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South Carolina House of Representatives

# Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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# Legislative Update

## Legislation Returned

The bill that proposes changes in the Blue Laws, S.74, has been returned to the House by the Senate. As might have been expected, the Senate could not resist making some changes to the House version. Under the present amendments businesses can open for five hours on Sunday, starting at 1:30 p.m. Once again, the coastal counties and York County are totally exempted.

## Legislation Introduced

### Agriculture & Natural Resources

Protect the Gopher Tortoise (H.2749). This measure would prohibit the Public Service Authority from using its property on the Savannah River in such a way "that the use disturbs the natural habitant of the 'Gopher Tortoise.'"

The Authority has plans to built a 1,000 megawatt power plant on 1,035 acres of land in Jasper County. According to the South Carolina Wildlife and Marine Resources Department there are approximately 71 tortoises at the site. In addition, the area amounts to almost 40% of the available tortoise habitat in the state.

### Judiciary & Government Operations

Sovereign Immunity (H.2745). The state, its political subdivisions and their officials and employees (acting in their official capacity) would be recognized as having sovereign immunity from law suit.

According to the Supreme Court, sovereign immunity has been the public policy of this State since at least 1820. This measure would have the General Assembly declare this immunity as public policy of the state. The only exception would be when sovereign immunity is waived by statute.

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Highway Patrol Commission (H.2773). This legislation would create the S.C. Highway Patrol Commission; each judicial circuit would have one member and the Governor would appoint two at-large members. The Commission would take over the duties and responsibilities of running the state Highway Patrol that are now exercised by the State Highways and Public Transportation Department.

Driving Without a License (H.2775). This bill proposes increasing the penalties for persons caught driving without a license, or with a suspended or cancelled license. First offense would bring \$200 fine or 30 days; second offense, \$1,000 and a sentence of 48 hours to 6 months; third offense, \$2,000 and a sentence of 45 days to 1 year; fourth and subsequent offense would bring a \$5,000 fine and a sentence between 1 to 5 years.

Pistol Purchase (H.2776). Persons buying a pistol would be limited to one pistol per purchase, one pistol per month. This would not apply to law enforcement officers, security guards, etc.

Ballots (H.2777). Whenever paper ballots are used in elections they would be printed on one side only.

Public Works & Utilities

Infrastructure Authority (H.2737). This bill proposes establishment of the South Carolina Infrastructure Authority, to assist local governments with financial assistance for water, sewer, and other public work projects. This assistance can take the form of low-interest loans or credit enhancement through the Infrastructure Fund.

The governor will appoint three members to the Board of Directors; four ex officio members will be the Chairman of DHEC, Chairman of the Water Resources Department, a member of the House appointed by the Speaker, and a Senator appointed by the President Pro Tempore.

The Board will: 1) Develop an annual assessment of the public need for water works, sewage facilities, etc.; 2) Receive applications from local governments for loans; 3) Adopt an annual list of priorities for projects; 4) Monitor loan repayment from local governments; and 5) Provide for an annual audit.

"Infrastructure" and the problems associated with it will be the subject of a research report in a future *Update* issue.

Utility Construction Regulation (H.2771). This bill would add provisions to cover construction of new utility generating plants. Before a new facility could be approved by the Public Service Commission the utility company would have to show that the facility is the "least costs" means of meeting electric needs; that the

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company has considered options other than construction of a new plant; and the company must also provide the estimated total cost of the plant.

In addition, no costs associated with construction of out-of-state plants can be passed on to South Carolina customers unless the PSC has given approval before construction starts.

Finally, bi-annual forecasts concerning energy needs for the next 15 years must be prepared by the utilities, and by an independent forecaster for the PSC.

Second Reading, Uncontested Calendar Bills

"Companion Animal" Control (H.2013). "Companion Animals" (basically dogs and cats, but including foxes) would be regulated more strictly by this bill. The measure allows counties and municipalities to enact ordinances regarding companion animals and set up shelters to impound companion animals running loose. To get an animal out of the pound a person would have to prove the animal has its rabies shots and pay \$25. After 21 days unclaimed animals would be turned over to the local humane society.

Persons would not be permitted to let animals run loose, nor keep a vicious animal that is not under restraint, nor interfere with animal control officers going about their duties.

