 2011

CLERK OF THE HOUSE

General Government, Personnel and Benefits

Subcommittee PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 3709 (COUNCIL\NBD\11415AC11):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, SECTION
60-13-50 ON PAGE 3, LINE 42 AFTER /DIRECTOR/
BY INSERTING /OF THE DEPARTMENT/**

**AMEND THE BILL, FURTHER, BY DELETING
SECTION 60-15-40 ON PAGE 5 AND INSERTING:**

**/SECTION 60-15-40. THE EXECUTIVE
DIRECTOR SHALL RECEIVE SUCH COMPENSATION
AS MAY BE ~~PROVIDED IN THE ANNUAL GENERAL
APPROPRIATIONS ACT DETERMINED BY THE~~**

~~**DIRECTOR OF THE DEPARTMENT AND SHALL BE REIMBURSED FOR ALL EXPENSES ACTUALLY INCURRED BY HIM IN THE PERFORMANCE OF HIS DUTIES, WITHIN THE AMOUNT APPROPRIATED THEREFOR. THE OTHER MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL RECEIVE SUCH PER DIEM, MILEAGE AND SUBSISTENCE AS PROVIDED BY LAW FOR MEMBERS OF BOARDS, COMMISSIONS AND COMMITTEES. /**~~

AMEND THE BILL, FURTHER, SECTION 60-15-50 ON PAGE 5, LINE 15 BY DELETING /EXECUTIVE DIRECTOR/ AND INSERTING /DIRECTOR OF THE DEPARTMENT/

AMEND THE BILL, FURTHER, BY DELETING SECTION 60-15-70 BEGINNING ON PAGE 5, LINE 40 THROUGH PAGE 6, LINE 19 AND INSERTING:

**/SECTION 60-15-70. THE COMMISSION IS
~~HEREBY AUTHORIZED TO,~~ UNDER THE OVERALL
SUPERVISION OF THE DEPARTMENT MAY:**

(1) HOLD PUBLIC OR PRIVATE HEARINGS;

**(2) TO WITH THE AUTHORIZATION OF THE
DEPARTMENT, ENTER INTO CONTRACTS, WITHIN
THE AMOUNT ~~MADE AVAILABLE BY~~
~~APPROPRIATION THEREFOR~~ ALLOCATED FOR
THESE PURPOSES, WITH INDIVIDUALS,
ORGANIZATIONS AND INSTITUTIONS FOR
SERVICES FURTHERING THE EDUCATIONAL
OBJECTIVES OF THE COMMISSION'S PROGRAMS;**

**(3) TO WITH THE AUTHORIZATION OF THE
DEPARTMENT, ENTER INTO CONTRACTS, WITHIN
THE AMOUNT ~~MADE AVAILABLE BY~~
~~APPROPRIATION THEREFOR~~ ALLOCATED FOR
THESE PURPOSES, WITH LOCAL AND REGIONAL
ASSOCIATIONS FOR COOPERATIVE ENDEAVORS
FURTHERING THE EDUCATIONAL OBJECTIVES OF
THE COMMISSION'S PROGRAMS;**

**(4) TO ACCEPT GIFTS, CONTRIBUTIONS, AND BEQUESTS OF AN
UNRESTRICTED NATURE FROM INDIVIDUALS, FOUNDATIONS,
CORPORATIONS, AND OTHER ORGANIZATIONS OR INSTITUTIONS FOR**

THE PURPOSE OF FURTHERING THE EDUCATIONAL OBJECTIVES OF THE COMMISSION'S PROGRAMS;

(5) ~~TO~~ WITH THE AUTHORIZATION OF THE DEPARTMENT, PURCHASE AND OWN PROPERTY, BOTH REAL AND PERSONAL;

(6) ~~TO~~ WITH THE AUTHORIZATION OF THE DEPARTMENT, MAKE AND SIGN ANY AGREEMENTS AND TO DO AND PERFORM ANY ACTS THAT MAY BE NECESSARY, DESIRABLE, OR PROPER TO CARRY OUT THE PURPOSES OF THIS CHAPTER.

THE COMMISSION MAY REQUEST AND SHALL RECEIVE FROM ANY DEPARTMENT OR AGENCY OF THE STATE SUCH ASSISTANCE AND DATA AS WILL ENABLE ~~IF~~ THE COMMISSION TO CARRY OUT ITS POWER AND DUTIES. /

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.

