South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

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Legislative Update, May 25, 1993

House Week in Review

As the House met last week, the Senate was considering the two issues which have dominated the 1993 session---restructuring and the state budget. On Monday, May 17, the Senate passed an amended version of H. 3546, the House restructuring bill. A summary of the Senate's version of restructuring and how it compares and contrasts with the House version can be found on page 13. Because the two versions differ greatly, a conference committee is to be appointed to resolve the differences between the 2 version. The appointments were expected to be made as this Update went to press. Early Friday morning, the culmination of a 20-hour marathon session, the Senate passed its version of H. 3610, the general appropriations bill (state budget). A conference committee will resolve differences between the two versions.

While the Senate spent most of its week debating restructuring and the appropriations bill, the House gave approval to a number of bills. Among those bills were H. 3531, which requires the installation of smoke detectors in residences; S. 352, which requires children who are married, pregnant or who have had a child to attend school; H. 3636, which requires persons engaged in the real estate business to take continuing education classes; and S. 170, which authorizes pharmacists to refill prescriptions on an emergency basis if they cannot obtain refill authorization from the prescriber. The House also passed H. 3016, the Omnibus Adult Protection Act, which requires persons to report cases of suspected or actual exploitation or abuse of "vulnerable adults" (persons 18 and older who because of their physicalor mental conditions are impaired from providing for their own care or protection) and provides penalties for exploiting or abusing these adults and for failing to report these activities.

Bills Introduced

Education and Public Works

Restriction on Driver Training (H. 4214, Rep. Mattos). This bill prohibits a driver training school from conducting on-the-road training for its enrollees within 5 miles of a building from which drivers' license road tests are conducted.

Invitations and Memorial Resolutions

Confederate War Memorial and Flying of Confederate Flag Only on Certain Dates (H. 4225, Rep. Richardson). This joint resolution establishes a permanent site for a Confederate War Memorial on the grounds of the Capitol. The memorial must include the Confederate battle flag. Additionally, this flag would fly above the State House only on 23 designated dates each year, among those dates being Lee's birthday, Memorial and Veterans' Day, and the anniversary of the start of the Civil War.

Judiciary

Candidate Defeated in Primary May Not Seek Votes in General Election (H. 4197, Rep. McElveen). This bill prohibits a person who is defeated for nomination to office in a party primary from receiving votes, whether as write-ins or otherwise, for that office in the ensuing general election. This prohibition does not apply, however, if the party's nominee dies or is otherwise disqualified before the general election.

Medical, Military, Public and Municipal Affairs

Certification and Regulation of Abortion Clinics (S. 88, Sen. McConnell). This bill requires that any facility which performs 5 or more first trimester abortions a year must be certified by the Department of Health and Environmental Control (DHEC) to operate as an abortion clinic. DHEC must regulate these clinics as pertains to clinics' sanitation, housekeeping and infection control, along with information on and access to patient follow-up care. The bill also amends the definition of "hospital" so as to include institutions licensed for hospital operation by DHEC in accordance with the State's Certification of Need and Health Facility Licensure Act. Additionally, in-state generators of infectious waste which produce less than 50 pounds of infectious waste a month must manage fetal remains in accordance with the requirements for pathological waste, as listed in the State's Infectious Waste Management Act.

Ways and Means

Creation of State Office of Science and Technology (H. 4208, Rep. Corning). The purpose of this bill is to evaluate advanced technology and its applicability to state and local government, with the goal being to use appropriate technology to reduce the operating costs of state and local governments. To accomplish this task, the bill establishes an Office of Science and Technology as an independent agency of the executive branch of state government. The governing board of the Office consists of 3 persons appointed by the governor, for terms of 4 years each. The bill provides for qualifications and compensation of board members. The board must appoint a group of persons to serve as associate members of the Office, from which must be appointed project teams. These teams must evaluate technology for state or local government and make findings and recommendations concerning that technology. The bill also provides for the qualifications and compensation of associate members.

A request for evaluation of technology and its application to state or local government may be made by any state agency, local government, organized citizens association or group, vendor of the technology, or any other private sector group. The request must be made either to the Office of the Governor or to one or both houses of the General Assembly. When a request is made, there must be sufficient facts or evidence upon which to base justification for activating the action team. Upon receiving authorization from the governor's office or the General Assembly to activate the team, the governing board must form a project team. If a request for technology evaluation is made by a state agency or local government, and the technology, if applied, would only benefit the requesting party, the governor may require the requesting party to entirely or partially fund the cost of the evaluation. During review and evaluation of technology, only scientific facts and evidence may be considered, and factors such as political or special interests may not be considered. The final decision of the project team must be based only on what is best for the operations of state or local government and the government's citizens in order to promote more efficient and economical operations of state or local government.