Interstate Income Withholding (H.2560). This bill is part of the child support package that has been mandated by federal law. The bill would facilitate withholding income for child support in other states. Certain documents would have to be presented to the states' clerks of court first, including certified copy of the support order, copy of the income withholding statute from the requesting state, a sworn or certified statement that the payments are in fact in arrears, and so forth.

Student Loan Bond Increase (H.2743). This would increase from \$100 million to \$175 million the statutory debt limit of the state Student Loan Program.

The State Education Assistance Authority was established in 1971 to provide student loans to South Carolina students. The Authority is governed by the members of the Budget and Control Board, and acts through the South Carolina Student Loan Corporation, a private, non-profit corporation.

To date over 45,000 student loans totalling \$69 million have been made to more than 24,000 students. Loans are insured through a reserve fund maintained by the Authority and a federal program of reinsurance. Since 1978 the default rate on the loans has declined from 4.9% to 1.6%.

Contested Calendar Bills--The First Ten

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Voter Registration by Mail  
(H.2002)

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Summary

Voter registration by mail dates back to the 1940's. Since 1942 federal law has allowed members of the armed forces to register and vote absentee; by 1944 all states had passed laws consistent to this. Texas, in 1941, was the first state to extend registration by mail to the civilian population. Currently 22 states have adopted voter registration by mail legislation.

Registration by Mail: How It Works

Typically registration by mail operates on two levels: state and local. The state is generally responsible for establishing the laws, rules and regulations controlling the program; printing and distributing the necessary forms; and, in some cases, providing funding for the administration of the program. Local jurisdictions are responsible for the actual administration of the registration effort--that is, distributing and processing the forms, maintaining the registration lists and guarding against irregularities and fraud.

The state prepares a voter registration card. This card can be distributed in one of the following fashions: 1) It can be sent to persons on their request; 2) It can be picked up at the registrar's office or other location, such as a post office or county library; 3) It can be mailed en-masse to the population at large, either by itself or as part of tax forms or other government correspondence.

The voter completes the card which calls for the same information he or she would provide in person. The card is then mailed to the local election authorities--usually the county election department or commission. The election authorities process the card and enter the person's name on the election rolls. When election day comes the voter is identified and the name checked off in the standard fashion.

Benefits and Drawbacks

Those who support registration by mail sometimes claim the following points in its favor: makes registration easier for the citizens; provides a standard procedure; lowers registration costs; answers several requirements of the Voting Rights Act; and increases voter turnout.

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On the other hand, opponents of the measure say it has the following flaws: opportunity for fraudulent registration; higher operating costs; increase of partisan politics in the registration process; illegible handwriting and incomplete forms; the opportunity for pranks; and problems with the distribution and return of forms.

States That Have Registration By Mail

Alaska	Louisiana	Montana	Pennsylvania
California	Maine	New Jersey	Tennessee
Delaware	Maryland	New York	Texas
Iowa	Minnesota	Ohio	Utah
Kansas	Missouri	Oregon	West Virginia
Kentucky			Wisconsin

Primary Elections  
(H.2029)

This proposal would have primary elections conducted by the State Election Commission and the various county election commissions. County delegations would meet to appoint a board of commissioners numbering from three to five members. The State and county commissions would be responsible for all primary election operations, including printing and counting the ballots. The estimated annual cost is \$2.3 million, to be paid from the candidates' filing fees.

Dog Bite Bill  
(H.2178)

Under provisions of this bill, the owner of a dog would be responsible for any damages suffered by a person bitten or attacked—even if the attacked person was on the property of the owner of the dog. This bill strikes down the time-honored maxim that "the first bite is free."

Suspend Blue Laws  
(H.2106)

Another proposed suspension of the Blue Laws, this one to be in effect between the hours of 1 p.m. until 6 p.m. on Sundays. However, now that S.74 is back from the Senate....

Annexation Laws  
(H.2285, H.2286, H.2287)

Why Annexation?

Municipalities use annexation in order to expand their territory. This generally expands their tax base and brings in more revenue. Of course, the city or town must provide services to the annexed area—fire and police protection, sewers, roads, etc. Supporters say annexation is a benefit in that it provides necessary services at a more economical cost, and growth is more orderly and rational.