South Carolina General Assembly
119th Session, 2011-2012

H. 3709

STATUS INFORMATION

General Bill

Sponsors: Rep. Cooper

Document Path: I:\council\bill\mbd\11307ac11.docx

Introduced in the House on February 17, 2011

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

Summary: Museum Commission, State Museum, Arts Commission

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/17/2011	House	Introduced and read first time (<u>House Journal-page 5</u>)
2/17/2011	House	Referred to Committee on Ways and Means (<u>House Journal-page 5</u>)

View the latest legislative information at the LPITS web site

VERSIONS OF THIS BILL

2/17/2011

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A BILL

10

11 TO AMEND SECTION 1-30-80, AS AMENDED, CODE OF
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE
13 DEPARTMENT OF PARKS, RECREATION AND TOURISM,
14 SO AS TO TRANSFER THE SOUTH CAROLINA MUSEUM
15 COMMISSION, THE SOUTH CAROLINA STATE MUSEUM
16 AND THE SOUTH CAROLINA ARTS COMMISSION AND
17 THEIR POWERS AND DUTIES TO THE DEPARTMENT OF
18 PARKS, RECREATION AND TOURISM; TO AMEND
19 ARTICLE 1, CHAPTER 13, TITLE 60, RELATING TO THE
20 SOUTH CAROLINA MUSEUM COMMISSION, SO AS TO
21 PROVIDE THAT THE COMMISSION IS UNDER THE
22 ADMINISTRATION AND SUPERVISION OF THE
23 DEPARTMENT OF PARKS, RECREATION AND TOURISM
24 AND THAT THE SOUTH CAROLINA STATE MUSEUM IS A
25 STATE PARK IN THE STATE PARK SYSTEM; TO AMEND
26 CHAPTER 15, TITLE 60, RELATING TO THE SOUTH
27 CAROLINA ARTS COMMISSION, SO AS TO PROVIDE
28 THAT THE COMMISSION IS UNDER THE
29 ADMINISTRATION AND SUPERVISION OF THE
30 DEPARTMENT OF PARKS, RECREATION AND TOURISM;
31 AND TO PROVIDE TRANSITION PROVISIONS.

32

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

35

36 SECTION 1. Section 1-30-80 of the 1976 Code, as last amended
37 by Act 359 of 2008, is further amended by adding appropriately
38 lettered subsections at the end to read:

39

40 “()Effective on July 1, 2011 the South Carolina Museum
41 Commission and the South Carolina State Museum provided for in
42 Article 1, Chapter 13, Title 60, including all allied, advisory,

1 affiliated, or related entities as well as the employees, funds,
2 property, and all contractual rights and obligations associated with
3 the commission, the museum, and these entities, are transferred to
4 the Department of Parks, Recreation and Tourism and all powers,
5 duties, obligations, and responsibilities of the South Carolina
6 Museum Commission and the State Museum are devolved upon
7 the Department of Parks, Recreation and Tourism.

8
9 () Effective on July 1, 2011 the South Carolina Arts
10 Commission, provided for in Chapter 15, Title 60, including all
11 allied, advisory, affiliated, or related entities as well as the
12 employees, funds, property, and all contractual rights and
13 obligations associated with the commission and these entities, are
14 transferred to the Department of Parks, Recreation and Tourism
15 and all powers, duties, obligations, and responsibilities of the
16 South Carolina Arts Commission are devolved upon the
17 Department of Parks, Recreation and Tourism.”

18
19 SECTION 2. Article 1, Chapter 13, Title 60 of the 1976 Code is
20 amended to read:

21
22 “Article 1
23
24 South Carolina Museum Commission

25
26 Section 60-13-10. There is ~~hereby~~ created in, and under the
27 administration and supervision of the Department of Parks,
28 Recreation and Tourism, the South Carolina Museum Commission
29 composed of nine members appointed by the Governor for terms
30 of four years and until successors are appointed and qualify. One
31 member ~~shall~~ must be appointed from each congressional district
32 of the State and three members ~~shall~~ must be appointed at large.
33 One of the at-large members ~~shall~~ must be appointed chairman of
34 the commission by the Governor. Vacancies for any reason ~~shall~~
35 must be filled in the manner of original appointment for the
36 unexpired portion of the term.

37 ~~Notwithstanding the provisions above prescribing four-year~~
38 ~~terms for members of the Commission, the members appointed~~
39 ~~from even-numbered congressional districts and one at-large~~
40 ~~member other than the chairman shall be initially appointed for~~
41 ~~terms of two years only.~~

42

1 Section 60-13-20. The commission shall meet at least quarterly
2 and at ~~such~~ other times as the chairman ~~shall designate~~ designates.
3 Members shall elect a ~~vice chairman~~ vice chairman and ~~such~~ other
4 officers as they ~~may deem~~ consider necessary. ~~They shall~~
5 Members must be paid ~~such~~ per diem, mileage, and subsistence as
6 provided by law for state boards, committees, and commissions.

7
8 Section 60-13-30. The primary function of the Commission
9 ~~shall be, under the overall administration of the department, is~~ the
10 creation and operation of a State Museum reflecting the history,
11 fine arts, and natural history and the scientific and industrial
12 resources of the State, mobilizing expert professional advice and
13 guidance, and utilizing all available resources in the performance
14 of this function.

