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COMMITTEE AMENDMENT ADOPTED

June 18, 2015

**H. 4230**

Introduced by Rep. White

S. Printed 6/18/15--S. [SEC 6/19/15 12:07 PM]

Read the first time June 17, 2015.

**A** **BILL**

TO AMEND H. 3701 OF 2015, THE ANNUAL GENERAL APPROPRIATIONS BILL FOR FISCAL YEAR 2015‑2016, SO AS TO MAKE SUPPLEMENTAL APPROPRIATIONS BY PROVIDING TARGETED INCREASES IN GENERAL FUND APPROPRIATIONS AND TO MAKE NECESSARY CONFORMING PROVISO AMENDMENTS AND PROVIDE FOR OTHER RELATED MATTERS.

Amend Title To Conform

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

SECTION 1. (A) The source of revenue appropriated in subsection (B) is:

(1) additional recurring general fund revenue for Fiscal Year 2015-16 totaling $150,000,000 as certified by the Board of Economic Advisors on May 29, 2015; and

(2) reductions in appropriations as contained in SECTION 5 of this act.

(B)(1) P32‑Department Of Commerce

Non‑Recurring Appropriations

Economic Development

Infrastructure $ 70,000,000

(2) F30‑Statewide Employee Benefits

Non‑Recurring Appropriations

Bonus Pay $ 23,500,000

From the funds appropriated to Statewide Employee Benefits for Bonus Pay, effective on the first pay date that occurs on or after October 16, 2015, the Department of Administration shall allocate to state agencies $23,500,000 to provide for a one‑time lump sum bonus. Each permanent state employee, in a full‑time equivalent position, who has been in continuous state service for at least six months prior to July 1, 2015, and who earns less than $100,000 shall receive a $800 one‑time lump sum payment. This payment is not a part of the state employee’s base salary and is not earnable compensation for purposes of employer or employee contributions to respective retirement systems. This appropriation may be used for payments to employees only in the same ratio as the employee’s base salary is paid from appropriated sources and the employing agency shall pay the bonus for federal and other funded full‑time equivalent positions employees from federal or other funds available to the agency in the proportion that such funds are the source of the employee’s salary. The earnings limitation in Proviso 117.55 of H. 3701, R\_\_, Act \_\_ of 2015 does not apply to this bonus.

(3) U12‑Department of Transportation

Non‑Recurring Appropriations

County Transportation Committee

Road Program $ 70,499,995

The Department of Transportation shall distribute the $70,499,995 appropriated in this item pursuant to Section 12‑28‑2740 of the 1976 Code. County Transportation Committees shall only utilize the funds distributed pursuant to this proviso for paving, rehabilitation, resurfacing and/or reconstruction.

(4) General Obligation Bond (G.O.)

Bonds Subject To Debt Service Limitation:

Economic Development Bonds $ 16,425,000

(5) L04‑Department Of Social Services

Programs And Services Child Support Enforcement

Other Operating Expenses $ 1

(6) E23‑Commission On Indigent Defense

Office Of Circuit Public Defenders

Special Item:

Defense Of Indigents Per Capita $ 1

(7) J02‑Department Of Health And Human Services

Medical Assistance Payment Case Services

CLTC‑Community Long‑Term Care $ 1

(8) J02‑Department Of Health And Human Services

Medical Assistance Payment Case Services

Coordinated Care $ 1

(9) J02‑Department Of Health And Human Services

Medical Assistance Payment Case Services

Behavioral Health Services $ 1

SECTION 2. (A) The source of the revenue appropriated in subsection (B) is additional Education Improvement Act revenue for Fiscal Year 2015-16 totaling $21,500,000 as certified by the Board of Economic Advisors on May 29, 2015.

(B)(1) H63‑Department Of Education

Education Improvement Act

Modernize Vocational Equipment $ 6,538,722

Reading Coaches $ 4,961,278

EEDA $ 2,400,000

(2) H63‑Department Of Education

Education Improvement Act

Non‑Recurring Appropriations

Transition Payments $ 7,600,000

SECTION 3. (A) The source of revenue appropriated in subsection (B) is additional unobligated Fiscal Year 2014-15 General Fund surplus revenues totaling the $150,196,281 as certified by the Board of Economic Advisors on May 29, 2015.