The growth of suburbs outside the city limits means that many people take advantage of municipal services but are not taxed to support them. This movement outside the corporate limits erodes the tax base of the cities at a time when they are being called upon to provide more and more services.

Why Not Annexation?

Electric cooperatives have sometimes opposed annexations for fear of losing their customers to the municipalities or electric providers chosen by the municipalities. Last year the General Assembly passed a law making it state policy "to maintain the assignment of electric service territories by the Public Service Commission ... even when the area becomes incorporated or annexed into an existing city or town."

The issue is not resolved, however. A total of 88 cities have challenged the PSC/Territory law and have brought their case to the state Supreme Court, arguing that the PSC does not have the authority to regulate what a municipality can do within its boundaries.

Special purpose districts sometimes oppose annexation for fear of losing their tax base (which allows some of them to issue bonds) to the municipalities.

Some persons are opposed to paying both county and municipal taxes. Others are fearful that municipal taxes would be higher than county taxes, without an offsetting increase in services and benefits.

Current Annexation Procedures in South Carolina

1. Majority Petition and Elections. A majority of the landowners in an area must petition a city council to hold an annexation election. Voters in the area seeking to be annexed and the city must vote. A majority in both the area and the city must vote in favor of the annexation.

2. "Three Box Method"—Petition, Referendum, Election. This complicated method works as follows: In cities under 25,000, 25% of the landowners in the territory to be annexed petition the city council for annexation; in cities over 25,000 only 15% is required. An election is held. Three groups must vote: 1) citizens in the city, 2) citizens in the area to be annexed, and 3) freeholders in the area to be annexed. All three groups must approve the annexation.

3. Petition and Ordinance. This is the most commonly used method. Seventy-five percent of the property owners, owning at least 75% of the property in an unincorporated area petition city council for annexation. Council then approves the annexation.

4. Special Situations. In certain limited situations a simple petition for annexation and approval by city council is sufficient. This, however, is limited to property owned totally by the annexing municipality, a corporation, church, school district or the federal or state government.

#### Proposed Annexation Procedures

H.2285 reduces the required percentage of freeholders (property owners) signing the petition. The old level of 75% of the property owners who own 75% of the property is reduced to 55% and 55% respectively. Once such a petition is presented to a city council, the council could annex the area by ordinance.

H.2286 provides for annexation elections if 1) a petition is signed by 25% of the property owners in the area; 2) the city council passes a resolution calling for the election. A majority of voters in the area would have to approve the annexation. Allowing the city council to call an election gives municipalities, for the first time, the power to initiate the annexation process.

The city council would also have to outline how it plans to serve the area to be annexed, and discuss these plans at public hearings.

The proposed bill was amended in committee to protect large landowners opposed to annexation—typically, industries who currently have all the services they require and wish to avoid additional taxes. If a single landowner has 25% or more of the assessed value of the land considered for annexation, that landowner has "veto power" over the election, by refusing to go on record allowing it to proceed.

H.2287 eliminates the requirement that municipal electors would have to vote in annexation elections.

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Worker's Compensation--Hearing Loss  
(H.2436)

This bill would define "loss of hearing caused by harmful noise in employment" as an occupational disease, with sufferers eligible for Worker's Compensation benefits. A person would have to suffer permanent loss of hearing in one or both ears because of his or her employment conditions; however a person would not be eligible if he or she neglected to use protection devices provided by the employer.

The bill also sets standards for "harmful noise" as sound which exceeds a permissible daily exposure limit. Those limits range from 90 dBA, which can be endured for a full 8 hours, to 115 dBA, which has a daily limit of 15 minutes. A decible level (dBA) of 10 is comparable to a light whisper; a level of 80 is that of a rock music band or a subway; 90 equates to heavy traffic or thunder, and 100 decibles is the sound of a jet plane at takeoff; a level of 140 is painful.

The American Alligator  
(H.2462)

Bill Proposes Punishment for Dealing in Alligators

The American alligator (*Alligator mississippiensis*) is on the endangered species list. Because the American alligator lacks the stiff skin of other, similar reptiles, its leather is especially workable and handsome. Over-hunting during earlier years had brought the number of alligators dangerously close to extinction.

