South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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MAJOR ISSUES FROM THE 2000 LEGISLATIVE SESSION

These summaries highlight some of the major bills considered by the General Assembly this year. Please note that many issues which are included in this document are addressed in more than one bill. We have highlighted bills which have made the most progress towards passage.

This document will be revised and expanded on a weekly basis until the end of the session. Major legislation is summarized here in a format which is intended to be more accessible than a simple reading of the bills, joint resolutions, and acts. This report, which highlights legislative activity through *Friday, May 26, 2000*, is a guide to, not a substitute for, the full text of the legislation summarized.

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SC COMMUNITY ECONOMIC DEVELOPMENT ACT

Both the House and the Senate passed **S.80**, the South Carolina Community Economic Development Act. This bill assigns to the Department of Commerce (the Department) the duties and responsibilities of establishing criteria for, and for certifying entities as *community development corporations* and *community development financial institutions*. The Department is also charged to administer grants and loans to these entities from funds made available to it by the General Assembly for that purpose, and to provide technical support for carrying out the community development goals of the bill. These entities as created in the bill are:

- "**community development corporations,**" which are created for the purpose of developing and improving low-income communities and neighborhoods through economic and related development, and which have a primary function of developing projects and activities designed to enhance the economic opportunities of the people in the community served, including efforts to enable them to become owners and managers of small businesses and producers of affordable housing and jobs; community development corporations do not provide credit, capital, or other assistance from public funds in an amount greater than $25,000 at one time or in one transaction. The Department of Commerce may adjust that amount as provided in the bill.

- "**community development financial institutions,**" which are created for the purpose of promoting community development by providing credit, capital, or development services to small businesses or home mortgage assistance to individuals including, but not limited to, capital access programs, microlending, franchise financing, and guaranty performance bonds; the community development financial institution is created with the goal of providing a majority of its services to low-income individuals, minorities, females, or rural areas; community development financial institutions do not provide credit, capital, or other assistance in an amount greater than $250,000 at one time or in one transaction. The Department of Commerce may adjust the dollar amount as provided in the bill.

The bill provides that a taxpayer may claim as a credit against his state income tax, bank tax, or premium tax liability thirty-three percent of all amounts invested in a community development corporation or in a community development financial institution. The bill provides criteria for qualification for this credit and provides that the total aggregate amount of credits allowed may not exceed five million dollars for all taxpayers and all taxable years, and one million dollars for all taxpayers in one taxable year. The bill also provides that a single community development corporation or community development financial institution may not receive more than 25% of the total tax credits authorized under the bill in any one taxable year.

The bill takes effect upon approval by the Governor, except that the community development tax credits apply to tax years beginning after 2000. The provisions of this bill, unless reauthorized by the General Assembly, terminate on June 30, 2005.

STATUS: **S.80** *has passed both the House and the Senate and has been ratified* (R344).

RIGHT TO WORK LAWS

The House of Representatives approved and sent to the Senate **H.3770**, a bill strengthening South Carolina's Right to Work laws which protect employees from practices which have the effect of making employment contingent upon membership in a labor union or organization. The bill broadens the investigatory powers of the Department of Labor, Licensing and Regulation (LLR) in disputes arising from alleged violations of the Right to Work laws. In the course of investigating claims, the Director of the Department of Labor, Licensing and Regulation is authorized to hold hearings and enter a workplace in order to evaluate compliance. The Director is authorized to assess a violator a civil penalty of not more than one hundred dollars for each offense.

The bill makes several amendments to penalty provisions and broadens the scope of persons prohibited from participating in unlawful labor agreements which violate an employee's right to work by allowing for penalties and/or causes of action against any person for violations of the chapter. Current law allows for such actions to be taken against employers, only. The legislation also creates a private cause of action under which a person who has been denied employment or deprived of continued employment through force, intimidation, obstruction, interference, or through other means in violation of the State's Right to Work provisions is entitled to recover from the employer actual damages as well as punitive damages awarded at the discretion of the court or jury.

STATUS: **H.3770** *passed the House on February 3 and was sent to the Senate where it has been referred to the Labor, Commerce and Industry Committee.*

TATTOOING

The 3M Committee's proposed amendment completely rewrites **S.120** to include the more stringent provisions used in **S.139**, the body piercing bill. The 3M Committee's proposed amendment will require tattoo artists and facilities to be regulated by the Department of Health and Environmental Control (DHEC). As introduced, **S.120** does not require tattoo facilities to be regulated and mandates the use of strict sterile surgical techniques for tattooing.

The 3M Committee's proposed amendment would make it unlawful for anyone to perform tattooing on a person:

- under the age of 21 without the consent of the client's parent or legal guardian,
- impaired by drugs or alcohol, or
- with a skin rash, pimples, boils, infections or unhealthy conditions at the tattoo site.

Every tattoo artist in South Carolina will be required to register with DHEC. A tattoo artist must be at least 21 years old and have a current Red Cross First Aid Certification, a CPR certification, and successfully complete a course in blood borne pathogens and tattooing infection control approved by DHEC. The first aid certification must be renewed every three years, and the CPR certification must be renewed annually. A tattoo artist must conspicuously display these certifications and his or her DHEC permit in the tattoo facility where he or she works.

In order for a tattoo facility to receive a DHEC permit the operator must:

- obtain a copy of the DHEC sterilization, sanitation and safety standards;
- commit to meet these standards; and
- post in a conspicuous place the tattoo facility permit along with a notice about blood donation restrictions for persons who receive tattoos.

The bill sets the annual facility permit fee at $300 but authorizes DHEC to charge an additional fee, if necessary, to cover the cost of on-site facility inspections.

Under the 3M Committee's proposed amendment a person who violates a provision of this act is guilty of a misdemeanor and must be fined up to $2,500 or imprisoned up to one year or both. The 3M Committee's proposed amendment also specifies that money collected from fines must be remitted to DHEC and used to offset the cost of administering the tattoo regulation program.

The 3M Committee's proposed amendment also includes a provision that clarifies the authority of a physician or surgeon to delegate the task of tattooing a patient to a member of the doctor's staff. *South Carolina Code of Laws* §40-47-60 already authorizes a doctor to a direct physician's assistant or other supervised staff to perform certain tasks according to their level of training and in accordance with rules and regulations of the State Board of Medical Examiners. The 3M Committee's proposed amendment also clarifies a doctor's authority to tattoo a patient in situations

where it might not be strictly necessary but is appropriate to restore a natural appearance.

The 3M Committee's proposed amendment also includes a provision that will require a tattoo artist to have a certified copy of an ordinance passed by the local governing body where the business will be located approving the tattooing of persons within its jurisdiction in order to receive a tattoo permit from DHEC.

The 3M Committee's proposed amendment delays the effective date of the act to October 1, 2000.

STATUS: **S.120** *was recommitted to the House Medical, Military, Public and Municipal Affairs Committee on May 24, 2000.*

TECHNOLOGY INTENSIVE FACILITIES INCENTIVES

The General Assembly approved **H.3782**, which was signed into law by the Governor on May 19. The legislation provides various tax incentives to encourage technologically advanced research and development facilities in the State. An annual job tax credit is provided for qualifying technology intensive facilities. A technology intensive facility, as defined in the bill, is a firm engaged in the design, development, and introduction of new products or innovative manufacturing processes, or both, through the systematic application of scientific and technical knowledge. The bill affords a taxpayer who meets specified criteria certain corporate tax credits equal to five percent of the taxpayer's qualified expenditures for research and development made in South Carolina. Such credit taken in any one taxable year may not exceed fifty percent of the taxpayer's remaining tax liability after all other credits have been applied. The legislation revises the 1995 Enterprise Zone Act by adding technology intensive facilities to the list of facilities which the State should induce to locate or expand in South Carolina to promote the public purpose of creating new jobs. The legislation provides an exemption from sales tax for machines used in research and development. The legislation also provides that the current *ad valorem* property tax exemption for certain additions to existing research and development facilities applies to machinery and equipment installed in an existing manufacturing or research and development facility.

STATUS: **H.3782** *passed the General Assembly and was signed into law by the Governor on May 19.*

THE COURTS

MAGISTRATES COURT REFORM ACT OF 2000

H.3379, the Magistrates Court Reform Act of 2000, increases various magistrate court fees. The bill increases the fee (1) for issuing a summons and a copy for the defendant, and (2) for giving judgment with or without a hearing in a civil action from $25 to $45. The bill increases the fee for proceedings by a landlord against a tenant from $10 to $20. A bad check administrative fee is increased from $20 to $41; also, bad check jurisdiction for magistrates is increased from $500 to $1,000.

On and after January 1, 2001 magistrates must participate in the South Carolina Police Officers Retirement System (PORS). H.3379 outlines special procedures for magistrates that wish to transfer their service from the South Carolina Retirement System (SCRS) to PORS between July 1, 2000 and January 1, 2001. After July 1, 2001, magistrates may elect to transfer their service from SCRS to PORS according to the provisions of *South Carolina Code of Laws* §9-11-40(9).

As for educational requirements, on and after July 1, 2001, a person must have received a two-year associate degree for an initial appointment as a magistrate. On and after July 1, 2005, a person must have received a four-year baccalaureate degree for an initial appointment as a magistrate. Currently serving magistrates are grandfathered during their tenure in office. Magistrates must observe 10 trials prior to holding court.

H.3379 authorizes the South Carolina Court Administration to establish and determine the number of contact hours to be completed in a two-year continuing education program available to magistrates. The program would be administered through the state's technical college system. Funding for the program would come from fees and costs collected by magistrates or magistrates' courts and deposited in the general fund of the county.

H.3379 establishes an advisory council to make recommendations to the Supreme Court regarding the eligibility examination, certification examination, and continuing education requirements for magistrates. The advisory council would be composed of 13 members, appointed by the Chief Justice upon the recommendation of trial lawyers, defense lawyers, sheriffs, victims, Criminal Justice Academy, legal services, Summary Court Judges Association, Senate and House Judiciary Committee Chairmen, and the Governor.

A magistrate's failure to retire in accordance with *South Carolina Code of Laws* §22-1-25 or a magistrate's failure to comply with educational requirements may subject him or her to suspension or removal by order of the Supreme Court.

H.3379 authorizes the South Carolina Court Administration in cooperation with the state's technical schools to select and administer an eligibility examination to test

the basic skills of persons seeking an initial appointment as magistrate on or after July 1, 2001. No person is eligible to be appointed as a magistrate unless he or she receives a passing score on the eligibility examination. The results of these eligibility examinations are valid for six months before and six months after the time the appointment is to be made. Persons may be exempted from taking the examination if certain prescribed educational equivalency requirements have been met.

Under the bill, the number, location, and full-time or part-time status of magistrates in the county may be increased or decreased. In order to do so, a written agreement between the members of the Senate delegation for the county and the county governing body must be filed with Court Administration.

H.3379 makes technical changes to reference new provisions for adding additional magistrates based on accommodation tax revenues. The bill allows concurrent civil jurisdiction for magistrates on specified legal actions that do not involve over $7,500.

H.3379 establishes three base categories for salaries, depending on the population of the county where the magistrate is located. However, a magistrate may not receive 100% of the salary rate for his or her county's population category until completion of four years in office. For those counties with a population of 150,000 or above, the base salary is 55% of circuit court judge's salary for the state's previous fiscal year. For those counties with a population of at least 50,000 but not more than 149,999, the base salary is 45% of a circuit judge's salary for the previous fiscal year. For those counties with a population of less than 50,000, the base salary is 35% of a circuit court judge's salary for the state's previous fiscal year.

A county may not pay a magistrate less than the appropriate base salary, but a county is not prohibited from paying a magistrate more than the established base salary. A magistrate's compensation must not be decreased during his or her term in office. The bill provides that magistrates being paid over scale must receive the same percentage pay increases as other magistrates. Part-time magistrates must not work more than 40 hours a week, unless directed to do so on a limited and intermittent basis by the chief magistrate. Additional magistrates could be added based on accommodation tax revenues. For counties that do not have sufficient increased fees to fund the pay increases for magistrates, a five-year reimbursement program based upon request to the State Treasurer's office is established.

The Supreme Court is requested to make a report to the respective Chairmen of the Senate and House Judiciary Committees by March 15, 2001, with recommendations for additional changes in the magistrates' court system. In addition, the Supreme Court is requested (1) to record the amount of revenue generated for each county by the fee increases and the amounts needed to fund the salaries and benefits for magistrates in each county, and (2) to report that information to the Chairmen of the Senate and House Judiciary Committees by March 15, 2005.

As for effective dates: (1) generally most provisions take effect July 1, 2000, (2) new fees would go into effect April 1, 2000, (3) new salaries go into effect July 1, 2000, (4) $7,500 jurisdictional amount goes into effect January 1, 2001, and (5) continuing education and trial observances go into effect July 1, 2001.