(B)(1) E04 ‑ Lieutenant Governor’s Office

Predatory Lending Education $ 250,000

Of the funds appropriated in this item for Predatory Lending Education, the Office on Aging shall develop a pilot program to assist seniors in improving their knowledge about finances and education about predatory lending practices.  The pilot shall include an assessment of the financial health of seniors in the pilot area which must be used to identify strategies to address the major concerns found through the assessment. The strategies should include, but are not limited to, the means of building awareness of senior financial resources. The Office on Aging shall provide the results of the pilot, as well as a recommended strategy for any expansion other areas of the State, to the Chairmen of the Senate Finance Committee and the House Ways and Means Committee no later than March 15, 2016.

(2) E24 - Office of Adjutant General

Emergency Management Division

2014 Winter Storm Local

Matching Funds $ 4,117,162

From the funds appropriated in this item for 2014 Winter Storm Local Matching Funds, local governments shall receive allocations to offset storm cleanup expenses resulting from the winter storms during states of emergency declared by Executive Orders 2014-06 and 2014-11. Expenses eligible for reimbursement are those incurred by county and municipal governments and deemed eligible for reimbursement by the Federal Emergency Management Agency (FEMA), but were not reimbursed due to local match requirements. The amount reimbursed to each eligible local government shall be 25% of their Total Non-Federal Aid Share. The intent of the General Assembly is for the local government to pay at least 75% of the Total Non-Federal Aid Share.

(3) U12‑Department of Transportation

County Transportation Committee

Road Program $ 145,829,119

The Department of Transportation shall distribute the $145,829,119 appropriated in this item pursuant to Section 12‑28‑2740 of the 1976 Code. County Transportation Committees shall only utilize the funds distributed pursuant to this proviso for paving, rehabilitation, resurfacing and/or reconstruction.

SECTION 4. (A) The source of the revenue appropriated in subsection (B) is additional net education lottery proceeds for Fiscal Year 2015-16 totaling $12,000,000 as certified by the Board of Economic Advisors on May 29, 2015.

(B)(1) H03-Commission on Higher Education

Need Based Grants $ 2,600,000

(2) H03-Commission on Higher Education

Out‑of‑State Veteran

Tuition Reimbursement-Colleges $ 4,000,000

(3) H03-Commission on Higher Education

Maintenance

Critical Care and Replacement

1 to 1 Match $ 3,000,000

(4) H63-Department of Education

New Bus Purchases $ 2,400,000

(C)(1) Of the funds appropriated above for item (B)(2) to the Commission on Higher Education for Out‑of‑State Veteran Tuition Reimbursement ‑ Colleges, the Office of State Treasurer is directed to establish a fund, separate and distinct from the general fund and all other funds, entitled the College and University Out‑of‑State Veteran Tuition Differential Reimbursement Fund. Any funds appropriated in this act for this purpose must be deposited into the fund and interest accrued by the fund must remain in the fund.

(2) The purpose of the fund is to reimburse public institutions of higher learning, as defined in Section 59‑103‑5 of the 1976 Code, for revenue loss resulting from the provisions of Section 59‑112‑50(C). By March 1, 2016, a public institution of higher learning seeking a reimbursement from this fund must submit an application to the Commission on Higher Education to receive a reimbursement from the fund. The total reimbursement to a public institution may not exceed the difference between the amount the institution would have charged but for Section 59‑112‑50(C), and the amount the institution actually charged. The Commission on Higher Education may require any proof it determines necessary to verify the veracity of the application.

(3) By June 15, 2016, the Commission on Higher Education must distribute the funds to those institutions that have applied pursuant to subsection (C)(2). In the event that the total requested and verified reimbursements exceed the amount in the fund, the distribution to each public institution shall be reduced pro rata based on the institution’s amount of verified reimbursements compared to the total amount of verified reimbursements of all institutions.

(D)(1) Of the funds appropriated for item (B)(3) above for the Commission on Higher Education‑‑Maintenance‑Critical Care and Replacement‑1 to 1 Match, each public four‑year university, two‑year branch campus and state technical college shall use the amount appropriated only for critical repair and related maintenance and/or other critical equipment and systems repair and maintenance that are necessary for the safe and efficient operation of an institution’s physical plant in its support of the institution’s educational purpose.

(2) Funds must not be used for new construction and may only be utilized by an institution to the extent the funds are matched by the institution for necessary repair and maintenance projects generally.

(3) Matching funds exclude supplemental, capital reserve, lottery, or non‑recurring state funds appropriated to an institution either in the current fiscal year or from a prior fiscal year for repair and maintenance or deferred maintenance projects.