When the project team finishes its evaluation and recommendations, the team's findings must be published in a written report prepared by the staff of the Office of Science and Technology. The findings and recommendations of the Office are binding on state or local government but may be amended or revised under certain conditions as listed in the bill.

State Holiday for Birthday of Dr. Martin Luther King Jr. (S. 464, Sen. Glover). This bill makes the birthday of Dr. Martin Luther King Jr. a mandatory state holiday, to be observed on the 3rd Monday in January. The bill also deletes a provision which allows the governor to declare Christmas Eve as a holiday for state employees but allows state employees to select Christmas Eve as one of the optional holidays they may observe during the year.

Without Reference

Mortgage Loan Brokers (S. 537, Sen. Stilwell). This bill revises provisions pertaining to registration of mortgage loan brokers. The definition of "mortgage loan broker" is expanded, and new definitions are added to the Mortgage Loan Brokers' Registration Act. The bill increases from $5,000 to $10,000 the amount a person or organization must deposit and maintain in cash and securities or in bonds in order to offer loan brokerage services in South Carolina. Conditions are listed under which the Department of Consumer Affairs may refuse to register an applicant for a mortgage loan broker or renew the registration.

The bill also requires mortgage loan brokers to maintain at their business records pertaining to business conducted by the broker, so that the Department may determine if the broker is in compliance with the State's Mortgage Brokers' Registration Act. Mortgage brokers doing business in the State must maintain a sufficient physical presence in the State and their records must be maintained

at the registered location in the State. The Department is permitted to examine the books and records of a registrant to verify compliance with the Act.

Within 3 business days of receipt of a loan application, a broker must disclose in a statement the total estimated charges to a borrower for loans and, if required by the 1974 Real Estate Settlements Procedure Act, itemization of charges provided. The bill adds activities in which brokers may not engage. The bill also provides that the Department may impose on persons violating the Act a fine not exceeding $500 for each offense or a fine not exceeding $5,000 for the same set of transactions or occurrences.

The bill sets the duration of a mortgage loan broker's registration at 1 year and requires that first-time registrants must pay a one-time, nonrefundable processing fee of $200. This is in addition to the current initial $500 application fee. The Department must cancel the license of any broker who fails to renew his license within 30 days after its expiration. A broker seeking to renew his license after the 30-day grace period must pay a late penalty of $250, in addition to the $500 renewal fee.

List of Legislation Passed

(as of Monday, May 24)

Here is a list of some notable acts which either have been enrolled for ratification, ratified or signed into law.

Felony to Traffic in LSD and Revised Penalties for Transport, Distribution and Possession of Ice, Crank and Crack Cocaine (H. 3112, Rep. Wilkins). This act makes it a felony for anyone to traffick in 100 dosage units or more of LSD. The act provides penalties, which vary according to the number of times the offense is committed and the amount of LSD trafficked. As examples, the act provides for a term of imprisonment of 3 to 10 years and a fine of $20,000 for a person convicted the first time of trafficking at least 100 but less than 500 dosage units of LSD. If the person is convicted the first time of trafficking in at least 500 but less than 1,000 dosage units of LSD, he must serve between 7 and 25 years in jail and be fined $50,000. No prison sentence imposed on someone convicted of this felony may be suspended, nor may probation be granted.

The act also revises penalties for transport, distribution and possession of ice, crank and crack cocaine in the following manner:

(a) Possession/Attempted Possession Under 1 Gram: Removes the minimum sentence imposed on persons convicted of this offense so as to allow judges greater discretion in sentencing offenders. As an example, under this act, a person convicted a second time of this offense must serve any amount of time not exceeding 7 years, as opposed to being required to serve at least 4 years and not more than 7 years.

(b) Manufacturing/Distribution/Purchasing 1 Gram or More: Abolishes minimum sentences and reduces the maximum sentences imposed for these offenses, so as to allow a judge greater discretion in sentencing offenders. For example, a person convicted the first time of manufacturing, distributing or purchasing these substances under this act must serve no more than 15 years in jail, as opposed to between 15 and 20 years in jail. Also adds marijuana, depressants, stimulants and hallucinogenic drugs to the list of drugs for which a prior conviction results in a stiffer sentence being imposed on a person convicted of manufacturing, distributing or purchasing more than 1 gram or more of ice, crank or crack cocaine.