STATUS: *Signed into law by the Governor on February 25, 2000 (Act 226).*

SAFE HAVEN FOR ABANDONED BABIES ACT

(See **H.4743** under the Criminal Justice heading.)

TRUTH IN SENTENCING / ADVISORY SENTENCING GUIDELINES

H.3108 extends the provisions of Truth in Sentencing to all crimes in South Carolina requiring that offenders serve a minimum of 85% of their sentence. (Act 83 of 1995 provided Truth in Sentencing for only those offenses with maximum possible penalties of 20 years or more.) This bill phases out parole, and offenders who commit their crimes after the effective date of this bill will not be eligible for parole release.

The legislation establishes Advisory Sentencing Guidelines to complement Truth in Sentencing for all offenses with maximum possible penalties of one year or more. Guidelines weigh the seriousness of the current offense with the offender's prior record to determine an appropriate sentence. Generally, the Guidelines recommend longer prison sentences for more serious and violent offenders while recommending community punishments for less serious offenders.

The legislation requires a defendant to be put under oath when testifying regarding the accuracy of his or her prior criminal record at sentencing. The State may move to reconsider a defendant's sentence within 180 days of sentencing, if it can be proven that the defendant willfully provided false information regarding his or her prior criminal record. False information provided by a defendant may be considered an aggravating circumstance which may provide cause for deviating upward from the sentence recommended under the guidelines.

The legislation establishes the South Carolina Truth in Military Confinement Act. Under this legislation, military personnel who are sentenced to a period of confinement pursuant to a general, special, or summary court martial would serve the full term of confinement, without possibility for early release.

STATUS: *On March 28, the Senate recommitted* **H.3108** *to the Senate Judiciary Committee with the bill retaining its place on the calendar.*

UNBORN VICTIMS ACT

(See H.4743 under the Criminal Justice heading.)

CRIMINAL JUSTICE

ILLEGAL PER SE:
DRIVING WITH AN UNLAWFUL ALCOHOL CONCENTRATION

Among other things, S.544 creates the offense of driving with an unlawful alcohol concentration. The bill amends several code sections to reference this new offense. Under this bill, it is unlawful for a person to drive a motor vehicle within this State while his or her alcohol concentration is ten one-hundredths of one percent or more. As introduced, the bill provides that a person may be charged for a violation of *South Carolina Code of Laws* §56-5-2930 (the statute which makes it unlawful to operate a motor vehicle while under the influence) but prosecuted pursuant to this new section if the original testing of the person's breath or other bodily fluids was performed within two hours of the time of arrest and probable cause existed to justify the traffic stop. Under the Judiciary Committee's proposed amendment, the reference to a person being charged with a violation of §56-5-2930 but prosecuted pursuant to the new illegal per se statue is deleted. This section does not apply to cases arising out of a stop at a traffic road block or driver's license checkpoint. A person cannot be prosecuted for both a violation of §56-5-2930 and a violation of this new section for the same incident.

Under S.544, *South Carolina Code of Laws* §56-5-2940 (the penalty section for violating the statute which makes it unlawful to operate a motor vehicle while under the influence) is also the penalty section for violations of the offense of driving with an unlawful alcohol concentration. This bill authorizes the court to require an offender to have installed on his or her vehicle an ignition interlock device designed to prevent the operation of the motor vehicle if the operator has consumed alcoholic beverages. The offender must pay the costs associated with installing the ignition interlock device; however, special provisions are made for indigent offenders.

A person who commits the offense of driving with an unlawful alcohol concentration is entitled to a jury trial and is afforded the right to challenge certain factors including, but not limited to, the following: (1) whether or not the person was lawfully arrested or detained, (2) whether or not probable cause existed to justify the stop, (3) the period of time between arrest and testing, (4) whether or not the individual who administered the test or took samples was qualified, and (5) whether or not the machine was working properly.

S.544 provides that a person charged with a violation of *South Carolina Code of Laws* §56-5-2930 (unlawful to operate a motor vehicle while under the influence),

§56-5-2933 (driving with an unlawful alcohol concentration), or §56-5-2945 (causing great bodily injury or death by operating vehicle while under influence of drugs or alcohol) has certain rights. Any person who is being tried in any court of competent jurisdiction in this State, under this bill has the right to compulsory process for obtaining witnesses in his or her favor including, but not limited to, state employees charged with the maintenance of breath testing devices and the administration of breath testing. Under the Judiciary Committee's proposed amendment any person who is being tried in any court of competent jurisdiction in this State has the right to compulsory process for obtaining documents in his or her favor. The Judiciary Committee's proposed amendment defines the term "documents" to include a copy of the computer software program of the breath testing devices. Such process may be issued under the official signature of the magistrate, judge, clerk, or other officer of the court of competent jurisdiction.

Under this bill, a person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program ("Program") in which he or she is enrolled. After the person's driving privilege is restored, he or she must continue to participate in the Program in which he or she is enrolled. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Program, the person's license will be suspended until he or she completes the Program. An administrative hearing must be held within 30 days after the request for the hearing is received by the department. If the department does not schedule the hearing within 30 days, the department must issue a written order within 10 days stating why the hearing was not held. A new hearing must be scheduled. If the department does not issue a written order within 10 days or fails to schedule or hold a subsequent hearing, the person shall have his or her driver's license, permit, or nonresident operating privilege reinstated. Under the Judiciary Committee's proposed amendment, the subsequent hearing must be held within thirty days.

Under S.544, magistrates' courts would have exclusive jurisdiction in all cases involving driving under suspension, except those cases where the suspension resulted from a conviction for driving under the influence of alcohol or drugs. Under the Judiciary Committee's proposed amendment, the Chief Judge for Administrative Purposes for the General Sessions Court shall retain administrative supervision of cases transferred pursuant to *South Carolina Code of Laws* §22-3-545 (transfer of certain criminal cases from general sessions court.)

The penalties for a person who drives a motor vehicle on any public highway of the State while his or her license has been suspended or revoked pursuant to *South Carolina Code* §56-5-2990 (penalties for operation of a motor vehicle while under the influence) are as follows: (1) for a first offense, imprisoned for not less than 10 nor more than 30 days, (2) for a second offense, imprisoned for not less than 60 days nor more than six months, (3) for a third and subsequent offense, not less than six months nor more than three years. No portion of the minimum sentence may be suspended.

Under the introduced version of **S.544**, a breath test must be administered by a person trained and certified using methods adopted by regulations approved by SLED pursuant to the Administrative Procedures Act. The introduced version of the bill provides that after March 1, 2001, no policy relating to training procedures or certification may be implemented unless adopted by regulation approved pursuant to the Administrative Procedures Act. Under the Judiciary Committee's proposed amendment a breath test must be administered by a person trained and certified by the department pursuant to SLED policies.

South Carolina Code of Laws §56-5-2980 relates to copies of reports as prima facie evidence of certain matters and the effect of stipulating subsequent offense. §56-5-2980 is amended to require copies of any reports to be duly certified by the director of the department or his or her designee as true copies.

This bill provides that in the event the alcohol concentration level for driving under the influence of alcohol or other intoxicating substance offenses changes from ten one-hundredths of one percent or more to eight one-hundredths of one percent or more as provided by law, then *South Carolina Code of Laws* §56-5-2933 and §56-5-2950(b)(4) do not apply to alcohol concentration levels between eight one-hundredths of one percent up to ten one-hundredths of one percent. Instead, for this range, there is an inference that the person was under the influence of alcohol or other such substances.

Under the Judiciary Committee's proposed amendment to **S.544**, it is unlawful for a person to have in his or her possession, except in the trunk or luggage compartment, beer or wine in an open container in a motor vehicle of any kind while located upon the public highways or rights of way. However, this does not apply to vehicles parked in legal parking places during functions such as sporting events where law enforcement officers are on duty to perform traffic control duties. Under the Judiciary Committee's proposed amendment, beer or wine means any beer or wine containing one-half of one percent or more of alcohol by volume.

In regards to a person 21 years of age or older transporting alcoholic liquors to and from a place where alcoholic liquors may be lawfully possessed or consumed, under the Judiciary Committee's proposed amendment the term alcoholic liquors means all distilled spirits regardless of the percentage of alcohol by volume that they contain.

Under the Judiciary Committee's proposed amendment a five-dollar surcharge is imposed on all convictions for misdemeanor traffic offences obtained in general sessions court and in magistrate's and municipal court in this State. Under the Judiciary Committee's proposed amendment, a $200 surcharge is imposed on all convictions for driving with an unlawful alcohol concentration. The Judiciary Committee's proposed amendment provides that no portion of the surcharges may be waived, reduced, or suspended. The revenue collected must be paid over to the State Treasurer monthly and placed in a separate account to be used for spinal cord research by the Medical University of South Carolina. Additionally, the Judiciary Committee's proposed amendment creates the South Carolina Spinal Cord Injury

Research Board for the purposes of administering the spinal cord injury research fund.

Certain provisions of this bill will not take effect until the Chief of the SLED certifies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that all breath test sites in the State have been equipped with video cameras so that a person's conduct may be videotaped.

STATUS: *The House's debate of* **S.544** *was interrupted by adjournment on May 25, 2000.*

ILL-TREATMENT AND TORTURE OF ANIMALS

Under **S.21**, whoever *knowingly or intentionally* overloads, overdrives, overworks, ill-treats any animal, deprives any animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon any animal, or *by omission or commission knowingly or intentionally* causes these things to be done, for every offense is guilty of a misdemeanor. The bill increases the penalty for a first offense. Upon conviction, a person must be punished by imprisonment not exceeding 60 days or by a fine of not less than $100 nor more than $500, or both, for a first offense.

This bill changes the penalty for the torture, torment, and needless mutilation of an animal from a misdemeanor to a felony. Under this bill, the penalty for torture of an animal would be imprisonment of not less than 180 days and not to exceed five years and a fine of $5,000. This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50 (Fish, Game, and Watercraft.)

STATUS: *Signed into law by the Governor on May 26, 2000.*

INFLICTING GREAT BODILY INJURY UPON A CHILD

Under **H.3555**, it is a felony to inflict great bodily injury upon a child. It is also unlawful for a child's parent or guardian, person with whom the child's parent or guardian is cohabitating, or any other person who is responsible for a child's welfare knowingly to allow another person to inflict great bodily injury upon a child. The term "great bodily injury" means an injury that creates a substantial risk of death or which causes serious or permanent disfigurement, or protracted loss or impairment of any bodily member or organ. Criminal penalties are established for failure to comply with the provisions of this bill; both inflicting great bodily injury upon a child and allowing another person to inflict great bodily injury upon a child are considered violent crimes under this bill. The bill does not apply to corporal punishment or physical discipline that is administered by a parent or person in *loco parentis* in a

manner that does not cause great bodily injury upon a child. Additionally, the bill provides an exception for traffic accidents unless the accident was caused by the driver's reckless disregard for the safety of others.

STATUS: Signed into law by the Governor on May 1, 2000 (Act 261).

PERSONAL FINANCIAL SECURITY ACT

H.3509 creates the offense of financial identity fraud. Under the bill, financial identity fraud occurs when a person, without permission, (1) obtains or records identifying information about another person, or (2) accesses or attempts to access the financial resources of another person through the use of identifying information. The term "identifying information" includes social security numbers, driver's license numbers, checking account numbers, savings account numbers, credit card numbers, debit card numbers, personal identification card numbers, electronic identification numbers, digital signatures, or other numbers or information which may be used to access a person's financial resources.

In a criminal proceeding, the crime is considered to have been committed in a county in which a part of the financial fraud took place, regardless of whether the defendant was ever actually in that county. A person who commits the offense of financial identity fraud is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. Additionally, the court may order restitution to the victim.

The bill provides that nothing may be construed to apply to the (1) lawful acquisition and use of credit or other information in the course of a bona fide consumer or commercial transaction or in connection with an account by any financial institution or entity defined in or required to comply with the Federal Fair Credit Reporting Act or the Federal Gramm-Leach-Bliley Financial Modernization Act; (2) lawful, good faith exercise of a security interest or a right to offset exercised by a creditor, agency, or financial institution; or (3) the lawful, good faith compliance by a party when required by a warrant, levy, attachment, court order, or other judicial or administrative order, decree, or directive.

H.3509 also creates a 19-member joint legislative study committee to study personal information privacy issues and examine the relationship of information technology and privacy issues. The committee must seek to establish an appropriate balance that promotes the use of information for legitimate business purposes, including biometric technology for use in preventing identity theft and fraud, while safeguarding the personal privacy rights of the citizens of South Carolina.

STATUS: Signed into law by the Governor on May 26, 2000.