15
16 Section 60-13-40. To carry out its assigned functions, the
17 commission ~~is authorized to, under the overall administration of~~
18 the department, may:

19 (1) establish a plan for, create, and operate a State Museum
20 within the Department of Parks, Recreation and Tourism as a park
21 in the state park system;

22 (2) ~~elect~~ employ an executive officer for the commission, to be
23 known as the director;

24 (3) make rules and regulations for its own government and the
25 administration of its the museum;

26 (4) ~~appoint, on the recommendation of the Director, all other~~
27 ~~members of the staff;~~

28 (5) ~~adopt a seal for use in official Commission business;~~

29 (6) control the expenditure in accordance with law of ~~such~~
30 public funds as may be appropriated to the department for use by
31 the commission;

32 (7)(5) accept gifts, bequests, and endowments for purposes
33 consistent with the objectives of the commission;

34 (8)(6) make annual reports to the General Assembly of the
35 receipts, disbursements, work, and needs of the commission; and

36 (9)(7) adopt policies designed to fulfill the duties and attain the
37 objectives of the commission as established by law.

38
39 Section 60-13-50. The director of the commission ~~shall~~ must be
40 the Director of the State Museum, ~~when such facility comes into~~
41 ~~existence~~ and his qualifications shall reflect an ability to serve in
42 that capacity. The director must employ all other employees of the
43 commission and the museum. Compensation for the director ~~shall~~

1 ~~must~~ be determined by the ~~General Assembly~~ Director of the
2 Department of Parks, Recreation and Tourism.”

3
4 SECTION 3. Chapter 15, Title 60 of the 1976 Code is amended to
5 read:

6
7 “CHAPTER 15

8
9 South Carolina Arts Commission

10
11 Section 60-15-10. It is hereby declared to be the policy of the
12 State to join with private patrons and with institutions and
13 professional organizations concerned with the arts to insure that
14 the role of the arts in the life of our communities will continue to
15 grow and play an ever more significant part in the welfare and
16 educational experience of our citizens. It is further declared that
17 all activities undertaken by the State in carrying out this policy
18 shall be directed toward encouraging and assisting rather than
19 limiting the freedom of artistic expression that is essential for the
20 well-being of the arts.

21
22 Section 60-15-20. There is ~~hereby~~ created in and under the
23 administration of the Department of Parks, Recreation and
24 Tourism, the South Carolina Arts Commission, to consist of nine
25 members, representative of all fields of the creative and
26 interpretive arts, to be appointed by the Governor with the advice
27 and consent of the Senate from among private citizens who are
28 widely known for their professional competence and experience in
29 connection with the interpretive and creative arts. In making ~~such~~
30 these appointments consideration ~~shall~~ must be given to the
31 recommendations made by representative, civic, educational, and
32 professional associations and groups, concerned with or engaged in
33 the production or presentation of the fine arts generally.

34
35 Section 60-15-30. The terms of office of members ~~shall be~~ are
36 for three years, and until their successors have been appointed and
37 qualify. No member of the commission ~~shall be~~ is eligible for
38 appointment for more than two consecutive full terms. All
39 vacancies must be filled for the unexpired portion of the term in
40 the manner of original appointment. The commission, with the
41 approval of the director of the department, shall designate an
42 executive director to serve at the pleasure of the commission and
43 who ~~shall be~~ is the chief executive officer of the commission. ~~All~~

1 ~~vacancies shall be filled for the unexpired in the manner of original~~
2 ~~appointment.~~

3
4 Section 60-15-40. The executive director shall receive such
5 compensation as may be ~~provided in the annual general~~
6 ~~appropriations act determined by the director of the department,~~
7 and ~~shall~~ the executive director must be reimbursed for all
8 expenses actually incurred by him in the performance of his duties,
9 ~~within the amount appropriated therefor.~~ The other members of
10 the commission shall receive no compensation for their services,
11 but shall receive such per diem, mileage and subsistence as
12 provided by law for members of boards, commissions and
13 committees.

14
15 Section 60-15-50. The ~~Commission~~ executive director may
16 employ, and at ~~its~~ his pleasure remove, such ~~officers~~ employees,
17 experts, or other ~~employees~~ agents as may be needed and shall fix
18 their compensation within the amount ~~appropriated therefor~~
19 allocated for these salaries.

20
21 Section 60-15-60. The duties of the commission ~~shall, under~~
22 the overall administration of the department, include, but are not
23 ~~be~~ limited to the following:

24 (1) to stimulate and encourage throughout the State the study
25 and presentation of the performing and fine arts and public interest
26 and participation ~~therein in these arts;~~

27 (2) to make ~~such~~ studies as may be ~~deemed~~ advisable of public
28 and private institutions engaged within the State in artistic and
29 cultural activities, including but not limited to music, theater,
30 dance, painting, sculpture, architecture, and allied arts and crafts,
31 and to make recommendations concerning appropriate methods to
32 encourage participation in and appreciation of the arts to meet the
33 legitimate needs and aspirations of persons in all parts of the State;

34 (3) to take ~~such~~ steps as may be necessary and appropriate to
35 encourage public interest in the cultural heritage of the State of
36 South Carolina and to expand the State's cultural resources; and

37 (4) to do such other things as may be necessary to carry out the
38 provisions of this chapter.