(c) Trafficking: Reduces from 100 grams or more to 10 grams or more the amount of ice, crank or crack cocaine which one must knowingly sell, purchase, manufacture or bring into this state in order to be guilty of the felony of trafficking in these substances, so as to make it easier to prosecute persons engaging in these activities. The act provides a range of penalties for trafficking, with stiffer penalties imposed depending on the volume of substances trafficked and the number of times the offense is repeated. As examples, a person convicted the first time for trafficking in at least 10 grams but less than 28 grams of these substances must serve between 3 and 10 years in jail and be fined $25,000, while a person convicted the first time trafficking in at least 28 grams but less than 100 grams of these substances must serve between 7 and 25 years in jail and be fined $50,000. The act also adds marijuana, depressants, stimulants or hallucinogenic drugs to the list of drugs for which a prior conviction results

in a stiffer sentence being imposed on a person convicted of trafficking in ice, crank and crack cocaine.

Status: Signed into law on May 17.

Optometrists May Administer Pharmaceutical Agents (H. 3137, Rep. Baker). This act permits optometrists to purchase and administer pharmaceutical agents. The act defines pharmaceutical agents and requires that an optometrist must be either a diagnostically-certified or therapeutically-certified optometrist in order to administer pharmaceutical agents. The act also lists requirements an optometrist must meet in order to be certified to administer these agents and lists pharmaceutical agents which may be administered.

Optometrists are prohibited from establishing pharmacies in their offices or selling pharmaceutical agents prescribed in treatment unless there is a licensed pharmacist on staff when these prescriptions are filled. Therapeutically-certified optometrists must be held to the same standard of care as physicians and must maintain a minimum of $1,000,000 in malpractice insurance coverage. The State Board of Examiners in Optometry is responsible for examining applicants for diagnostic and therapeutic certifications. Optometrists also are prohibited from performing surgery, as defined by the act. The act also increases from 12 to 20 hours the minimum hours of continuing education an optometrist must attend on an annual basis to renew an optometrist's license.

Status: Signed Into Law on May 14.

No Increase in Auto Insurance Premiums After Certain First Offenses (H. 3425, Labor Commerce and Industry Committee). This act prohibits any increase in the auto insurance premium of a person solely because that person was cited for the first time for careless or negligent driving, in violation of any municipal or county ordinance. Additionally, the premium may not be increased on the insured for a first offense of (1) failing to dim his lights; (2) operating with improper lights; (3) operating with improper brakes; (4) operating a vehicle in an unsafe condition; or (5) driving without lights or while wipers are in use.

Status: Signed into law on March 4.

Vaccinations Required to Enroll in Day Care Facilities (H. 3436, Rep. Mattos). This act requires children to be vaccinated or immunized before enrolling in public or private day care facilities. This requirement, however, does not apply to children with a medical or religious exemption, nor does it apply to children enrolled in family day care homes.

Status: Signed into law on April 22.

Coastal Carolina University (S. 215, Sen. Elliott). This act makes Coastal Carolina College a separate and independent institution of higher learning, apart from the University of South Carolina system, effective July 1, 1993. The college is renamed "Coastal Carolina University" The act provides for the university's board of trustees and the board's powers and duties.

Status: Signed into law on May 14.

Prohibited Health Care Referrals (S. 466, Sen. Thomas). This act prohibits a health care provider from referring patients in most cases to facilities and services in which a provider has a financial interest unless certain disclosure conditions are met. A health care provider must furnish patients with a written disclosure form before the referral is made to a facility or for services in which the provider has a financial interest, reporting, among other things, the existence of the provider's investment interest and the patient's right to go to any entity the patient chooses for the item or service. The act also prohibits kickbacks for referrals.

Status: Signed into law on May 17.

Bidding Required for Services Used or Paid For by Reinsurance Facility (S. 597, Sen. Saleeby). This act requires the Chief Insurance Commissioner to issue bids for all services paid for by or provided to, the Reinsurance Facility. This applies to designated carriers, a non-profit service association of insurance companies, or other companies not otherwise excluded under this act. The commissioner also must perform an audit of the records of the Reinsurance Facility and provide the General Assembly a comprehensive report regarding the audit. The act lists information which must be included in the audit and requires the commissioner to obtain from each designated carrier a complete audited financial statement from and a record of all transactions between each of the designated carriers and any entity with which a designated carrier contracts or has a business relationship. The act also prohibits a present designated carrier which has a contract or business relationship with any other entity subject to these provisions from being eligible to bid for facility business if the carrier refuses or fails to present the required financial statements.