SOUTH CAROLINA NOTORIETY FOR PROFIT ACT

H.3870 establishes procedures for eligible persons (victims and their families) and the State Office of Victim Assistance ("office") to recover profits obtained or generated from the commission of crime. If an offender, or his or her representative or agent, knowingly contracts for, pays, or agrees to be paid any profit from a crime, he or she must give written notice to office of the payment or the obligation to pay and a copy of the contract as soon as practical after discovering that the payment or intended payment is a profit from a crime. Penalties are established for individuals who fail to submit to the office a copy of the contract or who fail to pay the office monies or other consideration. Any action taken by an offender to defeat the purpose of this bill is null and void as against the public policy of this State. All state agencies, solicitors, and law enforcement agencies, with knowledge of profits from a crime that an offender has obtained or generated, must report this information to the office.

Under the bill, the office is required to notify all known eligible persons at their last known address of the existence of profits. An eligible person has the right to bring a civil action to recover money damages within three years of the discovery of any profits from the crime. Damages awarded are recoverable only up to the value of the profits from this crime. In the event an action is filed after the expiration of all other applicable statues of limitation, any other eligible person must file an action for damages as a result of the crime within three years of (1) the actual discovery of profits from the crime, or (2) actual notice received from or notice published by the office of the discovery of profits, whichever is later. If profits from a crime remain after the payment of all claims, the bill allows the office to bring an action within two years to recover certain payments made by the office with regard to the crime or the offender convicted of the crime in question.

The bill requires that upon the filing of an action to recover profits from a crime that the eligible person must give notice to the office by delivering or mailing a copy of the complaint. Upon receipt of the complaint, the office must:

- use certified mail, return receipt requested, to notify all other known eligible persons whose addresses are known, of the alleged existence of profits from a crime;

- publish, at least once a year for three years from the date it is initially notified by an eligible person, a legal notice in newspapers of general circulation in the county where the crime was committed and in contiguous counties advising any eligible persons of the alleged existence of profits from a crime. The office may provide additional notice in its discretion; and

- avoid the wasting of the assets identified in the complaint as the newly discovered profits from a crime.

The bill authorizes the office to act on behalf of an eligible person and apply for any remedies available to the eligible person.

STATUS: Signed into law by the Governor on May 26, 2000.

SAFE HAVEN FOR ABANDONED BABIES ACT

Under **H.4743**, a hospital or hospital outpatient facility must, without a court order, take temporary physical custody of an infant who is voluntarily left with the facility by a person who does not express an intent to return for the infant and the circumstances give rise to a reasonable belief that the person does not intend to return for the infant. The person leaving the infant is not required to disclose his or her identity.

The legislation specifies that the duties of the facility include:

- performing any act necessary to protect the physical health or safety of the infant
- offering the person leaving the infant information concerning the legal effect of leaving the infant with the facility
- asking the person leaving the infant to identify any parent of the infant
- attempting to obtain from the person leaving the infant information concerning the infant's background and medical history on a form provided by Department of Social Services (DSS)
- giving the person leaving the infant a copy of the DSS form and a prepaid envelope for mailing the form to DSS, if the person does not wish to provide the information to the facility
- keeping any identifying information disclosed by the person leaving the infant confidential; the facility may only disclose the information to DSS

The facility must notify DSS that it has taken temporary custody of an infant. DSS shall have legal custody of the infant upon receipt of the notice and must assume physical control of the infant as soon as practicable, but no later than 24 hours after receiving notice that the infant is ready for discharge from the facility. DSS must contact the South Carolina Law Enforcement Division (SLED) for assistance in assuring that the infant left at the facility is not a missing infant. SLED must treat the request as ongoing for a period of 30 days and must contact DSS if a missing infant report is received that might relate to the infant left at the facility.

Under **H.4743**, within 48-hours after taking legal custody of the infant, DSS must publish a notice in a newspaper of general circulation and send a news release to broadcast and print media. The notice and the news release must state the circumstances under which the infant was left at facility, a description of the infant, and the date, time, and place of the permanency planning hearing. The notice must also state that any person wishing to assert parental rights in regard to the infant must do so at that hearing. If the person leaving the infant identified anyone as being a parent of the infant, notice must be sent to the last known address of the

person identified at least two weeks prior to the hearing. Within 48-hours after taking legal custody of the infant, DSS must file a petition alleging that, among other things, the infant has been abandoned. A hearing on the petition must be held no earlier than 30 and no later than 60 days after DSS takes legal custody of the infant. This hearing shall be the permanency planning hearing for the infant.

The act of leaving an infant with a facility is conclusive proof that the infant has been abused or neglected for purposes of DSS jurisdiction and for evidentiary purposes in any judicial proceeding in which abuse or neglect of the infant is in issue. It is also conclusive proof that the requirements for termination of parental rights have been satisfied as to any parent who left the infant or acted in concert with the person leaving the infant.

Under **H.4743**, a person who leaves an infant at a facility or directs another person to do so must not be prosecuted for any criminal offense on account of such action if: (1) the person is a parent of the infant or is acting at the direction of a parent, (2) the person leaves the infant in the physical custody of an employee of the facility, and (3) the infant is no more than 30 days old. Immunity is also granted to various personnel and employees of the facility where the infant was left. DSS alone or in collaboration with any other public entity, must take appropriate measures to achieve public awareness of these provisions.

STATUS: *On May 17, the Senate nonconcurred in the House amendment to* **H.4743**. *(On May 9, the House amended the bill to include the "Unborn Victim's Act.") A conference committee of three House members and three Senate members is currently meeting to work out these differences.*

TRUTH IN SENTENCING / ADVISORY SENTENCING GUIDELINES

(See **H.3108** under The Courts heading.)

UNBORN VICTIMS ACT

The Unborn Victims Act revises several existing statutes that offer an individual legal protection from various sorts of unlawful treatment so as to extend the protection to include the unborn. This bill amends *South Carolina Code of Laws* Chapter 3 (Offenses Against the Person) of Title 16 (Crimes and Offenses) relating to all offenses arising out of the unlawful killing or battery of any "person" or "another." The bill provides that the terms "person" and "another" include an unborn child at every stage of gestation in utero from conception until live birth. The provisions do not apply to: (1) a mother's constitutional right to privacy, and nothing applies to an act or omission committed by the mother of the unborn child, (2) lawful medical procedures performed by a physician or other licensed medical professional at the request of the mother of the unborn child or the mother's legal guardian, and (3) lawfully prescribed medication.

H.4743 also amends *South Carolina Code of Laws* Chapter 5 (Traffic Regulation) of Title 56 (Motor Vehicles) and Chapter 21 (Equipment and Operation of Watercraft) of Title 50 (Fish, Game, and Watercraft) to provide that for purposes of all offenses arising out of the death or injury of any "person" in these articles, the term "person" includes an unborn child at every stage of gestation and in utero from conception until live birth.

STATUS: *On May 17, the Senate nonconcurred in the House amendment to* **H.4743**. *(On May 9, the House amended the "Safe Haven For Abandoned Babies Act" to include the "Unborn Victim's Act.") A conference committee of three House members and three Senate members is currently meeting to work out these differences.*

EDUCATION

CHARTER SCHOOLS

The House and Senate passed differing versions of **H.4336**, a bill concerning charter schools. The following is a summary of major components included in the House- and Senate-passed versions of the bill.

Findings for Inclusion of Racial Composition Percentage

- House did not address;
- Senate included findings that: diversity is an educational benefit in elementary and secondary education that promotes racial tolerance, improves academic performance, and breaks down barriers among individuals of different races; the State once sanctioned a dual system of education in its schools; and no provisions in the Charter School Act should encourage a return to that system

Fingerprinting/Noncertified Teachers

- House amended definition of "noncertified teacher" for purposes of charter schools; "noncertified teacher" is currently defined as an individual considered appropriately qualified for the subject matter taught, and who has been approved by the charter committee of the school. The House struck the requirement for approval by the school's charter committee, and added a requirement for completion of at least one year of study at an accredited college or university;
- Senate also struck the charter committee approval requirement, included the one-year college requirement, and also added an additional requirement that the individual must meet the qualifications outlined in *SC Code of Laws* §59-25-115 (state fingerprint review).

Teacher Qualifications for Teaching Core Subjects

- House provided that in either a new or converted charter school, a teacher teaching in the core academic areas of English/language arts, math, science, or social studies must be certified in those areas;
- Senate required that teachers in these core academic areas must be certified in those core areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach.

Racial Composition

- House eliminated the current requirement that charter school enrollment may not differ from the racial composition of the school district by more than ten percent
- Senate amended that current provision so as to require that the racial composition of the charter school enrollment reflect that of the school district or that of the targeted student population which the charter school proposes to serve, as differing by no more than fifteen percent.

Percent Preference for Charter Committee Children

- House added language providing that children of the charter committee may be given enrollment priority, provided their enrollment does not constitute more than twenty-five percent of the enrollment of the charter school;
- Senate language provided that children of the charter committee may be given enrollment priority, provided their enrollment does not constitute more than ten percent of the enrollment of the charter school;

Interscholastic Participation

- House did not change current law which provides that the "sponsor" (local school board from which the charter school applicant requested its charter, and which granted approval for the charter school's existence) is not obligated to provide extracurricular activities or access to facilities of the school district for students enrolled in the charter school;
- Senate also left in this language, but added a provision that the charter contract may include participation in agreed upon interscholastic activities at a designated school;

Enrollment Assurance

- House deleted the current requirement that the charter school application, which is a proposed contract, must include a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the school district; the House added language requiring that the charter school application must provide assurance that the school does not conflict with any school district desegregation plan or order in effect;
- Senate required that the charter school application must include a description of how the charter school plans to ensure that the enrollment of the school is

similar to the racial composition of the school district or the targeted student population the charter school proposes to serve;

Consideration of Applicant's or School's Efforts to Obtain Racial Composition Percentage

- House did not address this issue;
- Senate provided that in the event that the racial composition of an applicant's or charter school's enrollment differs from the enrollment of the local school district or the targeted student population by more than fifteen percent, despite its best efforts, the local school district's board may consider the applicant's or the charter school's recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a non-discriminatory manner. A finding by the local school district board that the applicant or charter school is operating in a racially discriminatory manner may justify the denial of a charter school application or the revocation of a charter school as provided in the bill or in specified Code section, as may be applicable.

Conditional Authorization of Charter

- Current law provides that a local school board "**may**" conditionally authorize a charter school before the applicant has secured its space, equipment, facilities, and personnel if the applicant **indicates** such authority is necessary for it to meet the relevant statutory requirements.
- Both the House and Senate changed this language so as to provide that a local school board "**shall**" conditionally authorize a charter school before the applicant has secured its space, equipment, facilities, and personnel if the applicant **verifies that** such authority is necessary for it to meet the relevant statutory requirements.

Duration of Charter Contract

- Current law provides that a charter may be approved or renewed for a period not to exceed three school years. The House provided that a charter may be approved or renewed for a period of **five** school years. The Senate did not change the current language.

Out of District Transfers to Charter Schools

- House provided that a child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall have authority to grant or deny permission for the student to attend. If the student transfers to a charter school outside his district of residence, the school district where the child resides shall pay to the charter school where the child is transferring an amount equivalent to the statewide average of the local base student cost multiplied by the appropriate pupil weighting pursuant to provisions of the

Education Finance Act. The charter school where the child is transferring shall count the child for all funding sources, both state and federal.

- The Senate did not address this issue.

STATUS: *As described above, the House and Senate have passed differing versions of* **H.4336**. *A conference committee of three House members and three Senate members is currently meeting to work out these differences.*

INTERNET PORNOGRAPHY ON LIBRARY AND SCHOOL COMPUTERS

(See **H.4426** under the State / Local Government heading.)

LIFE SCHOLARSHIPS

- The House-passed General Appropriation Bill (**H.4775**) included a permanent law (Part II) provision increasing the LIFE Scholarships to $4,000 for students attending 4-year institutions and fully covering the cost of tuition for students at 2-year institutions and technical colleges. The House budget plan also included funding to cover this increase. The Senate did not recommend this increase in its budget plan.

STATUS: *The House and the Senate have passed differing versions of* **H.4775**, *the 2000-2001 General Appropriation Bill. Those differences are currently being negotiated in a House-Senate conference committee.*

- **H.4650** repeals the STAR Diploma Program. The bill eliminates references to the STAR Diploma Program including the current requirement that to be eligible for the LIFE Scholarship, students must have passed all courses required for a STAR diploma. The bill also eliminates the provision that all students who earn a LIFE Scholarship or the Palmetto Fellows Scholarship shall be recognized at graduation from high school with a certificate issued by the Department of Education. **H.4650** also provides that in order to qualify for or continue to receive a Palmetto Fellows Scholarship, a Tuition Grant or a Need-Based Grant, the student must not have been adjudicated delinquent or been convicted or pled guilty or *nolo contendere* to any felonies or any alcohol or drug related offenses. However, the bill does provide that a high school or college student otherwise qualified who has been adjudicated delinquent or has been convicted or pled guilty or *nolo contendere* to an alcohol or drug-related offense nevertheless shall be eligible or continue to be eligible for such scholarships after the expiration of one academic year from the date of the adjudication, conviction, or plea.