A proposed bill (H.2462) provides penalties for persons possessing, storing, transporting, exporting, processing, selling, or offering for sale of any American alligator or any parts or products of an alligator.

The penalty upon conviction would be a fine of not less than one thousand dollars nor more than five thousand dollars or imprisonment for not more than one year.

The American Alligator and Its Chinese Relative

Alligators are related to crocodiles but have a broad snout, as opposed to the crocodile's narrow snout, and lack the side notch that exposes the long fourth tooth on the lower jaw of crocodiles. The teeth of the alligator's upper jaw overlap those of the lower jaw and hide them from view.

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Alligators live in rivers, swamps, lakes and other water sources in temperate climates. There are two kinds of alligators in the world, the Chinese alligator (*Alligator sinensis*) and the American alligator. The Chinese alligator is the smaller of the two, rarely exceeding three feet in length, and never getting larger than five feet.

The American alligator, on the other hand, has been known to reach great size; the record is 19 feet, 2 inches. Because the species has been depleted by previous hunting, however, a 12 foot alligator is now considered large. (Large enough, anyway.)

Alligators mate in the spring, after which the female builds a nest of mud and debris; this nest may be as large as 6 feet in diameter and 3 feet high. The female digs a hole in the top of the nest and lays between 30 to 80 eggs which she covers with mud. The eggs are incubated by the heat of the sun and hatch in 60 days.

After hatching the young alligators call out for their mother, who carries them in her mouth to the water.

Alligators do not seem to be finicky about their diet. Small alligators eat insects, crayfish, frogs and small birds; larger alligators eat fish, water birds, turtles, racoons and other forest mammals and, in some instances, domestic animals such as dogs and hogs.

Alligators have been known to live up to 50 years.

Lights on When Raining  
(H.2003)

Currently, from a half hour after sunset to a half hour before sunrise, vehicles must have their headlights on. This legislation would require lights to be turned on at any time when windshield wipers are in use (or should be in use), when it is raining, or when there is fog on the road.

According to the AAA motor club, only Florida and Georgia currently have such legislation on the books.

# Fraternity Hazing

## Background

Fraternities and sororities are as much a part of college life as road trips, Homecoming, and final exams. However, the Greek system is becoming the topic of widespread concern and debate in many states because of some initiation practices which have caused the deaths of 28 college students since 1978.

The problem of hazing has come to the attention of the legislature in South Carolina because of the death of USC Sigma Nu pledge Barry Ballou in 1980. Ballou died of suffocation from choking on his own vomit after drinking alcohol during initiation week. His parents were awarded \$250,000 by a jury that said the pledge had been required to drink alcohol.

According to an article in the March 29, 1985 *Gamecock*, it was Barry Ballou's parents who requested Sen. Thomas Smith and Rep. Eugene Nettles to sponsor an anti-hazing bill (H.2420) in South Carolina. The Ballou's are not the only concerned parents getting involved--Eileen Stevens, whose son died during a fraternity prank at Alfred University in New York, is the founder of C.H.U.C.K., the Committee Halting Useless College Killings.

## C.H.U.C.K.

The goals of C.H.U.C.K., according to Mrs. Stevens, are to bring about an awareness of hazing practices, to share information regarding laws about hazing, and monitor legislative proposals from states that are taking strong steps to deter hazing practices and insure the safety of students. She also documents hazing-related deaths and injuries in the hope of enlightening others.

## What is Hazing?

The definition of hazing is somewhat vague when it comes to state statutes. Often, confusion reigns as to whether a practice may be categorized as hazing as it is defined by that state. The National Pan-Hellenic Council, Inc., a national organization of fraternities, defined hazing, in mailings to fraternities, as the following:

"Any action taken or situation created, however communicated, involving or resulting in abusive physical contact or mental harassment to a pledge, whether on or off the fraternity, sorority premises, campus or place where chapters or pledge clubs meet,

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designed to or the result of which is to produce excessive mental or physical discomfort, embarrassment or harassment. Such activities and situations include, but are not limited to, paddling in any form; creation of excessive fatigue; physical and psychological shocks; morally degrading or humiliating activities; and any other activities which are not consistent with either fraternal, sorority law, or the regulations and policies of any educational institution or state or federal law and is expressly forbidden. Members or chapters who cause infraction should be subject to disciplinary action by their respective organization."