Status: Signed into law on May 19.

Catawba Indian Land Settlement Claim (S. 695, Sen. Hayes). This act requires that $2.5 million be transferred from the Insurance Reserve Fund to the State's General Fund for the current fiscal year. Money transferred under these provisions must be held by the State Treasurer in a special account and paid to the U.S. Secretary of Interior for a portion of the settlement of the Catawba Indian Land Claim. After payment to the Interior Secretary is made, the General Fund is to transfer back to the Insurance Reserve Fund $500,000 a year, plus interest.

Status: Signed into law on May 24.

Child Day Care Regulations (R.1494, R.1518 and R.1519). The Department of Social Services promulgated this regulation to improve child care in South Carolina. The regulation, which became effective on April 23, 1993, affects three types of child day care: (1) public and private child day care centers which regularly receive thirteen or more children, (2) "family" day care homes (occupied residences) in which child day care is regularly provided to six or less children who are from at least two different families which are unrelated to the resident caregiver, and (3) child day care centers operated by religious bodies or groups which regularly provide child day care to six or less children. Some of the significant changes contained in R.1494 are displayed below. All changes are not shown.

(1) public and private child day care centers(R.1494)

Before New Regulations	After New Regulations

caregivers must be at least 14 years old.	caregivers must be at least 16 years old.
caregiver must be literate.	for new facilities, caregivers must have a high school diploma/GED and have either six months experience or be supervised for six months by an experienced caregiver. Within six months, caregiver must have six hours of relevant training or continue under direct supervision. Existing facilities must meet these requirements upon license renewal.
a person could meet the qualifications for center director in one of three ways. In the alternative requiring the least education, the center director must have three years experience as a caregiver in a licensed/approved child day care facility. In the alternative requiring the highest educational level, the caregiver must have at least an associate degree.	six alternative ways exist for a person to meet the qualification as a center director. In the alternatives requiring the least formal education, the center director must have a diploma in child development or early childhood education with two years experience; a child development associate credential, or; a high school diploma/GED with one year experience supervising other day care staff and two years experience as a caregiver. In the alternative requiring the most formal education, the center director must have a bachelor's degree in child development or early childhood education.
no staff training required.	staff training phased-in over two years. Beginning with second year and thereafter, center director must have twenty hours annually and each caregiver must have fifteen hours annually.
ratio of caregiver to child ranged from 1:8 for 0-2 years of age to 1:25 for children over age 5. Higher ratio allowed during naptime and no ratios existed for swimming.	ratios decreased over a three year phased-in period. In the third year, the ratio ranges from 1:6 for children 0 to 2 years to 1:23 for children 6 to 12 years. Higher ratios allowed for naptime, but ratios are lower than before ne regulations.
unannounced visits allowed only upon receipt of a written signed complaint.	DSS allowed to visit unannounced.

(2) family day care homes (R.1519)

Before New Regulations	After New Regulations
no requirement for a telephone.	a working, listed telephone is required.

no reference to SLED checks.	current SLED checks are required for operator, substitutes, emergency persons and volunteers.
no reference to unannounced visits.	DSS staff authorized to make unannounced visits to investigate complaints.
no requirement that operator cooperate with DSS during investigation of child abuse or neglect.	operator required to cooperate with abuse or neglect investigation.

(3) day care centers operated by religious groups (R.1518)

Before New Regulations	After New Regulations
no reference to child abuse or neglect.	if any member of staff has been determined to have abused or neglected any child, application may be denied or license suspended.
care of mildly-ill children health practices for care of was not addressed.	health practices for care of a mildly ill child are specified, along with health conditions for which child must be excluded from facility.

Status: Effective April 23, 1993

Legislation Passed by the House

(as of Monday, May 24)

Here are some of the more notable bills which the House has approved this session.

Government Restructuring (H. 3546, Rep. Sheheen). [NOTE: The Senate passed an amended version of H. 3546 on May 17, 1993. A listing of some of the differences between the Senate and House versions of restructuring can be found under the "Senate Version" at the end of this summary.)

(1) House Version

---Reduces the number of state agencies by about two-thirds, from nearly 150 agencies to approximately fifty. The reduction is accomplished by incorporating over eighty independent state agencies into sixteen new departments and by placing other agencies under the Governor's Office, Attorney General's Office and the Judicial Department. Approximately twenty agencies and the Constitutional Offices retained their independent status.