(4) Prior to the distribution of these funds, institutions must certify to the Commission on Higher Education, in a manner it prescribes, the extent to which they have met this requirement, including the sources of funds utilized to meet this requirement.

(5) Upon certification, the funds shall be distributed to institutions based on the distribution methodology described below provided that the distribution does not exceed an institution’s pro rata share or the amount matched by the institution if less than that share. The distribution methodology to be used by the commission shall be based on each institution’s or agency’s proportion of general fund appropriation in Part IA of Act 286 of 2014 as compared to the total general fund appropriation in that act for all public four‑year universities, two‑year branch campuses and state technical colleges. Distribution of the share allocated to the state technical colleges is to be made by a formula to be developed by the State Board for Technical and Comprehensive Education in consultation with the colleges Chief Business Officers for approval by the State Board’s Presidents Council.

(D)Not later than 120 days after the close of the fiscal year, the Commission on Higher Education shall report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee regarding the utilization of this provision. Funds not expended in the prior fiscal year may be carried forward into the current fiscal year and utilized for the same purpose, subject to the matching requirement.

SECTION 5. The Fiscal Year 2015-16 appropriation to Aid to Subdivisions Department of Revenue for Distribution to Subdivisions: Aid to Counties-Homestead Exemption Fund (X44) is reduced by $20,425,000.

The first 10,000,000 carried forward from Fiscal Year 2014-15 annual appropriations to Aid to Subdivisions Department of Revenue for Distribution to Subdivisions: Aid to Counties-Homestead Exemption Fund (X44) shall be credited to the Department of Transportation for distribution pursuant to Section 12‑28‑2740 of the 1976 Code. County Transportation Committees shall only utilize the funds distributed pursuant to this proviso for paving, rehabilitation, resurfacing and/or reconstruction.

SECTION 6. Excess debt service funds from Fiscal Year 2014‑15 must be carried forward and expended in Fiscal Year 2015‑16 to pay down general obligation bond debt for which the State (1) is paying the highest rate of interest, (2) will achieve relief in constrained debt capacity, or (3) reduce the amount of debt issued.

The provisions contained in this SECTION specifically supercede Proviso 112.1. (DS: Excess Debt Service Funds Carry Forward) as contained in H. 3701, R \_\_\_, Act \_\_\_ of 2015.

SECTION 7. The State Treasurer shall transfer $50,000,000 from general fund non-tax sources to the South Carolina Transportation Infrastructure Bank to be utilized solely to leverage bonds to finance bridge replacement, resurfacing, and rehabilitation projects, and expansion and improvements to existing mainline interstates. The Department of Transportation shall develop and submit a list of bridge and road projects to the bank for its consideration. Transferred funds may not be used for projects approved by the bank prior to July 1, 2015. The bank shall submit all projects proposed to be financed through this provision to the Joint Bond Review Committee for approval prior to financing any proposed project.

SECTION 8. Notwithstanding any provision in this act to the contrary, Horry County may use up to $750,000 of its allocations pursuant to SECTION 1(B)(3), SECTION 3(B)(3), and SECTION 5 for the Horry-Georgetown Evacuation Route.

SECTION 9. (A) As used in this proviso:

(1) “Eligible school” means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59‑65‑10 may be met, that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state’s diploma requirements and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;

(e) has school facilities that are subject to applicable federal, state, and local laws; and

(f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools, or the South Carolina Independent Schools Association.

(2) “Exceptional needs child” means a child:

(a)(i) who has been evaluated in accordance with this state’s evaluation criteria, as set forth in S.C. Code Ann. Regs. 43‑243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the Individuals with Disabilities Education Act; or

(ii) who has been diagnosed within the last three years by a licensed speech‑language pathologist, psychiatrist, or medical, mental health, psychoeducational, or other comparable licensed health care provider as having a neurodevelopmental disorder, a substantial sensory or physical impairment such as deaf, blind, or orthopedic disability, or some other disability or acute or chronic condition that significantly impedes the student’s ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child’s unique needs; and

(b) the child’s parents or legal guardian believes that the services provided by the school district of legal residence do not sufficiently meet the needs of the child.

(3) “Independent school” means a school, other than a public school, at which the compulsory attendance requirements of Section 59‑65‑10 may be met and that does not discriminate based on the grounds of race, color, religion, or national origin.