39
40 Section 60-15-70. The commission ~~is hereby authorized to,~~
41 under the overall supervision of the department may:

42 (1) hold public or private hearings;

1 (2) to enter into contracts, within the amount ~~made available by~~
2 ~~appropriation therefor~~ allocated for these purposes, with
3 individuals, organizations and institutions for services furthering
4 the educational objectives of the commission's programs;

5 (3) to enter into contracts, within the amount ~~made available by~~
6 ~~appropriation therefor~~ allocated for these purposes, with local and
7 regional associations for cooperative endeavors furthering the
8 educational objectives of the commission's programs;

9 (4) to accept gifts, contributions, and bequests of an
10 unrestricted nature from individuals, foundations, corporations,
11 and other organizations or institutions for the purpose of furthering
12 the educational objectives of the commission's programs;

13 (5) to purchase and own property, both real and personal;

14 (6) to make and sign any agreements and to do and perform
15 any acts that may be necessary, desirable, or proper to carry out the
16 purposes of this chapter.

17 The commission may request and shall receive from any
18 department or agency of the State such assistance and data as will
19 enable it the commission to carry out its power and duties.

20

21 Section 60-15-80. The commission shall ~~make an annual~~ report
22 annually to the Governor and the ~~legislature~~ General Assembly and
23 shall make ~~such~~ other reports as ~~it deems~~ the commission
24 considers necessary.

25

26 Section 60-15-90. The commission ~~shall be~~ is the official
27 agency of the State to receive and disburse any funds made
28 available by the Federal Government for programs related to the
29 creative and interpretive arts."

30

31 SECTION 4. (A) Where the provisions of this act abolish the
32 South Carolina Museum Commission and the South Carolina Arts
33 Commission as a separate agency in the executive branch of state
34 government and transfer it to, and under the administration and
35 supervision of the Department of Parks, Recreation and Tourism,
36 the employees, authorized appropriations, and assets and liabilities
37 of the South Carolina Museum Commission, the South Carolina
38 State Museum, and the South Carolina Arts Commission are also
39 transferred to and become part of the Department of Parks,
40 Recreation and Tourism. All classified or unclassified personnel
41 employed by the South Carolina Museum Commission, the South
42 Carolina State Museum, and the South Carolina Arts Commission
43 on the effective date of this act, either by contract or by

1 employment at will, become employees of the Department of
2 Parks, Recreation and Tourism with the same compensation,
3 classification, and grade level, as applicable. The State Budget and
4 Control Board shall cause all necessary actions to be taken to
5 accomplish this transfer in accordance with state laws and
6 regulations.

7 (B) Regulations promulgated by the South Carolina Museum
8 Commission and the South Carolina Arts Commission are
9 continued and are considered to be promulgated by the Department
10 of Parks, Recreation and Tourism.

11 (C) The Code Commissioner is directed to change or correct all
12 references to the South Carolina Museum Commission, the South
13 Carolina State Museum, and the South Carolina Arts Commission
14 to reflect their status under the Department of Parks, Recreation
15 and Tourism. References to the name of the South Carolina
16 Museum Commission, the South Carolina State Museum, and the
17 South Carolina Arts Commission in the 1976 Code or other
18 provisions of law are considered to be and must be construed to
19 mean appropriate references.

20
21 SECTION 5. The repeal or amendment by this act of any law,
22 whether temporary or permanent or civil or criminal, does not
23 affect pending actions, rights, duties, or liabilities founded thereon,
24 or alter, discharge, release or extinguish any penalty, forfeiture, or
25 liability incurred under the repealed or amended law, unless the
26 repealed or amended provision shall so expressly provide. After
27 the effective date of this act, all laws repealed or amended by this
28 act must be taken and treated as remaining in full force and effect
29 for the purpose of sustaining any pending or vested right, civil
30 action, special proceeding, criminal prosecution, or appeal existing
31 as of the effective date of this act, and for the enforcement of
32 rights, duties, penalties, forfeitures, and liabilities as they stood
33 under the repealed or amended laws.

34
35 SECTION 6. If any section, subsection, paragraph, subparagraph,
36 sentence, clause, phrase, or word of this act is for any reason held
37 to be unconstitutional or invalid, such holding shall not affect the
38 constitutionality or validity of the remaining portions of this act,
39 the General Assembly hereby declaring that it would have passed
40 this act, and each and every section, subsection, paragraph,
41 subparagraph, sentence, clause, phrase, and word thereof,
42 irrespective of the fact that any one or more other sections,
43 subsections, paragraphs, subparagraphs, sentences, clauses,

1 phrases, or words hereof may be declared to be unconstitutional,
2 invalid, or otherwise ineffective.

