



Testimony of L. Jeffrey Perez, Ph.D.
President and CEO, South Carolina Independent Colleges and Universities
Prepared for Delivery Before the South Carolina House Constitutional Laws Subcommittee
Regarding H. 3591
February 9, 2023

Chairman Jordan and members of the Constitutional Laws Subcommittee:

Good morning, my name is Dr. Jeffrey Perez. I am president and CEO of South Carolina Independent Colleges and Universities. I represent 21 campuses in South Carolina and their 36,000 students. Together they employ about 8,500 individuals and generate nearly \$1 billion in annual business operations.

Thank you for giving me a few minutes to express my strong support for H. 3591 and the potential it holds to remove a stain on the state's constitutional legacy and create opportunities for public/private cooperation that would benefit the people of South Carolina.

I want to thank Speaker Smith for introducing H. 3591 and Representatives Felder, Brandon and Weston Newton, Haddon, Pace, Taylor, Thayer, West and Yow for sponsoring it.

We support the repeal of the provision of the South Carolina Constitution, known as the Blaine Amendment, which is a racist and anti-religious relic in our state's constitution.

This legislation provides for a public referendum on striking Section 4, Article XI, the so-called "Blaine Amendment," from the state constitution. The provision is entitled: "Direct aid to religious or other private educational institutions prohibited," and states: "No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution."

This provision dates back to the drafting of the South Carolina Constitution in 1895 and was inserted by none other than Ben "Pitchfork" Tillman in order to thwart the growth of African American institutions like Allen University, Benedict College and Claflin University because they were providing the kind of college education of which he did not consider African Americans worthy. These three distinguished HBCUs, along with Morris College and Voorhees University, all are members of SCICU.

Because of its presence in the state constitution, the Blaine Amendment has had additional unintended effects. In 2020 the federal CARES Act provided funding for which Congress specified that independent colleges and universities qualified. Reflecting Congress' intent, the General Assembly passed, and the governor signed, Act 154 of that same year which provided independent colleges and universities access to the federal funding. However, the South Carolina Department of Administration stopped the process by which the independent colleges and universities were to apply for the funding. It argued that once the funding passed through the General Assembly it became state money, and thus would run afoul of the Blaine Amendment.

Similarly, the governor initially intended to apply some of his Governor's Emergency Education Relief, or "GEER," funding from the CARES Act for the state's HBCUs, but, because of the Blaine Amendment, decided not to.

Let me be very clear, the SCICU member institutions are not, and do not want to be, public colleges. They want access to federal funding that Congress intended in the CARES Act and any similar future funding.

The Blaine Amendment also has been a roadblock to private colleges and universities collaborating with state and local governments to the benefit of the people of South Carolina.

There have been several attorney general opinions that advised state and local agencies against entering into a relationship with independent colleges and universities:

- Cherokee County was advised not to include a private college in a scholarship program for workforce development. 2012 S.C. AG LEXIS 26.
- The South Carolina Department of Transportation was told that it would be a violation of the Blaine Amendment to bury electrical utilities owned by Columbia College as part of a streetscaping program. 2011 S.C. AG LEXIS 18.
- The General Assembly was told a grant of \$3 million to HBCUs for building maintenance and repair was unconstitutional, because of the Blaine Amendment. 2003 S.C. AG LEXIS 3.

It also has come to my attention that SC TRAC, a state system for comparing college courses to make transferring easier, does not include independent institutions, because, as it is a state contract, they would be benefiting from direct state funding.

I also understand there can be a legitimate difference of opinion regarding the application of state and local resources. But those who stand behind the Blaine Amendment to bolster their case are standing next to the ghost of Ben "Pitchfork" Tillman.

This is clearly an important public policy decision. So why not let the public decide? As I mentioned, H. 3591 does not strike the Blaine Amendment but directs a state referendum be put before the voters to settle the matter.

I should point out that in 1972 the voters approved striking one part of the Blaine Amendment which prohibited "indirect" funding. The approval by the people of that referendum allowed creation of the South Carolina Higher Education Tuition Grants Program, which, to date, has given nearly half a million South Carolinians the chance to attend the independent college or university that best suits them.

You now have the opportunity to finish the job.

SCICU strongly believes there's no place for the racism that inspired the Blaine Amendment to remain in our state's constitution, and that state and local government should have the freedom to engage who they believe will best serve the public benefit. We are confident that, if given the chance, voters would agree.

Please support H. 3591.

Thank you.