(4) “Nonprofit scholarship funding organization” means a charitable organization that:

(a) is exempt from federal tax pursuant to Section 501(a) of the Internal Revenue Code by being listed as an exempt organization in Section 501(c)(3) of the code;

(b) allocates, after its first year of operation, at least ninety‑seven percent of its annual contributions and gross revenue received during a particular year to provide grants for tuition to children enrolled in an eligible school meeting the criteria of this proviso, and incurs administrative expenses annually, after its first year of operation, of not more than three percent nor more than $200,000 in the aggregate, whichever is less, of its annual contributions and revenue for a particular year to cover operational costs;

(c) allocates all of its funds used for grants on an annual basis to children who are exceptional needs students;

(d) does not provide grants solely for the benefit of one school, and if the Department determines that the nonprofit scholarship funding organization is providing grants to one particular school, the tax credit allowed by this proviso may be disallowed;

(e) does not have as a volunteer, contractor, consultant, fundraiser or member of its governing board any parent, legal guardian, or member of their immediate family who has a child or ward who is currently receiving or has received a scholarship grant authorized by this proviso from the organization within one year of the date the parent, legal guardian, or member of their immediate family became a board member;

(f) does not have as a member of its governing board or an employee, volunteer, contractor, consultant, or fundraiser who has been convicted of a felony;

(g) does not release personally identifiable information pertaining to students or donors or use information collected about donors, students or schools for financial gain; and

(h) must not place conditions on schools enrolling students receiving scholarships to limit the ability of the schools to enroll students accepting grants from other nonprofit scholarship funding organizations.

(5) “Parent” means the natural or adoptive parent or legal guardian of a child.

(6) “Person” means an individual, partnership, corporation, or other similar entity.

(7) “Qualifying student” means a student who is an exceptional needs child, a South Carolina resident, and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the applicable school year.

(8) “Resident public school district” means the public school district in which a student resides.

(9) “Transportation” means transportation to and from school only.

(10) “Tuition” means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not limited to, fees for attending the school, textbook fees, and school‑related transportation.

(11) “Department” means the Department of Revenue.

(B)(1) A person is entitled to a tax credit against income taxes imposed pursuant to Chapter 6, Title 12, or bank taxes imposed pursuant to Chapter 11, Title 12 for the amount of cash and the monetary value of any publicly traded securities the person contributes to a nonprofit scholarship funding organization up to the limits of this proviso if:

(a) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this proviso; and

(b) the person does not designate a specific child or school as the beneficiary of the contribution.

(2) An individual is entitled to a refundable tax credit against income taxes imposed pursuant to Chapter 6, Title 12, or bank taxes imposed pursuant to Chapter 11, Title 12 for the amount of cash and the monetary value of any publicly traded securities, not exceeding ten thousand dollars per child, the individual contributes as tuition for exceptional needs children within their custody or care and enrolled in eligible schools who qualify for these grants under the provisions of this proviso. However, if a child within the care and custody of an individual receives a tuition scholarship from a nonprofit scholarship funding organization, then the individual may only claim a credit equal to the difference of ten thousand dollars or the cost of tuition, whichever is lower, and the amount of the scholarship.

(C) Grants may be awarded by a scholarship funding organization in an amount not exceeding ten thousand dollars or the total cost of tuition, whichever is less, for qualifying students with exceptional needs to attend an independent school. Before awarding any grant, a scholarship funding organization must receive written documentation from the parent documenting that the qualifying student is an exceptional needs child. Upon approving the application, the scholarship funding organization must issue a check to the eligible school in the name of the qualifying student. In the event that the qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school must return a prorated amount of the grant to the scholarship funding organization based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student’s departure.

(D)(1)(a) The tax credits authorized by subsection (B) may not exceed cumulatively a total of ten million dollars for contributions made on behalf of exceptional needs students. The cumulative maximum total for credits authorized by subsections (B)(1) and (B)(2) may not exceed five million dollars each. If the department determines that the total of such credits claimed by all taxpayers exceeds either limit amount, it shall allow credits only up to those amounts on a first come, first served basis.

(b) The department shall establish an application process to determine the amount of credit available to be claimed. The receipt of the application by the department shall determine priority for the credit. Subject to the provisions of item (5), contributions must be made on or before June 30, 2016, in order to claim the credit. The credit must be claimed on the return for the tax year that the contribution is made.