3

4 SECTION 7. This act takes effect July 1, 2011.

5 -----XX-----

6

**REPORT OF THE
GENERAL GOVERNMENT,
PERSONNEL & BENEFITS SUBCOMMITTEE**
(Herbkersman, White, J.H. Neal, Pitts & Umphlett - Staff Contact: Katie Owen)

HOUSE BILL 3779

H. 3779 -- Reps. Brady, Loftis, Bingham and Harrell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 44 TO TITLE 11 SO AS TO ENACT THE "BILL WYLIE ENTREPRENEURSHIP ACT OF 2011" BY PROVIDING FOR STATE NONREFUNDABLE INCOME TAX CREDITS ALLOCATED BY THE DEPARTMENT OF COMMERCE FOR QUALIFIED INVESTMENTS IN BUSINESSES MEETING CERTAIN CRITERIA AND PRIMARILY ENGAGED IN MANUFACTURING, PROCESSING, WAREHOUSING, WHOLESALING, SOFTWARE DEVELOPMENT, INFORMATION TECHNOLOGY SERVICES, RESEARCH AND DEVELOPMENT OR OTHER NONPROHIBITED SERVICES, TO ESTABLISH THE CRITERIA AND PROCEDURES FOR THE CREDIT, AND TO MAKE THE CREDIT TRANSFERABLE.

Summary of Bill:

This bill enacts the "south Carolina Bill Wylie Entrepreneurship Act of 2011" to encourage greater availability of early stage capital for emerging high-growth enterprises in South Carolina by providing for state nonrefundable income tax credits allocated by the Department of Commerce for qualified investments in businesses primarily engaged in such endeavors as manufacturing, processing, warehousing, wholesaling, software development, information technology services, and research and development.

Introduced: 3/2/2011

Received by Ways and Means: 3/2/2011

Estimated Fiscal Impact:

This bill is expected to reduce General Fund individual income tax revenue by an estimated \$5 million in FY 11-12 and each fiscal year thereafter.

Subcommittee Recommendation:

Favorable

Full Committee Recommendation:

Pending

Other Notes/Comments:

[CLICK HERE](#) to Edit Notes/Comments

Statement of Estimated State Revenue Impact

Date: March 6, 2011
Bill Number: H.B. 3779
Authors: Brady, Loftis, Bingham, and Harrell

Committee Requesting Impact: House Ways & Means Committee

Bill Summary

A bill to amend the Code of Laws of South Carolina, 1976, by adding Chapter 44 to Title 11 so as to enact the "Bill Wylie Entrepreneurship Act of 2011" by providing for state nonrefundable income tax credits allocated by the Department of Commerce for qualified investments in businesses meeting certain criteria and primarily engaged in manufacturing, processing, warehousing, wholesaling, software development, information technology services, research and development or other nonprohibited services, to establish the criteria and procedures for the credit, and to make the credit transferable.

REVENUE IMPACT ^{1'}

This bill is expected to reduce General Fund individual income tax revenue by an estimated \$5,000,000 in FY2011-12 and each fiscal year thereafter.

Explanation

This bill would add Chapter 44 to Title 11 to create the "South Carolina Angel Investment Act of 2011". Similar tax credit incentive programs have been implemented in 23 states, including North Carolina and Georgia. This bill would allow an angel investor to claim a nonrefundable state income tax credit of thirty-five percent of its qualified investment in a business start-up company. Total tax credits may not exceed \$5,000,000 for all taxpayers in any one taxable year, and total tax credits may not exceed \$100,000 for an individual taxpayer in a single taxable year. A taxpayer may apply fifty percent of the allowed tax credit to the investor net tax liability during the tax year the qualified investment is made, and the remaining fifty percent of the tax credit may be applied to any net taxable liability in future tax years. Any unused tax credits may be carried forward for ten years and tax credits may not be used against prior years' tax liability. Tax credits are transferrable by the heirs and legatees of the qualified investor upon death and/or to his spouse. The tax credit may be transferred only once and may be transferred to any taxpayer, but may be carried forward for ten years from the original date of issue.

An angel investor is an accredited investor who is a resident of this state or a nonresident who is obligated to pay taxes in this state, or is a pass-through entity which is formed for investment purposes, has no business operations, and does not have committed capital exceeding \$5,000,000. A pass-through entity means a partnership, an S-corporation, or a limited liability company taxed as a partnership. The individual investor or the pass-through business may invest in a qualified business that meets the following criteria – is either a corporation, limited liability company, or a general or limited partnership located in this state; was organized no more than five years before the qualified investment was made; is headquartered in this state; employs 25 or fewer people; has had gross annual revenue of \$2,000,000 or less in any complete fiscal year before registration with the Department of Commerce; and is primarily engaged in specific types of businesses such as manufacturing, processing, warehousing, wholesaling, software development, information technology services, and research and development.