Also, the bill includes a provision that the term "qualifying college or institution" as defined by the *South Carolina Academic Endowment Incentive Act Of 1997*, includes a regional campus of the University of South Carolina.

STATUS: **H.4650** *has been signed by the Governor.*

TEACHER QUALITY

The Senate and the House passed differing versions of **S.1111**, a comprehensive bill pertaining to the length of the school year, middle schools, principal recertification, ADEPT (teacher evaluation program), Institute of Reading, "Plan of Benefits," National Board teacher certification, and teacher honorariums.

Highlights of this bill as passed by each body include:

Additional Teacher Contract Days

- The Senate-passed bill provides that, beginning 2000-2001, the current 190 day school term is increased to 193 days; in 2002-2003, the school term becomes 195 days. The additional days must be used for professional development based on national professional development standards, with one of the additional days available for academic plans and conferencing with parents.

- The House-passed version of the bill does not add days to the current school term, but does revise the manner in which the 190 days must be used (i.e., professional development, teacher planning, academic plans, and parent conferences).

Out-of-Field Teaching

- The Senate-passed bill adds language to the SC Code of Laws providing that the State Board of Education shall review and make any necessary revisions to regulations to define the criteria for requesting an out-of-field permit, taking into consideration the phase-in for middle school certification.

- The House-passed version of the bill provides that the State Board of Education shall review and make any necessary revisions to regulations to define the criteria for school districts to report out-of-field teaching for teachers who are not teaching one hundred percent of the time in their areas of certification or in a field in which the teachers have twelve or more academic hours from a regionally, state, or nationally accredited program, with special provisions made for phasing in middle level certification.

Principal Recertification

- Both the Senate- and the House-passed versions of the bill provide that the State Board of Education consider establishing for individuals employed as principals the recertification requirement that they must complete in-depth training on ways to support and encourage teachers professionally. Both versions of the bill also provide the same specific items which must be included in the curriculum for training.

- The House-passed version of the bill requires that the Principal Executive Institute, New Principals' Academy, and the Leadership Academy at the State Department of Education consider identifying recertification opportunities for principals to meet the requirements outlined above as well as include training in the special needs of beginning teachers, the actions to assist them, and the actions to avoid.

- The Senate-passed bill provides that the Principal Executive Institute, New Principals' Academy, and the Leadership Academy at the State Department of Education shall include training in the special needs of beginning teachers and the actions to assist them as well as the actions to avoid.

ADEPT (Teacher Evaluation Program) Standards and Pilot Project

- Both the House- and Senate-passed bills refine the performance dimensions in ADEPT to ensure that they are consistent with national performance-based accreditation and certification standards. Both versions of the bill also establish a pilot program to include student achievement as a component in ADEPT and provide for additional guidelines for the teacher induction program.

National Council for Accreditation of Teacher Education (NCATE) Review

- Both the House and the Senate versions of the bill charge the State Board of Education and Commission on Higher Education with establishing a collegial panel to develop any needed additional training standards and needs for middle grade teacher preparation and professional development courses.

Middle Grades Certification

- The House and the Senate versions of the bill include identical language requiring the State Board of Education to: 1) establish requirements for initial certification for teaching in the middle grades by October 1, 2000, in consultation with the Middle Grades Task Force; 2) consider granting South Carolina certification to out-of-state teachers possessing middle grades certification based on a review of their teaching experience and background rather than requiring them to meet the requirements for elementary or high school certification; 3) appoint a collegial panel of middle grades classroom teacher, principals, and teacher preparation faculty to recommend training

standards and needs for middle grades preparation and professional development courses for middle grades principals; 4) revisit and redefine the Defined Program, Grades 6-8, Regulation 43-232 and other appropriate regulations that establish the middle grade requirements. Both bills require the Board to consider as a part of the review, reducing the pupil-teacher ratio; reducing the pupil-guidance counselor ratio; requiring school districts to designate in each middle school a home-school liaison to work with individual families and community groups to support ties between school, home, and community.

Governor's Institute of Reading

- The Senate-passed bill charges the Governor's Institute of Reading to include in its purpose the improvement of reading in the middle grades, and to award competitive grants for comprehensive approaches to reading improvement or targeted assistance to get students to grade level.

- The House-passed bill charges the Institute to include in its purpose the improvement of reading in the middle grades, but does not include provisions for awarding grants.

Middle School Grants

- The Senate-passed bill requires the State Board of Education to establish criteria for districts to develop or implement programs for students below grade level in the middle grades, and to establish criteria for competitive grants for middle grades teacher "networks" to provide for the development of collegial study groups to enable teams of interested teachers to investigate and implement effective teaching strategies. This was not included in the House-passed bill.

New Accreditation System

- Both versions of the bill provide that the State Department of Education, in developing the criteria for the new accreditation system mandated by the Education Accountability Act, shall consider including as an area the functioning of school improvement councils and other school decision-making groups and their participation in the school planning process.

Teacher Loan Program

- Both versions of the bill revise the Teacher Loan Program. The House-passed bill provides that for teachers whose loans are cancelled because they are certified and teaching in an area of critical need, if the area of critical need that the loan recipient is teaching in should be reclassified during the time of cancellation, the cancellation shall continue as though the critical need area had not changed. The House-passed bill further provides that beginning with the 2000-2001 school year, a loan recipient who has not

previously qualified for loan cancellation shall qualify if the recipient is teaching in an area newly designated as a critical needs area.

- Both the House- and Senate-passed bills provide that loan recipients teaching in South Carolina public schools but not in an academic or geographical critical needs area are to be charged an interest rate below that charged to loan recipients who do not teach in South Carolina.

- The Senate-passed bill provides that additional loans to assist with college and living expenses shall be made available to talented and qualified state residents attending State public or private colleges and universities for the sole purpose of changing careers to become certified teachers employed in the State in areas of critical need.

Part-Time Teacher Benefits

- The Senate-passed bill provides that teachers working less than 30 hours per week, but no less than 15 per week, qualify for health and dental insurance with the employer to contribute a proportionate share which is no less than half the normal cost. The House-passed bill does not address this issue.

National Board for Professional Teaching Standards (NBPTS) Certification and Pay Increase

- Under both the House- and Senate-passed bills, National Board certified teachers have a South Carolina recertification cycle consistent with National Board certification, and NBPTS certified teachers moving to this State are exempt from initial certification requirements.

- The Senate-passed bill provides that National Board certified teachers will receive a pay increase for the life of the certificate, to be no less than $10,000. The House-passed bill also provides a pay increase, but does not set an amount (amount will be "determined annually in the appropriations act"). Further, both the House and Senate versions of the bill provide that teachers applying for National Certification may receive a loan for the application fee, half forgivable when the required portfolio is submitted, all forgivable when certification is acquired within three years of application.

Teacher of the Year Honorarium

- Both the House and the Senate versions of the bill create a program honoring the State Teacher of the Year, which includes an honorarium of no less than $25,000. In addition, the program will recognize four Honor Roll teachers of the Year with awards of no less than $10,000 each and local district teachers of the year with honoraria of no less than $1,000 each.

Teacher Mentor Incentives

- The House and the Senate-passed versions of the bill include identical language providing incentives (additional pay, release time, and additional assistance in the classroom) for teachers who are trained and serve as mentors to new teachers.

Other Professional Board Standards Study

- The Senate-passed bill provides for review of the purposes and certification standards of the NBPTS and certain other professional boards to determine comparability and make recommendations regarding recertification cycles, initial certification requirements for these personnel certified out-of-state, and incentives for these national certifications. The House-passed bill did not address this issue.

Parent Involvement

- Both the House- and the Senate-passed bills include identical requirements for inclusion of parental involvement in school and district strategic plans.

First-Year Teacher Bonus

- The House-passed bill includes a bonus to first year teachers who successfully complete the induction year with an overall rating of "competent" under the ADEPT Evaluation System and who sign an annual contract for the following school year. The Senate-passed bill did not include this bonus.

STATUS: ***S.1111*** *passed the Senate and was amended and passed by the House. On May 25, 2000, the Senate amended the House's amendments and returned the bill to the House for consideration of the Senate amendments. The Senate's May 25 amendments amended the bill back to the Senate-passed version as described above, and also revised the phase-in of the additional teacher contract days.*

PARENTAL INVOLVEMENT IN THEIR CHILDREN'S EDUCATION

The House and the Senate have passed differing versions of **S.1164**, the "Parent Involvement in their Children's Education Act." The following is a comparison of major components of the House- and Senate-passed versions of this bill:

Stated Purposes

The stated purposes of both the House- and the Senate-passed bill are: heightening awareness of the importance of parents' involvement in the education of their children throughout the children's schooling; encouraging the establishment and maintenance of parent-friendly school settings; and emphasizing that when parents and schools work as partners, a child's academic success can best be assured.

The Governor

Both the House and the Senate versions of the bill provide that the Governor shall require state agencies that serve families and children to collaborate and establish networks with schools to heighten awareness of the importance of parental influence on the academic success of their children and to encourage and assist parents to become more involved in their children's education.

The State Board of Education

- Both versions of the bill provide that the State Board of Education shall require school and district long-range improvements plans (as currently required under the Early Child Development and Academic Assistance statutes) to include stated goals and objectives for parent involvement and evaluation methods for these efforts.

- Both versions of the bill require the State Board to recognize districts and schools where parental involvement significantly increases beyond stated goals and objectives.

- The Senate-passed bill requires that the State Board establish criteria for staff training on school initiatives and activities shown by research to increase parental involvement in their children's education.

The State Superintendent of Education

- Both the House- and Senate-passed bills require the State Superintendent to design parental involvement and best practices training programs in conjunction with higher education institutions and the pre-K through grade 12 education community, including parental program coordinators, which shall include: practices that are responsive to racial, ethnic, and socio-economic diversity, and are appropriate to various grade-level needs; establishment and maintenance of parent-friendly school settings; awareness of community resources that strengthen families and assist students to succeed; and other topics appropriate for fostering partnerships between parent and teacher;

- Both the House- and the Senate-passed bills require the State Superintendent to collaborate with the Commission on Higher Education (CHE) to incorporate parental involvement training into teacher and principal preparation programs;

- Both the House- and Senate-passed bills require the State Superintendent to promote parental involvement as a priority for all levels from pre-k through grade 12 with particular emphasis at the middle and high school levels where parental involvement is currently least visible;

- Both the House- and Senate-passed bills require the State Superintendent to design a State Department of Education (SDE) staff position whose specific role is to coordinate statewide initiatives to support school and district parental involvement;

- Both the House- and Senate-passed bills require the State Superintendent to collect and disseminate to districts and schools practices which are effective in increasing parental involvement at all grade levels;

- Both the House- and Senate-passed bills require the State Superintendent to provide parental involvement staff development training for district and school liaisons and to provide technical assistance relating to parental involvement training to school districts and schools;

- Both the House- and Senate-passed bills require the State Superintendent to sponsor statewide conferences on best practices;

- Both the House- and the Senate-passed bill require the State Superintendent to enroll the SDE as a state member of national organizations which promote parental involvement frameworks, models, and practices, and which provide related services to members;

- Both the House- and the Senate-passed bills require the State Superintendent to promote local school districts to join national parental involvement organizations;

- Both the House- and the Senate-passed bills require the State Superintendent to monitor and evaluate parental involvement programs statewide by designing a statewide system which will determine program effectiveness and identify best practices, and report evaluation findings and implications.

Local School Boards

- Both the House- and the Senate-passed bills require local school boards to consider joining national organizations which promote and provide technical assistance on proven parent involvement frameworks and models;

- Both the House- and the Senate-passed bills require local school boards to incorporate, where possible, proven parental involvement practices into existing policies and efforts;

- Both the House- and Senate-passed bills require local school boards to adopt policies that emphasize the importance of parental involvement and that clearly define expectations for effective parental involvement practices in the district's schools. The Senate-passed bill also requires that local school boards strive to increase these expectations.

- Both the House- and the Senate-passed bills require local school boards to provide incentives and formal recognition for schools that significantly increase parental involvement. The Senate-passed bill also requires these incentives and recognition for schools that significantly improve or increase, or both, parental involvement.

- The House-passed bill requires local school boards to provide for all faculty and staff, no later than the 2002-2003 school year, parental involvement orientation and training through staff development.