Branding, paddling, forced alcohol consumption, exercise nights that involve rigorous excessive calisthenics, kidnaps, scavenger hunts and forms of extreme mental stress are all types of hazing which exist across the country.

#### Why do Fraternities Haze?

Although national offices have taken a strong stand against hazing practices, they are sometimes inefficient in following-up on the practices of their affiliates. For example, a fraternity at Miami University of Ohio blindfolded pledges and had them volunteer to sacrifice their right testicle as a hooded "executioner" waved a chainsaw nearby. The saw had no blade, but the pledges did not know that until it actually touched their skin. Despite this incident, the national office named the chapter one of the ten best in the country. Extreme punishments for hazing practices, such as revocation of a chapter's charter, rarely are invoked.

The national offices of most fraternities have tried to design model programs for initiating members that achieve the desired effect of bringing fraternity brothers closer without use of hazing, but it is a hard fight. For one thing, hazing works: A disparate group of pledges from varying backgrounds suddenly finds something in common after an intense hazing experience, according to an article in the *Chicago Tribune*.

An experiment performed approximately ten years ago by University of California psychologist Elliott Aronson showed that pledges who go through an unpleasant hazing experience are more cohesive and like the fraternity better.

"It's not simply hazing, of course," Aronson said in an article in the *Chicago Tribune*. "Anything you work hard for you like better. Just committing yourself to a job such as fixing the plumbing would have the desired effect. But hazing is probably easier to do."

#### The History of Hazing

New students in 17th century European universities were subjected to what was called "penalism"--required to wear weird dress and endure physical abuse, coarse jokes, and extortion. In the late 18th and 19th centuries, British prep schools practiced

"fagging," hazing that emphasized menial personal service and drudgery. It was justified as a means of teaching humility and proper behavior. Hazing first appeared in North America in the 1850s as a form of class rivalry--pranks and mischief against freshmen by sophomores.

Hazing as it was first instituted on modern college campuses was similar, but more physical. Beating people with paddles or having them do calisthenics outdoors on a cold night without clothes were typical hazing practices. Today, the "pranks" are more brutal mentally than physically, as evidenced by the chainsaw incident at Miami University of Ohio.

#### Do Sororities Haze?

There are two types of hazing, physical and mental. Whereas the fraternities are more apt to use physical exercises to test their pledges, sororities play more mind games with their initiates. In one instance, an overweight sorority pledge was forced to dance on a pool table wearing only a bikini, according to Eileen Stevens. Another pledge was forced to reveal intimate details of her first sexual experience, which were tape-recorded and played over a loudspeaker at a party.

"In sororities there's much emphasis on the 'worthiness' of members," said Nancy Arnoux, ex-president of a sorority at New York Agricultural and Technical Institute at Delhi. "They don't test you by punching you around as in the fraternities. They do it by humiliation. You watch pledges around you breaking down and crying because they can't take it," she said in a *Chicago Tribune* article.

#### Mental Hazing

\* A freshman at the University of Florida was isolated and interrogated for several weeks in a 1979 initiation ritual, then brainwashed to believe that his dead grandmother would be resurrected. His mother says that he still is in a hospital in New Jersey receiving drug treatment for acute depression.

\* At a Syracuse University fraternity, five pledges were kept awake for two days, forced to sing and dance for 7 hours, then blindfolded. One said he was forced to eat a pig fetus and bite the head off a live turkey. He was hospitalized after a fraternity member wearing spiked golf shoes stepped on his bare feet.

These are just two examples of mental hazing which appeared in a May 1983 article in the *Chicago Tribune*. The old-fashioned physical hazing has given way a much different type of pledge punishment: mental hazing. Mental hazing is a much more difficult problem to solve than physical hazing because many people do not see the inherent dangers in the practice. Says Steven Siders, executive director of Alpha Tau Omega fraternity, "It's easy enough to convince someone you shouldn't beat people. It's more difficult to make him understand that psychological hazing is equally dangerous."

Sleep deprivation, verbal abuse and blindfolds are the most popular tools of mental hazing. The "false ending" is one of the most common: after weeks of hard work and constant humiliation, pledges are told they won't make it into a fraternity; but then they are accepted a few days later.