(2) A taxpayer may not claim more than sixty percent of their total tax liability for the year in contribution toward the tax credit authorized by subsection (B)(1). This credit is not refundable.

(3) If a taxpayer deducts the amount of the contribution on the taxpayer’s federal return and claims the credit allowed by this proviso, then the taxpayer must add back the amount of the deduction for purposes of South Carolina income taxes.

(4) The department shall prescribe the form and manner of proof required to obtain the credit authorized by subsection (B). Also, the department shall develop a method of informing taxpayers if the credit limit is met at any time during Fiscal Year 2015‑16.

(5) A person only may claim a credit pursuant to subsection (B) for contributions made between July 1, 2015, and June 30, 2016.

(E) A corporation or entity entitled to a credit under subsection (B) may not convey, assign, or transfer the credit authorized by this proviso to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(F) Except as otherwise provided, neither the Department of Education, the Department of Revenue, nor any other state agency may regulate the educational program of an independent school that accepts students receiving scholarship grants pursuant to this proviso.

(G)(1) By August 1, 2015, each independent school must apply to the Education Oversight Committee to be considered an eligible institution for which it may receive contributions from a nonprofit scholarship funding organization for which the tax credit allowed by this proviso is allowed. The Education Oversight Committee, as established in Chapter 6, Title 59, is responsible for determining if an eligible school meets the criteria established by subsection (A)(1), and shall publish an approved list of such schools meeting the criteria. If an independent school does not apply to be an eligible school, the independent school may not be published as an approved school, and contributions to that school shall not be allowed for purposes of the credit allowed by this proviso. The Education Oversight Committee must publish the approved list of schools on its website by September first of each year, and the list must include their names, addresses, telephone numbers, and, if available, website addresses. Also, the score reports and audits received by the Education Oversight Committee pursuant to items (2)(b) and (c) must be published with the list. The Education Oversight Committee shall summarize or redact the score reports if necessary to prevent the disclosure of personally identifiable information. For this purpose, it also shall promulgate regulations further enumerating the specifics of this criteria. In performing this function, the Education Oversight Committee shall establish an advisory committee made up of not more than nine members, including parents, and representatives of independent schools and independent school associations. The advisory committee shall provide recommendations to the Education Oversight Committee on the content of these regulations and any other matters requested by the Education Oversight Committee.

(2) An independent school’s application for consideration as an eligible institution must contain:

(a) the number and total amount of grants received from each nonprofit scholarship funding organization in the preceding fiscal year;

(b) Student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by the school receiving or entitled to receive scholarship grants pursuant to this proviso in the previous fiscal year;

(c) a copy of a compilation, review, or compliance audit of the organization’s financial statements, conducted by a certified public accounting firm; and

(d) a certification by the independent school that it meets the definition of an eligible school as that term is defined in subsection (A)(1) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16‑9‑10.

(3) Any independent school not determined to be an eligible school pursuant to the provisions of this proviso may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court’s rules of procedure.

(4) The Education Oversight Committee, after consultation with its nine‑member advisory committee, may exempt an independent school having students with exceptional needs who receive scholarship grants pursuant to this proviso from the curriculum requirements of subsection (A)(1)(d).

(H)(1) By August first of each year, each nonprofit scholarship funding organization must apply to the department to be considered an eligible organization for which its contributors are allowed the tax credit allowed by this proviso. If a nonprofit scholarship funding organization does not apply, the organization may not be published as an approved organization, and contributions to that organization shall not be allowed for purposes of the credit allowed by this proviso. A nonprofit scholarship funding organization’s application must contain:

(a) the number and total amount of grants issued to eligible schools in the preceding fiscal year;

(b) for each grant issued to an eligible school in the preceding fiscal year, the identity of the school and the amount of the grant;

(c) an itemization and detailed explanation of any fees or other revenues obtained from or on behalf of any eligible schools;

(d) a copy of the organization’s Form 990 or other comparable federal submission that indicates the provisions of the Internal Revenue Code under which the organization has been granted exempt status for purposes of federal taxation;

(e) a copy of a compilation, review, or audit of the organization’s financial statements, conducted by a certified public accounting firm;

(f) the criteria and eligibility requirements for scholarship awards; and

(g) a certification by the organization that it meets the definition of a nonprofit scholarship funding organization as that term is defined in subsection (A)(4) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16‑9‑10.