Angel investors are different from venture capitalists. Angel investors generally invest their own money in business start-ups and very early stage companies, while venture capitalists mostly provide capital they have raised from others to later-stage businesses for growth. A venture capital fund or commodity


Statement of Estimated State Revenue Impact

fund with institutional investors or a hedge fund does not qualify as a "qualified investor". An angel investor is an individual who invests directly into promising entrepreneurial businesses in return for stock in the companies or a share of the profits. To be an accredited investor pursuant to the Securities Act of 1933 requires a net worth of \$1,000,000 or an annual income over \$200,000. Under the Securities Act of 1933, a company that offers or sells its securities must register the securities with the Securities and Exchange Commission or find an exemption from the registration requirements. The most widely used exemptions are rules 505 and 506 of Regulation D which allows a company to sell its securities to "accredited investors". An angel group is individual angel investors that join together with other angel investors to evaluate and invest in entrepreneurial ventures. They pool their capital to make larger investments. According to the Angel Capital Association, there are 165 member angel investor groups in the United States. There are two angel investor groups in South Carolina. They are the Charleston Angel Partners (CHAP) and the Upstate Carolina Angel Network (UCAN) in Greenville.

A qualified angel investor seeking to claim a tax credit must submit an application to the Department of Commerce to seek tentative approval of the tax credit. The Department would notify each qualified angel investor of the tax credits that are approved and allocated to the investor by January 31st for the year after the application was submitted. If the total amount of tax credits applied for exceeds the maximum amount of tax credits allowed, the tax credits must be allocated among the qualified investors on a pro rata basis.

According to the Angel Capital Association, a professional alliance of angel groups in North America, there were 7,000 accredited angel investors that financed business start-ups investing an average of nearly \$220,000 per project in 2009. After adjusting these figures to comparable state figures, we estimate that 105 investors in South Carolina would qualify as angel investors. Multiplying 105 accredited angel investors by an annual tax credit limitation of \$100,000 per individual investor for all projects yields an estimated \$10,500,000 that may be applied for by investors with the Department of Commerce in a tax year. Because fifty percent of the allowed tax credit may be used in the tax year the qualified investment is first made, an estimated total of \$5,250,000 of tax credits could be claimed in the first tax year of the program. We also expect that the maximum limitation of \$5,000,000 set aside for accredited angel investors would be met in future tax years. This bill is expected to reduce General Fund individual income tax revenue by an estimated \$5,000,000 in FY2011-12 and to reduce General Fund individual income tax revenue by an estimated \$5,000,000 in FY2012-13, and each fiscal year thereafter.

Lastly, each year, the Department of Commerce would report to the House Ways & Means Committee and Senate Finance Committee all of the businesses that have registered with the Department of Commerce as qualified businesses. This act takes effect upon approval by the Governor, and the tax credits are first available for tax years after December 31, 2010.



William C. Gillespie, Ph.D.
Chief Economist

Analyst: Martin

¹ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact of Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

South Carolina General Assembly
119th Session, 2011-2012

H. 3779

STATUS INFORMATION

General Bill

Sponsors: Reps. Brady, Loftis, Bingham and Harrell

Document Path: l:\council\ills\dka\3520sd11.docx

Introduced in the House on March 2, 2011

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

Summary: Not yet available

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/2/2011	House	Introduced and read first time (<u>House Journal-page 10</u>)
3/2/2011	House	Referred to Committee on Ways and Means (<u>House Journal-page 10</u>)

View the latest legislative information at the LPTS web site

VERSIONS OF THIS BILL

3/2/2011

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9

A BILL

10

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING CHAPTER 44 TO TITLE 11 SO AS TO
13 ENACT THE "BILL WYLIE ENTREPRENEURSHIP ACT OF
14 2011" BY PROVIDING FOR STATE NONREFUNDABLE
15 INCOME TAX CREDITS ALLOCATED BY THE
16 DEPARTMENT OF COMMERCE FOR QUALIFIED
17 INVESTMENTS IN BUSINESSES MEETING CERTAIN
18 CRITERIA AND PRIMARILY ENGAGED IN
19 MANUFACTURING, PROCESSING, WAREHOUSING,
20 WHOLESALING, SOFTWARE DEVELOPMENT,
21 INFORMATION TECHNOLOGY SERVICES, RESEARCH
22 AND DEVELOPMENT OR OTHER NONPROHIBITED
23 SERVICES, TO ESTABLISH THE CRITERIA AND
24 PROCEDURES FOR THE CREDIT, AND TO MAKE THE
25 CREDIT TRANSFERABLE.