- The House-passed bill provides that local school boards must require an annual briefing on district and school parental involvement programs and requires local school boards to include parental involvement expectations as part of the superintendent's evaluation.

- The Senate-passed bill requires local school boards by school year 2001-2002 to establish policies to increase parent involvement which bring together the teacher, the parent, and the student to discuss the academic progress of the student; and to adopt policies requiring the district and schools to incorporate proven effective practices that enable parents to become more involved in the education of their children.

School District Superintendents

- Both the House- and Senate-passed bills require each school district superintendent **to consider** designating staff to serve as parent liaison for the district to coordinate parent involvement initiatives and coordinate community and agency collaboration to support parents and families;

- Both the House- and Senate-passed bills require each school district superintendent **to consider** requiring each school to designate a faculty contact for parent involvement efforts to work with the district coordinator and network with other school faculty contacts;

- Both the House- and Senate-passed bills require each school district superintendent **to consider** requiring each school principal to designate space within the school specifically for parents, which contains materials

and resources on parents and schools partnering for a child's academic success;

- The House-passed bill requires each school district superintendent **to consider** encouraging principals to adjust class and school schedules to accommodate parent-teacher conferences at times more convenient to parents, and when possible, accommodate parents in cases where transportation and normal school hours present a hardship. The Senate-passed bill **requires** school district superintendents to encourage principals to do this.

- The House-passed bill includes provisions which **require** local school district superintendents to: include parental involvement expectations as part of each principal's evaluation; include information about parental involvement opportunities and participation in the district's annual report; disseminate to all parents of the district the expectations for parents (see below).

Expectations for Parents

- The House-passed bill outlines thirteen expectations for parents, including but not limited to attending school events, modeling desirable behaviors, using encouraging words, attending parent-teacher conferences, communicating with school teachers, monitoring and checking homework, ensuring attendance and punctuality, and supporting school efforts to increase student learning.

Education Oversight Committee

- Both the House- and the Senate-passed bills require the Education Oversight Committee (EOC) to promote the importance of parental involvement through the EOC's public awareness campaign. Both the House and Senate versions of the bill outline specific items which should be included in this campaign. The House-passed bill also requires the EOC to survey parents to determine if state and local efforts are effective in increasing parental involvement, and requires the EOC to use this information in the public awareness campaign.

- Both the House and the Senate-passed bills require the EOC and the State Superintendent of Education to develop and publish jointly informational materials for distribution to parents and teachers statewide. The information to be distributed must include an explanation of academic standards and advice on how children can achieve them, as well as an explanation of the relationship of the standards to the Palmetto Achievement Challenge (PACT) Tests and; printed information about the standards and advice relative to parental involvement in their children's education for display and use in all public k-12 classrooms.

Both bills require that the EOC disseminate these informational materials to all districts and schools.

Length of School Year

- The Senate-passed bill includes a provision which lengthens the school year, on a phased-in basis, from 190 to 195 days. The Senate also included provisions as to how these days must be used (i.e., professional development, development of student academic plans, conferencing with parents, development of curriculum and instructional plans, and preparation for opening and closing of schools.

Tax Credits

- The Senate-passed bill provides that the Education Oversight Committee, in cooperation with representatives from the Department of Commerce, the Department of Revenue, and the SC Chamber of Commerce, shall develop recommendations for employer tax credits as incentives to encourage workplace policies for parent release time from work for parent-teacher conferences, parent literacy improvement, and parent participation in other school activities.

STATUS: *Differing versions of **S.1164** passed the House and the Senate. The bill as amended by the House has been sent back to the Senate for that body's consideration of the House amendments.*

ENVIRONMENT / NATURAL RESOURCES

ATLANTIC INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT IMPLEMENTATION ACT

(See **S.1129** under the State/ Local Government heading.)

CONSERVATION INCENTIVES ACT

The General Assembly passed **H.3782**, which was signed into law by the Governor on May 19. This legislation creates the South Carolina Conservation Incentives Act which is designed to protect and preserve natural areas by providing an income tax credit incentive for landowners voluntarily to convey lands or conservation easements to qualified conservation organizations. The legislation allows an income tax credit equal to twenty-five percent of the value of a federal income tax charitable deduction for a qualified conservation contribution of a qualified real property interest located in South Carolina. A cap is provided on this credit. The

legislation provides for a carry-forward of unused credit and makes the unused credit transferable upon notice to the Department of Revenue with the credit retaining all its attributes in the hands of the transferee.

The legislation also creates the Conservation Grant Fund as a separate and distinct fund within the State Treasury. The income and principal of the fund must be used only: (1) to stimulate the use of conservation easements and fee simple gifts of land for conservation to qualified conservation organizations; (2) to improve the capacity of private nonprofit land trusts successfully to accomplish conservation projects; and (3) to provide an opportunity to leverage private and public monies for conservation easements. The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and other monies received from public or private sources. The board of the Department of Natural Resources serves *ex officio* as the Conservation Grant Fund Board with full authority over the administration of the fund. Additionally, the legislation amends the South Carolina Probate Code so as to authorize a personal representative or trustee, as applicable, with the consent of all affected parties to make a donation of a qualified conservation easement to obtain a federal estate tax and state income tax credit benefit.

STATUS: **H.3782** *passed the General Assembly and was signed into law by the Governor on May 19.*

FARM AND FOREST LANDS PROTECTION ACT

The Senate approved and sent to the House **S.12**, the Farm and Forest Lands Protection Act. Under this bill, counties would be allowed to create voluntarily Priority Agricultural Land (PAL) areas and private landowners would be compensated for not developing their land. The legislation establishes the State Priority Agricultural Land Board within the Department of Natural Resources. The sixteen-member board, among other duties, shall allocate money from the Priority Agricultural Land Trust Fund (monies from this fund may only be spent on easements) to counties for the purpose of purchasing agricultural conservation easements. All county programs to purchase these easements must be approved by the State Board. The specific criteria, which the State Board employs to determine approval, are outlined within this bill. The State Board must present the General Assembly with a report that, among other details, discloses the location and acreage of PAL areas and the number and acreage of conservation easements.

When a county council receives a request for the creation of a PAL, a public hearing must be conducted to determine if there is sufficient public interest to declare a PAL. If there is, then the county council must establish a County Priority Agricultural Land Board. This nine or eleven member board (appointed by the County Council), among other duties, shall propose PALs, submit a program for purchasing easements to the county council and State Board, adopt rules of procedure for purchasing easements, and purchase easements in the name of the county. The County Board is the only entity certified to establish PALs and is

responsible for holding public hearings regarding PALs and publicizing the approval of PALs. The County Board must also submit an annual report to the State Board. All proposed modifications of PAL areas will be handled by the County Board, which will submit its recommendations to the county council. If the county has a planning commission, then the County Board will work in conjunction with the planning commission and report to the county council.

A county council has the power to accept or reject any PAL proposal or modification. If the council decides to modify or reject a proposal, it must provide the County Board with a written statement of why the decision was made within ten days. After a PAL is created, the County Board must make available to the public a description and a map of the area. The county council shall take into consideration landowners' (only those who own land within the PAL) applications for the purchase of agricultural conservation easements. This bill outlines the terms and conditions of agricultural conservation easements. These easements do not prevent the landowner from granting rights-of-way for the installation of certain pipes and lines (i.e. water, sewage, telecommunications, etc.). They also do not prevent the construction of structures necessary for agricultural production, or used for the landowner's principal residence. A landowner whose land lies within a PAL area and who wishes to site or expand a permitted animal feeding operation is required to satisfy all pertinent DHEC regulations and the stipulation of this bill.

A County Board may determine the value of the land by one of two methods. A Board may employ a numerical point system and if a seller disagrees with the value determination, they may obtain an independent state-certified general real estate appraiser. The value is then calculated as the average between the numerical point system and the landowner's appraisal. The County Board may opt to retain a county assessor to determine the value of the land. If the seller disagrees with the value in this case, he may obtain an independent state-certified general real estate appraiser. The value is then calculated according to a formula delineated in the bill. The bill also details how state funds are to be disbursed among county programs and makes current county purchase of development rights programs eligible for funding.

Local governments are forbidden from enacting local laws that may unreasonably restrict agricultural production within PAL areas. Agricultural production within PAL areas is exempt from being considered a nuisance in any local law unless there is a direct relation to public health and safety. No land may be condemned without notifying the County Board.

STATUS: **S.12** *passed the Senate on March 15 and was sent to the House where the bill was referred to the Agriculture and Natural Resources Committee.*

ILL-TREATMENT AND TORTURE OF ANIMALS

(See **S.21** under the Criminal Justice heading.)

MARINE RESOURCES ACT

The General Assembly passed **H.3617**, the South Carolina Marine Resources Act, and the legislation was signed into law by the Governor on March 29. The legislation provides for comprehensive revision and consolidation of all saltwater commercial and recreational fishing laws. Inadequate, outdated and conflicting statutes are eliminated. The major changes are as follows:

- The Department of Natural Resources retains undedicated revenues derived from the regulation of saltwater fisheries;
- Individual vessel licenses, trawler captain licenses, and the land & sell licenses are eliminated. A new individual commercial fisherman license is allowed for the sale of catch to a licensed dealer;
- Higher non-resident fees are required;
- A clear separation between commercial and non-commercial gear and their use is provided;
- The Department of Natural Resources is authorized to issue permits to shellfish growers to use the water columns to grow oysters and clams;
- The recreational limit on oysters and clams remains at two bushels of oysters and one half bushel of clams per day, but no more than two daily limits may be harvested each week;
- The Department of Natural Resources will manage shad, herring, and sturgeon fishing through regulations in each river system based on the health of the fish stocks in each river;
- The act allows the taking of shrimp over bait from private docks.

STATUS: **H.3617** *was approved by the General Assembly and signed into law by the Governor on March 29 (Act 245).*

GAMBLING

GAMBLING CRUISE PROHIBITION

H.4491 addresses so-called "cruises to nowhere" in which individuals board a vessel that sails beyond the legal jurisdiction of the state in order to conduct gambling activities and then return to the state to disembark. The bill provides that the intent of the General Assembly is to reinforce long-standing prohibitions on

gambling by reiterating that the gambling offenses provided under the Constitution and laws of this State extend to any vessel in this State or to any United States or foreign documented vessel where the voyages begin and end in the waters of this State, consistent with the standards specified in 15 U.S.C. 1175(B)(2)(A), commonly referred to as the Johnson Act Amendments of 1992.
The bill prohibits gambling or the repair of gambling devices on a vessel in a voyage that begins and ends within this state. The bill prohibits the operation of a vessel that transports persons to another vessel for the purpose of gambling, if both the transporting vessel and the vessel on which a gambling device is used or repaired begins and ends its voyage in South Carolina. It is also unlawful for a person to repair or use any gambling device on a vessel in this State.

The legislation does not apply to gambling on cruises where the vessel docks at a port of call in another state or possession of the United States or foreign country and remains in that port for at least six hours so as to allow passengers the opportunity to disembark the vessel for sightseeing, shopping, or other tourism-related activities at that port.

STATUS: **H.4491** *was introduced in the Senate, read for the first time, and referred to the Senate Judiciary Committee on April 6, 2000.*

HEALTH / SOCIAL SERVICES

CHILD DAY CARE CENTERS RUN BY RELIGIOUS INSTITUTIONS

S.199 addresses child day care centers run by religious institutions and makes various other revisions to state laws governing the operation of child day care facilities and group day care homes. The bill subjects religious day care facilities to registration and inspection procedures and requirements for floor space, child-staff ratio, and staff training required of other day care facilities. A statement of registration must be issued to a religious day care facility upon satisfactory completion of prescribed procedures. Religious facilities must display the statement of registration conspicuously on the premises and state the registration number in all advertisements. Inspection of religious day care facilities must be conducted before registration renewal. The Department of Social Services (DSS) may not prescribe the curriculum for religious day care staff training, other than curriculum which addresses administration, child growth and development, and health and safety. DSS may not prescribe the content of curriculum activities for children that are provided in religious day care centers.

S.199 makes various other revisions pertaining to child day care centers and group day care homes. Child day care centers and group day care homes must display their license number in all advertisements; family day care homes must state their registration number in all advertisements. The bill makes various revisions to legal

definitions of child day care facilities, to include, among other things, certain day camps and summer resident camps under the term "child day care facilities." The bill revises conditions for seeking an injunction against an operator of a child day care center or group day home. The bill eliminates the power of DSS to issue a declaratory order on drawings and specifications of proposed construction. Instead, the bill authorizes DSS to offer consultation on proposed construction at the request of day care operators.