---Abolishes the boards and commissions for agencies incorporated within one of the sixteen new departments. The sixteen new departments are headed by a director appointed by the Governor, by and with the consent of the General Assembly. Agency directors are charged with overseeing, managing and controlling the operation, administration and organization of their new department. They are specifically empowered to: organize the department into appropriate divisions through consolidation or subdivision; consolidate existing positions authorized for the department; and redistribute funds for positions as the director determines most efficient. Department directors are also authorized to appoint deputy directors to head divisions of the department and to remove them at the director's will and pleasure.

---Directors of the new departments must be qualified by a joint legislative screening committee and, except for the Chief of the Law Enforcement Department, may be removed by the Governor at his will and pleasure. The Chief of the Law Enforcement Department is appointed by the Governor by and with the advice and consent of the Senate and House, but he is appointed for a term of ten years. The Chief may be reappointed, but he may not serve more than a total of twenty years.

---With the incorporation of Coastal Council within the new Department of Environmental Regulations, the Council is abolished and a "Coastal Zone Management Appellate Board" created. The Board is composed of the present fourteen members of Coastal Council until their terms expire. Thereafter, the Board will be composed of fourteen members: one elected by the governing body of each of the eight coastal counties and one elected by the legislators of each congressional district. The Board serves as an appellate board to review decisions of department staff relating to permits for altering uses of coastal waters, tidelands, beaches and primary ocean front sand dunes. Appeal from decisions of the Boards is to the Administrative Law Judge Division.

---The Public Service Commission remains an independent state agency, but the bill changes the method by which Commission members are selected. The Public

Service Commission continues to be governed by a seven member commission elected by the General Assembly, but members are no longer nominated by an eleven member Merit Selection Panel composed of non-legislative members. Instead, the bill provides for a screening committee of five House members, five Senators, and five members of the general public. One member of the general public is elected by the House and one is elected by the Senate. The remaining three members of the general public are appointed by the Governor.

---To provide a more impartial resolution of disputes between state agencies and citizens, the bill creates an Administrative Law Judge Division. The Division is created within the Governor's Office and is charged with presiding over and rendering a decision in "contested cases" - i.e., disputes in which the legal rights, duties or privileges of a person are to be determined. In the case of state agencies which retained their governing boards and commissions, the Administrative Law Judge Division serves as an administrative appellate body, reviewing decisions of the agency board. Only appeals from a few independent agencies - the Employment Security Commission, Human Affairs Commission and Public Service Commission - are specifically excluded from the appellate jurisdiction of the Administrative Law Judge Division.

---The Administrative Law Judge Division consists of thirteen judges. The Governor appoints each judge with the advice and consent of the General Assembly, including designating one to serve as the chief judge. After the initial appointments, terms are for six years beginning on July 1. Administrative law judges must meet the same qualifications as justices of the Supreme Court and judges of the circuit court - i.e., be a resident of South Carolina for at least five years, at least 26 years of age, and a licensed attorney for at least five years. In addition, members of the General Assembly are prohibited from being appointed an administrative law judge for four years after their service in the General Assembly ends.

---Appointees as administrative law judges must undergo screening by a joint legislative committee, the same as judges of the judicial branch of government. They are prohibited from practicing law or being a partner or associate in a law firm during their term of office as an administrative law judge. The chief judge is paid 80% of a circuit judge's salary, and the associate administrative law judges are paid 70% of a circuit judge's salary.

---In addition to presiding over "contested cases" and deciding appeals from the remaining state boards and commissions, administrative law judges are charged with conducting public hearings on proposed agency regulations. The administrative law judge is required to ensure fair and impartial treatment of participants in the hearing and to issue a written report making findings as to the need for and reasonableness of the proposed regulation. If the administrative law judge concludes that the need for and reasonableness of the proposed regulation has not been established, the promulgating agency must withdraw or modify the regulation or submit the regulation to the General Assembly with a copy of the administrative law judge's report.

---Because many state agencies will have a single individual - the department director - who is able to promulgate regulations which may become law, the bill prescribes new procedures for promulgating regulations. One of these new procedures is described immediately above in the discussion of administrative law judges. In addition to this procedure, the bill requires agencies to include a statement of the reasonableness of proposed regulations in notices of public hearings on the regulations and in any renewal of emergency regulations which have a substantial economic impact. Agencies and the Division of Research and Statistics may also include a determination of the reasonableness of a regulation in their assessments of regulations with a substantial economic impact.

---House version of Restructuring takes effect July 1, 1993.