Herbert Levowitz, of New York, a specialist in adolescent psychiatry, has attempted to research the problem, and had this to say in the *Chicago Tribune*:

"If having passed all of these tests, the pledge finds out he hasn't been accepted, there will be some who will really be at risk. They're depressed; they thought they did their best, and then they're rejected. If you have a youngster who's vulnerable, you're going to have someone who either shows up at the student mental health center or someone who tries suicide."

#### Anti-Hazing Legislation

Because of the resurgence of fraternities and sororities—college membership in fraternities now tops the quarter-million mark, rebounding from a low of 150,000 in the early 1970s—the problems of hazing are being closely looked at by many state legislatures.

As of November 1984, eighteen states had passed anti-hazing legislation and six more were considering bills. States such as New Jersey, New York, Arkansas, and Tennessee are among those which have passed anti-hazing laws.

The New Jersey law sets a six-month prison term or a \$1,000 fine if a person connected with a student organization participates in initiation rites that pose the risk of physical injury. A serious injury is punishable by an 18-month prison term or \$7,500 fine. In Arkansas a convicted student can also be expelled along with a fine and prison term.

How much supervision is needed is often a topic of debate. Some legislatures would like to include a system of prior approval of initiation activities in their anti-hazing laws. The fraternities and sororities oppose this, insisting that that is infringing on their rights. University of South Carolina Intrafraternity Council president Kevin Hall, who generally supports an anti-hazing bill, said in a recent *Gamecock* article, "I vehemently oppose in any way the clause that jeopardizes the secrecies of our rituals and initiations because it is an encroachment of our rights."

Much of the anti-hazing legislation suffers from a lack of clarity. Who in the fraternity should be punished? How serious is serious? What is hazing? Should mental hazing be punished? These are all problems which need to be addressed in any anti-hazing legislation in order to make it effective.

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Although many states have enacted anti-hazing laws, most of these address only physical hazing. The Illinois law, approved in 1901 and believed to be the first of its type in the nation, defines hazing very broadly as activity designed to ridicule an individual, it therefore covers mental hazing. But no one in Illinois has been arrested or sued for any mental hazing incident.

#### What Are Fraternities Doing About Hazing?

While Eileen Stevens has concentrated on pushing anti-hazing legislation, she has also urged changes on fraternities. Her work seems to be paying off, as many fraternities are requesting Stevens to speak to their groups and have themselves supported her cause. Says Stevens, "It's very gratifying to me that the fraternities have recognized that hazing is a problem. It's really terrific. Now the kids themselves are saying, 'We care about the issue.'

"I'm not going to change anything, neither are the laws," says Stevens. "The kids have to make the changes themselves. There are vows of secrecy and oaths of silence. That's what has to change. We are talking about human life, and the fact that no one should be jeopardized."

#### Conclusion

Fraternities, sororities, and state government are all beginning to recognize a need for legislation governing the initiation of pledges into Greek organizations. Whatever the problems facing anti-hazing legislation, it can not be denied that it is in everybody's best interest for such laws to exist. As one *USA Today* opinion article stated, "If fraternities and sororities are to survive, they can never make torture a condition of membership. They must reject violence and vandalism, and celebrate instead the spirit for which they exist--true brotherhood and sisterhood."

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## **Around the House**

### **NCSL Annual Meeting--Air Fare**

Speaker Schwartz sends the following message regarding the National Conference of State Legislatures annual meeting this summer:

A number of individuals have requested to attend the NCSL Annual Meeting in Seattle. At the present time, a reasonable rate for airfare is available. Anyone requesting to attend this meeting must do so immediately before this rate is unavailable.

While I would like to approve everyone who applies to go to this meeting, we will not be able to have this luxury due to limited funds.

Only those individuals who have made their request in writing by Friday, April 19th, will be considered.

### **Butterfly Awareness Week**

Concurrent Resolution S. 141 has designated April 15 through April 19 as "Butterfly Awareness Week" in South Carolina. The resolution urges citizens "to take action to preserve and protect all butterflies and particularly those species currently endangered by planting a 'Butterfly Garden' to replace their natural habitat that has been usurped by man."