STATUS: *Signed Act into law by the Governor on February 25, 2000 (Act 220).*

PRESCRIPTION DRUGS FOR SENIORS

The General Assembly passed **H.3699**, a joint resolution which among other things, creates the South Carolina Senior Prescription Drug Program. The Office of Insurance Services of the State Budget and Control Board will administer the program (they may contract with or designate other entities for assistance); maintain data on the program; and report semiannually specified data to the Governor and the General Assembly. Beginning January 1, 2001, the program must provide financial assistance in purchasing prescription drugs to senior citizens age sixty-five or over, who: have resided in South Carolina at least six consecutive months before participation in the program; are ineligible for Medicaid prescription benefits; do not have any pharmacy benefits or coverage from any insurance program and; have an annual income that does not exceed 200% of the federal poverty level. The joint resolution provides a definition for "prescription drugs" for purposes of the program.

The joint resolution provides that priority must be given to applicants without Medicare supplements or other third party benefits or coverage during the six months before application, and also provides that if federal programs provide significant similar benefits to seniors eligible under this program, the office may reassess the program and provide other pharmacy benefits to seniors if the program's costs remain substantially similar.

STATUS: ***H.3699*** *passed the General Assembly. The Governor vetoed provisions of the joint resolution relating to funding for an increase in the homestead exemption and relating to the effective dates included in the resolution (see veto explanation under "Tax Relief"). The House has adjourned debate on consideration of these vetoes until May 30, 2000.*

SAFE HAVEN FOR ABANDONED BABIES ACT

(See **H.4743** under the Criminal Justice heading.)

MENTAL HEALTH PARITY

The House and Senate passed differing versions of **S.1041**. The Senate-passed bill requires the "State health insurance plan" (defined as health insurance plans offered or administered by the State Budget and Control Board) to provide coverage for treatment of a "mental health condition" and "alcohol or substance abuse" (as both terms are defined in the bill), and prohibits the establishment of any term or condition that places a greater financial burden on an insured for access to treatment for a mental health condition or alcohol or substance abuse than for access to treatment for a physical health condition.

The Senate-passed bill specifies that any deductible or out-of-pocket limits required under the State health insurance plan must be comprehensive for coverage of mental health conditions, alcohol or substance abuse, and physical health conditions. The bill requires that to be eligible for this coverage under the State health insurance plan, the treatment must be rendered by a licensed health professional who is acting within the scope of his or her license and in accordance with the provisions of the plan or contract.

The Senate-passed bill also provides that if the State health insurance plan does not otherwise provide for management of care under the plan or does not provide for the same degree of management of care for all health conditions, it may provide management of care for treatment of mental health conditions and alcohol or substance abuse as long as the management of care does not diminish or negate the purpose of the bill. The bill requires that the management of care must ensure that timely and appropriate access to care is available, that the quantity, location, and specialty distribution of health care providers is adequate, and that administrative or clinical protocols do not reduce access to medically necessary treatment for any insured.

The Senate-passed bill provides that for the State health plan, a portion of the increase in total health insurance costs resulting from these provisions must be borne by the persons covered under that plan. The Senate-passed bill requires the Budget and Control Board, before July 1, 2005, to report to the General Assembly on the impact of the provisions of this bill on total health insurance costs beginning January 1, 2002, and ending December 31, 2004.

The Senate-passed bill allows the state health insurance plan to opt out of the requirements of this bill if, as a result of this coverage, the total health insurance costs of the state health insurance plan increase by more than one percent by the end of the three year period beginning January 1, 2002, and ending December 31, 2004; or by more than 3.24 percent at any time during this three year period.

The Senate-passed bill provides that a "health insurance plan" (defined as a group health insurance plan offered by an insurer or a health maintenance organization which provides health insurance benefits consisting of medical care provided directly or otherwise and including items and services paid for as medical care under any hospital or medical service policy or certificate, hospital or medical service plan

contract, or health maintenance organization contract offered by a health insurance issuer, with specified exceptions) that provides coverage for the treatment of any type of "psychiatric condition" (as defined in the bill) shall provide coverage for the treatment of a mental health condition and alcohol or substance abuse and shall not establish any term or condition that places a greater financial burden on an insured for access to treatment for a mental health condition or alcohol or substance abuse than for access to treatment for a physical health condition. The Senate-passed bill also requires that any deductible or out-of-pocket limits required under such a health insurance plan must be comprehensive for coverage of mental health conditions, alcohol or substance abuse, and physical health conditions. The Senate-passed bill also provides that if the health insurance plan does not otherwise provide for the management of care under the plan or does not provide for the same degree of management of care for all health conditions, it may provide management of care for treatment of mental health conditions and alcohol or substance abuse as long as the management of care does not diminish or negate the purpose of the bill. The Senate-passed bill requires that the management of care must also ensure that timely and appropriate access to care is available, that the quantity, location, and specialty distribution of health care providers is adequate, and that administrative or clinical protocols do not reduce access to medically necessary treatment for any insured. The Senate-passed bill also requires that in order to qualify for coverage under these plans, the treatment must be rendered by a licensed health professional acting within the scope of his or her license and in accordance with the provisions of the health insurance plan or contract. The Senate-passed bill provides that for a "health insurance plan" the provisions of the bill do not take effect if, as a result of the application of these coverage requirements to the state health plan, the total health insurance costs of the state health insurance plan increase, as reported to the General Assembly, by more than: one percent by the end of the three year period beginning January 1, 2002, and ending December 31, 2004; or 3.24 percent at any time beginning January 1, 2002, and ending December 31, 2004. If these increases do not occur, these requirements take effect for these group health insurance plans on the next policy anniversary for plan years after December 31, 2005. The Senate-passed bill also provides that, insofar as these "health insurance plans" are concerned, if total health insurance costs of a health insurance plan increase by more than three percent at any time after December 31, 2005, as a result of the application of these provisions, that group health insurance plan may opt out of the requirements of the bill.

The bill provides that these provisions take effect for the state health insurance plan on January 1,2002. For the other group health insurance plans, these provisions take effect on plan years after December 31, 2005, if the increase in health insurance costs of the state health insurance plan, as reported by the Budget and Control Board's report to the General Assembly (as described above), does not exceed one percent by the end of the three-year period beginning January 1, 2002, and ending December 31, 2004, or does not exceed 3.24 percent at any time beginning January 1, 2002, and ending December 31, 2004.

The Senate-passed bill also includes a clause providing that in the event that any provision of the bill or any application of a provision to any person or circumstance

is held to be unconstitutional, the remainder of the bill and its application to any person or circumstance shall not be affected.

The House-passed Bill:

- Adds "social anxiety disorder" to the definition of "mental health conditions" for which state health insurance coverage is provided under the bill;
- Adds a provision that state health insurance coverage for mental health conditions must be provided only if the treatment is "medically necessary;"
- Deletes all provisions relating to health insurance plans other than the State health insurance plan.
- Deletes the requirement that the Budget and Control Board report to the General Asssembly on the impact of provisions of the bill on total health insurance costs beginning January 1, 2002, and ending December 31, 2004;
- Changes from 3.24% to 3.39% the minimum increase on total health insurance costs (at any time between January 1, 2002, and December 31, 2004) which must occur before the state health insurance plan may "opt-out" of the requirements of the bill;
- Deletes the Senate's effective dates section of the bill and replaced it with a requirement that the Budget and Control Board conduct a study to assess the impact of the bill for the period beginning January 1, 2002 through December 31, 2003, using actual incurred claims for that period as paid through July 1, 2004. The Budget and Control Board is required to report its findings to the General Assembly by December 31, 2004. The House also inserted a provision into the bill providing that the bill takes effect upon approval by the Governor except that the requirements regarding the State health insurance plan (Section 1 of the bill) take effect January 1, 2002. The House provided that the Act is repealed January 1, 2005.

STATUS: ***S.1041*** *passed the Senate. On May 25, 2000, the bill was amended by the House and returned to the Senate for that body's consideration of the House amendments.*

HOLIDAYS / HERITAGE

CONFEDERATE BATTLE FLAG

As of 12:00 noon on July 1, 2000, and permanently thereafter, **S.1266** authorizes only the United States Flag and the South Carolina State Flag to fly atop the dome

of the State House and in the chambers of the Senate and House. Under this bill, the term "chambers" does not include individual members' offices. The bill includes language stating that a private individual on the capitol complex grounds is not prohibited from wearing as a part of his or her clothing or carrying or displaying any type of flag including a Confederate flag.

As of 12:00 noon on July 1, 2000, **S.1266** authorizes the South Carolina Infantry Battle Flag of the Confederate States of America to be flown on the grounds of the Capitol Complex. Additionally, the bill provides that the South Carolina Infantry Battle Flag of the Confederate States of America must be located at a point on the south side of the Confederate Soldier Monument, centered on the monument, ten feet from the base of the monument at a height of thirty feet. The flagpole on which the flag is flown and the area adjacent to the monument and flagpole must be illuminated at night and an appropriate decorative iron fence must be erected around the flagpole. Also, the bill outlines the dimensions of the South Carolina Infantry Battle Flag of the Confederate States of America.

The Division of General Services of the Budget and Control Board is charged with replacing the United States Flag, the South Carolina State Flag, and the South Carolina Infantry Battle Flag of the Confederate States of America as may be necessary due to wear. Provisions regarding the placement of the United States Flag, the South Carolina State Flag, and the South Carolina Infantry Battle Flag of the Confederate States of America, may only be amended or repealed upon passage of an act which has received a two-thirds vote on the third reading of the bill in each branch of the General Assembly.

Under this bill, it is unlawful for a person to wilfully and maliciously deface, vandalize, damage, or destroy or attempt to deface, vandalize, damage, or destroy any monument, flag, flag support, memorial, structure or fence located on the capitol grounds. Penalties are established for failure to comply.

S.1266 requires that the Confederate flags removed from above the rostrum in the chambers of the House and Senate and from the dome of the State House to be placed and permanently displayed in a suitable location in the State Museum. All orders for Confederate flags placed with the Sergeant at Arms and paid for in full as of May 31, 2000 must be filled.

Under **S.1266**, no Revolutionary War, War of 1812, Mexican War, War Between the States, Spanish-American War, World War I, World War II, Korean War, Vietnam War, Persian Gulf War, Native American, or African-American History monuments or memorials erected on public property of the State or any of its political subdivisions may be relocated, removed, disturbed, or altered. No street, bridge, structure, park, preserve, reserve, or other public area of the State or any of its political subdivisions dedicated in memory of or named for any historic figure or historic event may be renamed or rededicated. No person may prevent the public body responsible for the monument or memorial from taking proper measures and exercising proper means for the protection, preservation, and care of these

monuments, memorials or nameplates. Provisions regarding the markers and memorials may only be amended or repealed upon passage of an act which has received a two-thirds vote on the third reading of the bill in each branch of the General Assembly.

STATUS: Signed into law by the Governor on May 23, 2000.

STATE HOLIDAYS

S.60 establishes Martin Luther King Jr.'s Birthday and Confederate Memorial Day as regular state holidays. Under this bill, Martin Luther King Jr.'s Birthday would be observed on the third Monday in January. The bill provides for the observance of Confederate Memorial Day on May 10. The bill provides that general election day is no longer a state holiday. Also, the bill eliminates the current provision under which state employees choose from a list of optional holidays or take a day of their own choosing.

STATUS: Signed into law by the Governor on May 1, 2000 (Act 246).

INSURANCE

CAPTIVE INSURANCE COMPANIES

The General Assembly passed **H.4467** which provides for the licensure, regulation, and operation of captive insurance companies. A captive insurance company is an insurance company which exists only to insure the risks of its parent and affiliated companies. Companies rely upon captive insurers when coverage is not readily obtainable in the traditional insurance market. The legislation is offered to encourage captive insurance companies to establish themselves in South Carolina.

STATUS: **H.4467** *was approved by both the House and Senate and was enrolled for ratification on May 24.*

PROTECTED CELL INSURANCE COMPANIES

The General Assembly passed **H.4442**, the Protected Cell Insurance Company Act, which was signed into law by the Governor on March 7. This act establishes a method by which a domestic insurer can create a protected "cell." A protected cell is a pool of assets and liabilities which is segregated and insulated from a company's other assets and liabilities. The legislation offers companies the protected cell option in an attempt to correct certain conditions in the insurance

market place such as those which currently leave coastal residents with little or no choice when obtaining catastrophic insurance coverage. Due to the perennial threat of hurricanes on the South Carolina coast and the rash of bankruptcies resulting from the damage of Hurricane Andrew in Florida, few insurance companies are choosing to write catastrophic coverage for coastal residents. In order to protect insurers from the threat of bankruptcy, the bill allows a property and casualty company to segregate its homeowners' business within a protected cell and securitize it. Proponents of the legislation hope that this will encourage insurers to write policies which they would not now consider, thereby providing consumers with more choices when shopping for coverage.