26

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

29

30 SECTION 1. Title 11 of the 1976 Code is amended by adding:

31

"CHAPTER 44

32

33

Bill Wylie Entrepreneurship Act

34

35

36

37

Section 11-44-10. This chapter may be cited as the 'Bill Wylie
Entrepreneurship Act of 2011'.

38

39

40

41

Section 11-44-20. The General Assembly desires to support the
economic development goals of this State by improving the
availability of early stage capital for emerging high-growth

1 enterprises in South Carolina. To further these goals, this chapter
2 is intended to:

3 (1) encourage individual investors to invest in early stage,
4 high-growth, job-creating businesses;

5 (2) enlarge the number of high quality, high paying jobs within
6 the State;

7 (3) expand the economy of this State by enlarging its base of
8 wealth-creating businesses; and

9 (4) support businesses seeking to commercialize technology
10 invented in this State's institutions of higher education.

11

12 Section 11-44-30. For purposes of this chapter:

13 (1) 'Angel investor' means an accredited investor as defined by
14 the United States Securities and Exchange Commission, who is:

15 (a) an individual person who is a resident of this State or a
16 nonresident who is obligated to pay taxes imposed by this chapter;
17 or

18 (b) a pass-through entity which is formed for investment
19 purposes, has no business operations, does not have committed
20 capital under management exceeding five million dollars, and is
21 not capitalized with funds raised or pooled through private
22 placement memoranda directed to institutional investors. A
23 venture capital fund or commodity fund with institutional investors
24 or a hedge fund does not qualify as a qualified investor.

25 (2) 'Department' means the Department of Commerce.

26 (3) 'Headquarters' means the principal central administrative
27 office of a business located in this State which conducts significant
28 operations of a business.

29 (4) 'Net income tax liability' means South Carolina state
30 income tax liability reduced by all other credits allowed under
31 Chapter 6, Title 12.

32 (5) 'Pass-through entity' means a partnership, an
33 S-corporation, or a limited liability company taxed as a
34 partnership.

35 (6) 'Qualified business' means a registered business that:

36 (a) is either a corporation, limited liability company, or a
37 general or limited partnership located in this State;

38 (b) was organized no more than five years before the
39 qualified investment was made;

40 (c) has its headquarters located in this State at the time the
41 investment was made and has maintained these headquarters for
42 the entire time the qualified business benefitted from the tax credit
43 provided for pursuant to this section;

1 (d) employs twenty-five or fewer people in this State at the
2 time it is registered as a qualified business;

3 (e) has had in any complete fiscal year before registration
4 gross annual revenue as determined in accordance with the Internal
5 Revenue Code of two million dollars or less on a consolidated
6 basis;

7 (f) is primarily engaged in manufacturing, processing,
8 warehousing, wholesaling, software development, information
9 technology services, research and development, or a business
10 providing services other than those described in subitem (g); and

11 (g) does not engage substantially in:

12 (i) retail sales;

13 (ii) real estate or construction;

14 (iii) professional services;

15 (iv) gambling;

16 (v) natural resource extraction;

17 (vi) financial brokerage, investment activities, or
18 insurance;

19 (vii) entertainment, amusement, recreation, or athletic or
20 fitness activity for which an admission or membership is charge.

21 A business is substantially engaged in one of the activities
22 defined in subitem (f) if its gross revenue from an activity exceeds
23 twenty-five percent of its gross revenues in a fiscal year or it is
24 established pursuant to its articles of incorporation, articles of
25 organization, operating agreement, or similar organizational
26 documents to engage as one of its primary purposes such activity.

27 (7) 'Qualified investment' means an investment by a qualified
28 angel investor of cash in a qualified business for common or
29 preferred stock or an equity interest or a purchase for cash of
30 subordinated debt in a qualified business. Investment of common
31 or preferred stock or an equity interest or purchase of subordinated
32 debt does not qualify as a qualified investment if a broker fee or
33 commission or a similar remuneration is paid or given directly or
34 indirectly for soliciting an investment or a purchase.

35 (8) 'Registered' or 'registration' means that a business has
36 been certified by the department as a qualified business at the time
37 of application to the department.

38

39 Section 11-44-40. (A) An angel investor is entitled to a
40 nonrefundable state income tax credit of thirty-five percent of its
41 qualified investment made pursuant to this chapter.

42 (B) Fifty percent of the allowed credit may be applied to the
43 investor's net income tax liability in the tax year during which the

1 qualified investment is made, and fifty percent of the allowed
2 credit may be applied to the investor's net income tax liability in
3 the tax years after the qualified investment is made and may be
4 carried forward for a period not to exceed ten years for these
5 purposes as provided in Section 11-44-50.