(2) By receiving the application materials and approving the organization as an eligible organization pursuant to item (1), the department is not determining that the organization meets all of the requirements of a qualified nonprofit scholarship funding organization and the organization remains subject to examination as provided for pursuant to subsection (I).

(3) The department has authority to disclose the names of qualifying nonprofit scholarship funding organizations to the Education Oversight Committee. The department also may disclose to the Education Oversight Committee the names of organizations that applied but were not qualified by the department and those organizations whose eligibility has been revoked in accordance with subsection (I)(2), as well as the reason the application of the organization was not accepted or the reason its qualification was revoked.

(4) By September first of each year, the Education Oversight Committee must publish on its website a list of all qualifying nonprofit scholarship funding organizations, provided by the department, to include their names, addresses, telephone numbers, and, if available, website addresses. Also, the results of the audit required by item (1)(e) must be published with the list.

(I)(1) The department has authority to oversee, audit, and examine the nonprofit scholarship funding organizations, including determining whether the nonprofit scholarship funding organization is being operated in a manner consistent with the requirements for an IRC Section 501(c)(3) organization or is in compliance with any other provision of this proviso.

(2)(a) If at any time during the year, the department has evidence, through audit or otherwise, that a nonprofit scholarship funding organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with any other provision of this proviso, the department may immediately revoke the organization’s participation in the program and must notify the organization and the Education Oversight Committee in writing of the revocation.

(b) Notice of Revocation may be provided to the organization by personal delivery to the organization, by first class mail to the last known address of the organization, or by other means reasonably designed to provide notice to the organization.

(c) Any donations made following the date the notice of revocation is received by the organization or in the case of delivery by mail ten days after the notice of revocation was mailed, will not qualify for the credit and the donated funds must be returned to the donor by the organization. This proviso shall not limit the department’s authority to deny any tax credit or other benefit provided by this proviso if the circumstances warrant.

(d)(i) Within thirty days after the day on which the organization is notified of the revocation, the organization may request a contested hearing before the Administrative Law Court. Within thirty days after a request for a contested case hearing is received by the Administrative Law Court, an administrative law judge shall hold the contested case hearing and determine whether the revocation was reasonable under the circumstances. The department has the burden of proof of showing that the revocation was reasonable under the circumstances. The revocation is “reasonable” if the department has some credible evidence to believe that the organization is not being operated in a manner consistent with the requirements for operating an IRC Section 501(c)(3) organization or is not in compliance with any other provision of this proviso. The decision made by the administrative law judge is final and conclusive and may not be reviewed by any court. If the organization does not request a contested case hearing within thirty days of the immediate revocation, the revocation shall become permanent.

(ii) If the administrative law judge determines that the revocation was reasonable, the administrative law judge shall remand the case to the department to issue a department determination for permanent revocation within the time period determined by the judge. The organization may appeal this department determination in accordance with Section 12‑60‑460. At the contested case hearing on the department determination, the parties can raise new issues and arguments in addition to those issues and arguments previously presented at the revocation hearing.

(iii) If the administrative law judge determines that immediate revocation is not reasonable, the revocation shall be lifted and the organization may resume accepting donations and award scholarships hereunder. The department may still issue a department determination in accordance with Section 12‑60‑450(E)(2).

(iv) If at any time during the process, the department believes the organization is in compliance, the department, in its sole discretion, may reinstate the organization and notify the Education Oversight Committee.

(v) Following the permanent revocation of a nonprofit scholarship funding organization, the Education Oversight Committee has the authority to oversee the transfer of donated funds of the revoked organization to other nonprofit scholarship funding organizations.

(J) A nonprofit scholarship funding organization may transfer funds to another nonprofit scholarship funding organization, especially in the event that the organization cannot distribute the funds in a timely manner or if the organization ceases to exist. None of the funds that are transferred by one nonprofit scholarship funding organization to another may be considered by the former organization when calculating its administrative expenses.

SECTION 10. The supplemental appropriations, reductions, and provisions contained in this act shall be combined with the provisions of H. 3701 of 2015, the general appropriations bill for Fiscal Year 2015‑16, and be incorporated into Part IA and Part IB of the detail base budget for the succeeding fiscal year.

SECTION 11. All acts or parts of acts inconsistent with any of the provisions of Sections 1 through 9 of this act are suspended for Fiscal Year 2015‑16.

SECTION 12. If any part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other parts, sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 13. Except as otherwise specifically provided, this act takes effect July 1, 2015.

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