STATUS: **H.4467** *was passed by the General Assembly and signed into law by the Governor on March 7 (Act 238).*

MENTAL HEALTH PARITY

(See **S.1041**, Mental Health Parity, under "Health / Social Services" Section)

STATE / LOCAL GOVERNMENT

ATLANTIC INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT IMPLEMENTATION ACT

The primary function of **S.1129** is to establish South Carolina as a member of the Atlantic Low-Level Radioactive Waste Compact. Also, the bill stipulates the conditions that must be met prior to South Carolina's membership in the Atlantic Compact.

The South Carolina Budget and Control Board (board) is charged with overseeing disposal rates and importation of nonregional waste into the State. The board must approve disposal rates for low-level radioactive waste disposed at any regional rates facility located within the State. The approval of disposal rates is neither a regulation nor the promulgation of a regulation as those terms are used in Title 1 (Administration of Government), Chapter 23 (State Agency Rule Making and Adjudication of Contested Cases). The board must adopt a rate schedule for regional generators containing disposal rates that include (1) certain administrative surcharges, (2) surcharges for the extended custody and maintenance of the facility, and (3) do not exceed the approximate disposal rates, excluding any access fees and including a specification of the methodology for calculating fees for large components, generally applicable to regional generators on September 7, 1999. Any disposal rates contained in a valid written agreement that differ from rates in the maximum uniform rate schedule will continue to be honored through the term of such agreement. The maximum uniform rate schedule will become effective

immediately upon South Carolina's membership in the Atlantic Compact. Absent action by the board to establish disposal rates for nonregional generators, rates applicable to these generators must be equal to those contained in the maximum uniform rate schedule approved by the board for regional generators.

The bill outlines the maximum volume of waste that the State may accept each year. No nonregional waste may enter the State after 2008. In all matters relating to the Act, board shall participate as the party representing the interests of the State.

The first two million dollars of revenue shall be allotted to the Barnwell County Treasurer for distribution to other parties. The State Treasurer must allocate all revenue (in excess of two million dollars) to the Nuclear Waste Disposal Receipts Distribution Fund. All funds deposited in the Nuclear Waste Disposal Receipts fund for waste disposed for each fiscal year, less the amount needed to provide generator rebates, must be deposited in the Children's Education Endowment Fund. 30% of these monies must be allocated to Higher Education Scholarship Grants, and 70% of these monies must be allocated to Public School Facility Assistance. Effective beginning fiscal year 2001-2002, there is appropriated annually from the general fund of the State to the Higher Education Scholarship Grants share of the Children's Higher Education Endowment whatever amount is necessary to credit to the Higher Education Scholarship Grants share an amount not less than the amount credited to that portion of the endowment for fiscal year 1999-2000.

In the event that either operating parties abandon their responsibilities or a facility's license is transferred to a state agency, the board is responsible for extended custody and maintenance of radioactive materials. Money from the extended care maintenance fund will cover this cost. The board is relieved of certain duties pertaining to assessments, surcharges and penalty charges on nonsite waste received at the regional disposal facility.

The Governor's Nuclear Advisory Council is authorized to offer advice and recommendations on matters relating to the Atlantic Compact Commission.

STATUS: Enrolled for ratification May 25, 2000.

CONFEDERATE BATTLE FLAG

(See **S.1266** under the Holidays / Heritage heading.)

INTERNET PORNOGRAPHY ON LIBRARY AND SCHOOL COMPUTERS

As passed by the House, **H.4426** provides measures to reduce the accessibility of pornographic web sites on computers that (1) can access the Internet, (2) are available for use by the public and/or students, and (3) are located in a lending

library supported by public funds, a public school library or media center, or public institutions of higher learning. The bill provides that use policies for these computers shall be determined by the institution's governing board, which must adopt and enforce policies to reduce access to web sites containing material which is in violation of current obscenity statutes. Public lending libraries or media arts centers must publicly post these provisions. All applicable federal and state laws and ordinances relating to obscenity and other similar criminal law violations apply to persons who knowingly download such material from these computers. A pilot program must be established to assess the feasibility of installing Internet filtering software in libraries and institutions specified in the bill (medical schools would be exempt). The bill includes provisions and procedures for the pilot program, and requires a report to the General Assembly of findings from the pilot program by December 1, 2001.

The Senate's amendment to **H.4426** completely rewrites the bill. The Senate amended the bill to provide that a computer which (1) is located in a lending library supported by public funds, public school library or media arts center, or in the library of a public institution of higher learning (2) can access the Internet (3) is available for use by the public, or students, or both must have its policies determined by the library's or center's governing boards. The Senate's amendment provides that the governing boards must adopt policies intended to reduce the ability of the user to access web sites displaying information or material in violation of current obscenity statues. The Senate further amended the bill by providing that a governmental entity is not liable for a loss resulting from the failure of a library's or media arts center's governing board to adopt policies.

Another bill pertaining to Internet access, **S.1031** requires computers in public libraries, public school libraries, and public institutions of higher learning libraries which (1) can access the Internet and (2) are available for use by the public or students to be equipped with screening software to eliminate or reduce the accessibility of pornographic sites.

STATUS: **H.4426** *passed the House and was amended and passed by the Senate. On May 26,* **H.4426** *was returned to the House for that body's action on the Senate amendments. Another bill pertaining to Internet access,* **S.1031** *passed the Senate on April 27, 2000.* **S.1031** *was introduced in the House, read for the first time, and referred to the House Education and Public Works Committee on May 2, 2000.*

MUNICIPAL INCORPORATION AND ANNEXATION

S.226 provides that areas proposed for incorporation as a municipality must be contiguous. Contiguous property is one that is adjacent to a municipality and shares a continuous border. For the purposes of municipal annexation contiguity is not established by a road, waterway, right-of-way, easement, railroad track, marshland, or utility line which connects one property to another; however, if the

connecting road, waterway, easement, railroad track, marshland, or utility line intervenes between two properties, which but for the intervening connector would be adjacent and share a continuous border, the intervening connector does not destroy contiguity. Areas may still be considered contiguous even if they are divided by an intervening marshland located in the tidal flow or an intervening publicly-owned waterway, whether or not the marshland located in the tidal flow or the publicly-owned waterway has been previously incorporated or annexed by another municipality. The incorporation of a marshland located in the tidal flow or a publicly-owned waterway does not preclude the marshland located in the tidal flow or the publicly-owned waterway from subsequently being used by any other municipality to establish contiguity for purposes of incorporation if the distance from highland to highland of the area being incorporated is not greater than three-fourths of a mile.

S.226 imposes new notification and public hearing requirements on municipalities which are preparing to act on an annexation petition. The bill provides that not less than 30 days before acting on an annexation petition, the annexing municipality must give notice of a public hearing by publication in a newspaper of general circulation in the community, by posting the notice of the public hearing on the municipal bulletin board, and by written notification to the taxpayer of record of all properties within the area proposed to be annexed, to the chief administrative officer of the county, to all public service or special purpose districts, and all fire departments, whether volunteer or full-time. The public hearing must include a map of the proposed annexation area, a complete legal description of the proposed annexation area, a statement as to what public services are to be assumed or provided by the municipality, and the taxes and fees required for these services. The notice must include a projected timetable for the provision or assumption of these services.

Currently, petitions for corporation should include the proposed corporate limits, the number of inhabitants therein, and must be signed by 50 qualified electors and 15% of the freeholders who reside within the proposed municipality. Under this bill, the petition must only be signed by 15% of the qualified electors who reside within the proposed municipality.

S.226 changes references in the statutes from "city or town" to "municipality." This bill eliminates the requirement that an election must be ordered to see if a certain territory should be annexed; the bill deletes statutes and references in statutes to such elections.

STATUS: Signed into law by the Governor on May 1, 2000 (Act 250).

THE PORTS AUTHORITY GOVERNING BOARD AND LABOR UNION AFFILIATION

The House of Representatives approved and sent to the Senate **H.4541** which pertains to the South Carolina Ports Authority Board and labor union affiliation. This bill provides that a person may not be appointed to or continue to serve on the governing board of the South Carolina Ports Authority who is or becomes a member, associate, representative, or employee of a labor union, if the principal activities of the union relate to ports.

STATUS: **H.4541** *passed the House on March 30 and was sent to the Senate where it has been referred to the Transportation Committee.*

RETIREMENT ISSUES

Various proposals concerning retirement issues for state workers have been introduced in the General Assembly this year. The following are highlights of some of those proposals.

▪ 28 Year Retirement, Teacher/Employee Retention Incentive Program, Cost-Of-Living Adjustments, Etc.

The House included as a permanent provision in **H.4775**, the 2000-2001 budget bill, a plan for 28 year retirement without penalty, and the Teacher and Employee Retention Incentive (TERI) Program. The TERI Program is an incentive for experienced employees to remain in the workforce for up to five additional years after retirement. Under this option, an employee may return to work upon retirement and his or her retirement benefit will be held in an account (which does not accrue interest) until the employee stops working. This House plan also provides for a guaranteed 1% Cost of Living Adjustment (COLA) in the South Carolina Retirement System and the South Carolina Police Officers' Retirement System; an increase in retiree group life insurance benefits for both of these systems; and a provision which eliminates the practice of pro-rating the death benefit for the month in which a retiree dies.

The Senate also included the 28 year retirement plan, the TERI program, increased retiree group life insurance benefits for the South Carolina Retirement System and the South Carolina Police Officers' Retirement System, and a provision which eliminates the practice of pro-rating the death benefit for the month in which a retiree dies, in its version of **H.4775**. For the COLA, the Senate recommended a .5% increase beginning December 31, 2000, an additional .5% increase beginning December 31, 2001, and additional .5% increases after December 31, 2002, as the retirement system will absorb, up to a maximum of 3%.

The House-passed budget bill also included a permanent provision which would allow members of the General Assembly Retirement System to receive additional credited service for service in the selected reserve of the Armed Forces in the same manner additional credited services are received for National Guard Service. The Senate budget plan deletes that House provision and includes instead a provision that members of the General Assembly may establish service credit in the General Assembly Retirement System for the same cost and under the same conditions as members of the South Carolina Retirement System.

STATUS: *The House and the Senate have passed differing versions of* **H.4775**, *the 2000-2001 General Appropriation Bill. Those differences are currently being negotiated in a House-Senate conference committee.*

▪ SERVICE PURCHASE REFORM

Several proposals have been introduced this year which would reform the South Carolina Retirement Systems' (SCRS) service purchase provisions. Currently, the SCRS allow certain members to purchase various types of service credit toward their retirement eligibility. This privilege is not available to all members. Also, the costs to buy service vary; periods of service eligibility differ; and what is or is not a permissible purchase of service has, according to the SCRS, often been misunderstood. **S.1204** simplifies the statutes governing service purchases by repealing most of the provisions and replacing them with far fewer, but more comprehensive provisions. The bill passed the Senate and has been amended and passed by the House. The following is a summary of the bill ***as passed by the House***.

S.1204 allows an SCRS member to purchase the following types of service: public service employment; service as a teacher in a primary or secondary private school; up to six years of military service (including the National Guard and the Reserves); approved leaves of absence without pay; previously withdrawn service; and non-qualified service, which would allow the purchase of up to five years of non-qualified time.

Under this bill, every active SCRS member would become eligible to purchase service credit. The cost to purchase service credit would be uniform and purchases would be eligible for installment loan program financing. Members may also use 401(k) funds to purchase service. The cost for service purchases (except previously withdrawn service and non-qualifying service) would be 16 percent of current salary, or career highest salary, whichever is greater.

The bill also provides that active contributing members who have five or more years of earned service credit could establish up to five years of non-qualified service at a cost of 35 percent of current salary or career highest year salary, whichever is higher, for each year of credit purchased. Members who left previous employment and received a refund of their contributions plus interest may reestablish this service upon returning to active membership by repaying the amount they withdrew plus

interest to the date their request is received. At its discretion, the employer may pay all or part of the cost for an employee's service credit purchase. Any such payment would be treated as employer contributions.

The bill provides that a transition period of six to twelve months will be implemented so the Retirement Systems may modify its programs for service purchase and installment loans, disseminate information to its members and conduct training. When setting new rates for service purchases, a period of time in which members may purchase service at the current rates would be offered. This period would allow members sufficient time to fulfill their current service purchase plans.

The bill also increases the retiree group life insurance benefit for South Carolina Retirement System (SCRS) and Police Officers Retirement System (PORS) members to $2,000, $4,000 and $6,000, and eliminates the prorating of benefits for the month in which a retiree dies.

The bill also reinstates the special contributor purchase of service credit, adds a state income tax deduction for employer-paid service credit retroactive to 1997, and conforms the General Assembly Retirement System (GARS) to the service purchase reforms.