6 (C) For any pass-through entity making a qualified investment
7 directly in a qualified business, each individual who is a
8 shareholder, partner, or member of the entity must be allocated the
9 credit allowed the pass-through entity in an amount determined in
10 the same manner as the proportionate shares of income or loss of
11 such pass-through entity would be determined. If an individuals'
12 share of the pass-through entity's credit is limited due to the
13 maximum allowable credit under this chapter for a taxable year,
14 the pass-through entity and its owners may not reallocate the
15 unused credit among the other owners.

16

17 Section 11-44-50. Tax credits claimed pursuant to this chapter
18 are subject to the following conditions and limitations:

19 (1) the total amount of credits allowed pursuant to this chapter
20 may not exceed in the aggregate five million dollars for all
21 taxpayers for any one taxable year;

22 (2) the aggregate amount of credit allowed an individual for
23 one or more qualified investments in a single taxable year under
24 this chapter, whether made directly or by a pass-through entity and
25 allocated to an individual, shall not exceed one hundred thousand
26 dollars;

27 (3) the amount of the tax credit allowed an individual under
28 this chapter for a taxable year shall not exceed an individual's net
29 income tax liability. An unused credit amount is allowed to be
30 carried forward for ten years from the close of the taxable year in
31 which the qualified investment was made. Credit is not allowed
32 against prior years' tax liability;

33 (4) the credit is transferrable by the qualified investor to his
34 heirs and legatees upon his or her death and to his or her spouse or
35 incident to divorce;

36 (5) the credit may be sold, exchanged, or otherwise transferred,
37 and may be carried forward for a period of ten taxable years
38 following the taxable year in which the credit originated until fully
39 expended. A tax credit or increment of a tax credit may be
40 transferred only once. The credit may be transferred to any
41 taxpayer. A taxpayer to whom a credit has been transferred may
42 use the credit for the taxable year in which the transfer occurred
43 and unused amounts may be carried forward to succeeding taxable

1 years, but the transferred credit may not be used more than ten
2 years after it was originally issued; and

3 (6) to be eligible for the credit provided in this chapter, the
4 angel investor shall file an application for the credit with the
5 department by December thirty-first of the year in which the
6 qualified investment was made.

7

8 Section 11-44-60. (A) A qualified business shall register with
9 the department for purposes of this chapter. Approval of this
10 registration constitutes certification by the department for twelve
11 months after being issued. A business is permitted to renew its
12 registration with the department so long as, at the time of renewal,
13 the business remains a qualified business.

14 (B) If the department finds that any information contained in an
15 application of a business for registration under this chapter is false,
16 the department shall revoke the registration of the business. The
17 department shall not revoke the registration of a business only
18 because it ceases business operations for an indefinite period of
19 time, as long as the business renews its registration.

20 (C) A registration as a qualified business may not be sold or
21 otherwise transferred, except that, if a qualified business enters
22 into a merger, conversion, consolidation, or other similar
23 transaction with another business and the surviving company
24 would otherwise meet the criteria for being a qualified business,
25 the surviving company retains the registration for the
26 twelve-month registration period without further application to the
27 department. In this case, the qualified business shall provide the
28 department with written notice of the merger, conversion,
29 consolidation, or similar transaction and other information as
30 required by the department.

31 (D) The department shall report to the House Ways and Means
32 Committee and the Senate Finance Committee each year all of the
33 businesses that have registered with the department as a qualified
34 business. The report must include the name and address of each
35 business, the location of its headquarters, a description of the type
36 of business in which it engages, the amount of capital it has raised,
37 the number of jobs created by the business during the period
38 covered by the report, and the average wages paid by these jobs.

39

40 Section 11-44-70. (A) A qualified investor seeking to claim a
41 tax credit provided for under this chapter shall submit an
42 application to the department for tentative approval for the tax
43 credit in the year for which the tax credit is claimed or allowed.

1 The department, by regulation, shall provide for the manner in
2 which the application is to be submitted. The department shall
3 review the application and tentatively shall approve the application
4 upon determining that it meets the requirements of this chapter.

5 (B) The department shall provide tentative approval of the
6 applications by the date provided in subsection (C).

7 (C) The department shall notify each qualified investor of the
8 tax credits tentatively approved and allocated to the qualified
9 investor by January thirty-first of the year after the application was
10 submitted. If the credit amounts on the tax credit applications filed
11 with the department exceed the maximum aggregate limit of tax
12 credits, then the tax credit must be allocated among the qualified
13 investors who filed a timely application on a pro rata basis based
14 upon the amounts otherwise allowed by this chapter. Once the tax
15 credit application has been approved and the amount has been
16 communicated to the applicant the angel investor then may apply
17 the amount of the approved tax credit to its tax liability for the tax
18 year of which the approved application applies.

19

20 Section 11-44-80. Tax credits generated as a result of these
21 investments are not considered securities under the laws of this
22 State.”

23

24 SECTION 2. This act takes effect upon approval by the Governor,
25 and the tax credits permitted by this chapter are first available for
26 tax years beginning after December 31, 2010.

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