S.1204 reforms the payment options available to retiring members by eliminating the Social Security option and two other options, leaving a maximum payment plan and two survivor (beneficiary protection) options in which the member's benefit will revert to the maximum if his beneficiary predeceases him.

The bill modifies the Department of Education criteria for rehiring retired teachers in critical needs areas and provides that school districts must certify that there are no non-retired teachers available to their local board of education rather than the Department of Education.

STATUS: **S.1204** *passed the Senate, and was amended and passed by the House. The bill has been returned to the Senate for that body's consideration of the House amendments.*

▪ OPTIONAL RETIREMENT PROGRAM FOR TEACHERS AND SCHOOL ADMINISTRATORS

The General Assembly passed **H.4416**, which provides that teachers and school administrators first employed after June 30, 2000, shall irrevocably elect either to join the South Carolina Retirement System or to participate in the Optional Retirement Plan (ORP) within ninety days after entry into service. In the first year of the program, the participants have until December 1, 2000, to elect. Those who make no such election are presumed to have opted for participation in the South Carolina Retirement System. However, after five years in the Optional Retirement

Plan, a participant may within ninety days of the five year anniversary date, opt to leave the ORP and participate in the South Carolina Retirement System. Provisions are established for administration of the optional program and the manner in which contributions are to be made to the program.

STATUS: **H.4416 (R289)** *was signed by the Governor on May 1, 2000.*

▪ STATE HEALTH INSURANCE

The House-passed budget plan for 2000-2001 (**H.4775**) includes a permanent law provision (Part II, Section 21) which makes the following adjustments to the State Health Plan, effective January 1, 2001:

- All employee-paid premiums are increased by five dollars a month;
- Individual deductibles in the economy and standard plans are increased by fifty dollars and family deductibles in both plans are increased by one hundred dollars;
- The co-insurance amount in the standard plan is revised from fifteen to twenty percent and revised in the economy plan from twenty to twenty-five percent;
- All other elements of the plan including, but not limited to, the fifteen hundred dollar "cap" and the elements of the prescription drug benefit must remain unchanged from the manner in which the plans operated on January 1, 2000, except that the "cap" on the prescription drug benefit is reduced from fifteen hundred dollars to one thousand dollars. Additionally, when an adjustment requires increased employee contributions or has the effect of reducing benefits, a public hearing must be held on the adjustments and no such adjustments may be made except while the General Assembly is meeting in regular session.

The Senate-passed budget bill did not recommend this permanent provision, but recommended a Part 1B (temporary) proviso which provides that the State Health Plan is only required to seek a twenty-two day reserve fund by the end of calendar year 2001. The proviso also states that for calendar year 2001, the "cap" on the prescription drug benefit is reduced from fifteen hundred dollars to one thousand dollars.

STATUS: *The House and the Senate have passed differing versions of* **H.4775**, *the 2000-2001 General Appropriation Bill. Those differences are currently being negotiated in a House-Senate conference committee.*

STATE HOLIDAYS

(See **S.60** under the Holidays / Heritage heading.)

TAX RELIEF

INCREASE IN HOMESTEAD EXEMPTION

The General Assembly passed **H.3699**, which among other things, increases the homestead exemption amount from $20,000 to $50,000 for property tax year 2000 and thereafter. This joint resolution provides that the first year of the increase will be funded with sums appropriated from 1998-99 surplus general fund revenues. For tax years after 2000, the resolution provides that sufficient funds must be appropriated from the Tobacco Settlement Fund before any reductions or withdrawals as may be provided by law, to the Trust Fund for Tax Relief and must be used to reimburse counties, municipalities, school districts, and special purpose districts for this increased exemption.

STATUS: ***H.3699*** *was approved by both the House and the Senate. On May 19, 2000, the Governor vetoed the provision which appropriates funding (for tax years after 2000) from the Tobacco Settlement Fund and the section relating to the effective dates included in the resolution. The House has adjourned debate on consideration of these vetoes until May 30, 2000.*

CONSERVATION INCENTIVES ACT

(See **H.3782** under the Environment / Natural Resources heading.)

SALES TAX HOLIDAY

The House of Representatives and the Senate both included a permanent provision in their versions of the 2000-2001 General Appropriation Bill (**H.4775**) which exempts clothing, clothing accessories, footwear, school supplies, and computers from sales tax each year during three days beginning on the first Friday in August. Both the House and the Senate provisions also require the Department of Revenue before July tenth of each year to publish and make available to the public and retailers a list of the articles qualifying for this exemption.

STATUS: *The House and the Senate have passed differing versions of* **H.4775**, *the 2000-2001 General Appropriation Bill. Those differences are currently being negotiated in a House-Senate conference committee.*

FOOD TAX RELIEF

The House-passed 2000-2001 General Appropriation Bill (**H.4775**) includes a permanent proviso which eliminates the sales tax on food by reducing that tax one cent each year for five years. The phase-out begins January, 2001. The House appropriated $24.6 million to fund the reduction for FY 2001. Thereafter, each penny in reduced tax will reduce revenue approximately $50 million per year. This proviso was not included in the Senate's budget recommendations.

STATUS: *The House and the Senate have passed differing versions of* **H.4775**, *the 2000-2001 General Appropriation Bill. Those differences are currently being negotiated in a House-Senate conference committee.*

PERSONAL PROPERTY TAX RELIEF

The House of Representatives passed two bills which authorize counties to eliminate personal property tax on cars, motorcycles, and other specified vehicles, and which impose an additional sales and use tax to replace revenues lost because of the exemption.

The House passed **H.4856**, a joint resolution which proposes an amendment to the State Constitution pertaining to property tax exemptions for certain vehicles. Under the joint resolution, voters at the general election would decide whether to approve an amendment to the South Carolina Constitution allowing the governing body of a county to exempt from property taxes levied in the county private passenger motor vehicles, motorcycles, general aviation aircraft, boats and boat motors. These exemptions would be allowed in a county only if they are approved in a referendum held in the county in the manner that the General Assembly provides by law.

The House also passed **H.4854**, the Personal Property Tax Exemption Sales Tax Act. This bill authorizes a county council to impose, upon approval in a county referendum, an additional sales and use tax to replace revenue lost as a result of the personal property tax exemption on private passenger motor vehicles, motorcycles, general aviation aircraft, boats and boat motors. The bill provides that the county's voters will decide in a referendum to be held at a general election, whether to approve such a sales and use tax. The sales and use tax may be imposed in increments of one-tenth of one percent, but may not exceed a rate necessary to replace revenues lost due to the personal property tax exemptions on vehicles. In no case may the sales and use tax rate exceed two percent. The bill provides for administration and collection of the tax and for distribution of revenue from the tax.

The bill also establishes a procedure under which a county's voters may rescind the new sales and use tax imposed and return to the practice of collecting personal property taxes on motor vehicles. The bill provides that, beginning two years after a county has imposed the sales and use tax, if at least fifteen percent of the

qualified voters of the county petition that this tax be eliminated, the county shall conduct a referendum on the question of rescinding the sales and use tax and replacing the revenue by extending the property tax to the previously exempted vehicles. Once a county has conducted a referendum on whether to retain the sales and use tax, no further referendum may be held on the matter for a period of two years.

STATUS: **H.4856** *and* **H.4854** *passed the House. Both bills are pending in the Senate Finance Committee.*

TOBACCO SETTLEMENT

- The House-passed version of the General Appropriation Bill (**H.4775**) included a permanent law (Part II, Section 23) proviso establishing the Tobacco Settlement Fund as a fund separate from the General Fund into which must be deposited all revenues payable to the State under the Tobacco Master Settlement Agreement. The proviso requires that for Fiscal Year 2000-2001, $8 million of settlement revenues must be used for tobacco growers, quota holders, and warehousemen, and the balance must be used for health-related expenditures. For fiscal years beginning after June 30, 2001, 80% of fund revenues must be used for health-related expenditures and 20% must be used for tobacco community programs, including reimbursement of tobacco growers, quota holders, and warehousemen for actual losses due to reduced quotas. Reimbursements must continue through June 30, 2012, after which any balance in this subfund for tobacco growers, quota holders, and warehousemen must be used by the Department of Commerce for economic revitalization of tobacco communities.

  The House budget proviso also establishes a Joint Committee on Tobacco Settlement Fund Health Expenditures consisting of four House and four Senate members to make recommendations to the General Assembly on tobacco revenue allocations, possible securitization and the best method of appropriating this revenue. A final report with recommendations is due not later than December 31, 2000, after which the committee is abolished. Monies deposited to the General Fund from proviso 72.73 of the 1999-2000 General Appropriation Act are deemed to have been credited to the Tobacco Settlement Fund and may not be considered in the sums from which percentage calculations and allocations are made.

  The Senate recommended deletion of this House-passed proviso.

- The House-passed budget also included a permanent law (Part II, Section 37) proviso establishing the South Carolina Tobacco Health Care Trust Fund, separate from the General Fund. The proviso directs that beginning with Fiscal Year 2001-2002, monies received from the Tobacco Settlement Fund for health care must be deposited in the Health Care Trust Fund for health-related

expenditures. In addition, the proviso directs that these funds must be expended by the General Assembly as follows: 50% of new funds and 25% of the interest on that portion shall be expended on tobacco education and tobacco health care related issues and the remainder shall remain in trust.
The Senate recommended deletion of this proviso.

- The Senate included in its budget recommendations a permanent law (Part II, Section 69) proviso establishing the Tobacco Settlement Revenue Management Authority for the purpose of securitizing the State's expected revenues from the Tobacco Master Settlement Agreement between the State and tobacco manufacturers. The proviso provides for three separate funds. The distribution of revenues in the funds would be administered by the following formula: 1) 73% to health-related issues; 2) 15% to tobacco producers and quota holders for losses due to reduced quotas since 1998; 3) 10% to economic development via the SC Water and Wastewater Infrastructure Fund in the Department of Commerce; the first $80 million credited to the fund must be used for this purpose; for Fiscal Year 2000-2001 only, $10 million will be used for auto tax relief through the Personal Property Tax Relief Fund; all remaining revenues must be used in the Water and Wastewater Infrastructure Fund; 4) 2% for the operations and grants distributed by the Office of Local Government (an office created under Part II, Section 79 of the Senate-passed budget).

  The House did not include this proviso in its budget plan.

- The Senate-passed budget also included a permanent proviso requiring development of a youth smoking prevention and cessation plan which would award grants to programs such as media campaigns, school-based youth programs, community-based youth programs, and enforcement programs. These programs would be funded with monies from the tobacco settlement. The proviso also includes a requirement for the awarding of a grant for an annual statewide school-based survey to measure cigarette use in grades 6-12.

  The House did not include this proviso in its budget plan.

The Senate passed **S.894**, which establishes in the Office of the Governor, the Youth Smoking Prevention Commission (the Commission), charged to develop a State Plan for Youth Smoking Prevention and to award grants from a special fund for the purpose of reducing the consumption of cigarettes by minors.

The bill provides for the composition, terms, and appointment of the Commission's members and provides for their grant procedures, accountability procedures, and powers. The Commission's powers include, but are not limited to, the authority to hire certain employees and the authority to create and administer the SC Youth Smoking Prevention Fund (the Fund). The bill provides that the Fund will consist of monies received by the State under the Master Tobacco Settlement Agreement for the purpose of preventing youth smoking, and all other monies including appropriations, gifts, grants, or other monies designated for the Fund. The funds

may be used for awarding grants for qualified programs and for the administrative costs of the Commission.

The bill requires the Commission to present by June 30, 2000, to the Governor, the General Assembly, and specified state agencies, a proposed State Plan for Youth Smoking Prevention (the Plan). The bill provides for the Commission's final adoption of the Plan, and authorizes the Commission to adopt amendments to the Plan in the future. The bill enumerates items which must be included in the Plan, including but not limited to grant criteria and a state school-based survey to measure cigarette use and behaviors towards cigarettes by individuals in grades 6-12.

STATUS: *The House and the Senate have passed differing versions of* **H.4775**, *the 2000-2001 General Appropriation Bill. Those differences are currently being negotiated in a House-Senate conference committee.* ***S.894*** *passed the Senate and is pending in the House Ways and Means Committee.*

GENERAL APPROPRIATION BILL

The House and Senate have passed differing versions of **H.4775**, the 2000-2001 General Appropriation Bill. The May 23, 2000 *Legislative Update* included a "side-by-side" comparison (prepared by the Budget and Control Board's Office of State Budget) of funding provided by the House and the Senate in this bill and in other specified appropriation bills which have been considered this year. This "side-by-side" comparison was updated through May 18, 2000.

Major permanent law provisos included in the House- and Senate-passed versions of **H.4775** are summarized in this document, categorized according to their subject matter.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.scstatehouse.net) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

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LEGISLATIVE UPDATE

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