(2) Senate Version

---Creates 6 new Departments: (1) Transportation; (2) Public Safety; (3) Commerce and Economic Development; (4) Wildlife, Marine and Natural Resources; (5) Disabilities and Special Needs; and (6) Department of Revenue and Taxation. (In contrast, House plan creates 16 Departments.)

---Departments under the Senate version are governed in different ways. 4 of the Departments would be governed by 7-member boards, but the selection of board members for these Departments varies. The Departments of Transportation and Public Safety would be governed by 6 members elected by the General Assembly and 1 member appointed by the governor. The Department of Wildlife, Marine and Natural Resources and the Department of Disabilities and Special Needs would be governed by board members appointed by the governor with the advice and consent of the Senate. One Department, Commerce and Economic Development, would be governed by only one secretary, appointed by the governor with the advice and consent of the Senate. The Department of Revenue and Taxation would be governed by a 3-member board, appointed by the governor with the advice and consent of the Senate. (In contrast, under the House plan, all 16 Department heads are appointed by the governor with the advice and consent of the General Assembly.

---Leaves the Department of Health and Environmental Control (DHEC) and the Department of Social Services (DSS) intact, with no programs currently administered by DHEC or DSS transferred to another Department. (In the House version, DHEC is placed under a new Department of Environmental Regulations, while DSS is placed under a new Department of Family Services.)

---Abolishes the Alcoholic Beverage Control (ABC) Commission, with its functions pertaining to licensing and penalties for administrative violation of the law or regulations given to the State Tax Commission and its functions pertaining to law enforcement and regulation enforcement and inspections given to the State Law Enforcement Division (SLED). (The House version also abolishes the ABC Commission, putting its licensing authority under a new Department of Revenue and its enforcement powers under a new Department of Law Enforcement.)

---Creates the Office of Inspector General. The person holding this office is directly responsible to the governor, independent of any state agency, board or department, and would have the authority to respond to requests concerning fiscal matters and conduct audits. (House version does not create an Inspector General.)

---Restructuring is effective on July 1, 1994, to allow for coordination of employee transfers and bookkeeping adjustments. (In contrast, House version goes into effect July 1, 1993.)

---Senate version does not include creation of an Administrative Law Judge Division (in contrast to the House version).

---The General Assembly must be called back into session between the first Thursday in June and the first Thursday in November in case a revenue shortfall occurs during that time. (House version does not include this requirement.)

Status: Passed by the House on March 25; Approved with Amendments by the Senate on May 17; House Rejected Senate Amendments on May 20. Conference Committee to be appointed May 25 to resolve differences between the House and Senate versions.

House Appropriations Bill (H. 3610, Ways and Means Committee). Faced with the state's recent revenue shortfalls and downgraded credit rating, the House Representatives drew up a budget for FY 1993-94 which emphasizes more efficient spending. This cost reduction strategy calls for enhanced authority and flexibility for agency heads, consideration of zero-based budgeting, and greater investment in preventative care programs for medical and social problems. In addition to these new directions in the budgeting process, the House bill calls for the following major revenue enhancements:

Capital Gains Delay: est. $10.9 million obtained by opting not to continue the ongoing initiatives to progressively raise the taxpayer's deduction for income derived from long term capital investment.

Motor Vehicle License Increase: est. $2.5 million generated from a $1 fee placed on license tags. Monies are earmarked for Emergency Medical Service programs.

Biennial Motor Vehicle Licenses: est. $15.7 million in one time revenue generated from a requirement that all motor vehicles with standard bird tags be registered biennially.

Teaching Hospital Earned Revenue: est. $15.2 million; and Hospital Earned Revenue: est. $50.0 million obtained from Medicaid programs.

Department of Mental Retardation Bed Fee: est. $6.1 million raised by affixing a daily $5 fee per bed in all Intermediate Care Facilities.

Beer/Wine Optional Sunday Sales: est. $0.4 million.

Other (Departmental Revenue): est. $2.8 million.

The total enhancements of an est. $103.6 million coupled with the $97.9 million figure representing the Available Revenue Less FY 1993-94 Base affords $201.5 million available for allocation. The House proposes the following major appropriation increases:

Public Education: $45,745,000 allocated. The sum provides for a 2.7% increase in the statewide salary schedule designed to place S.C. teacher salaries in line with the projected southeastern average. Simultaneously, local school districts are afforded more flexibility in granting teacher pay raises.

Medicaid: $40,100,000 allocated to the Department of Health and Human Services to maintain current service levels in the Medicaid program.

State Health Plan: $2,551,422 allocated.

Local Government Fund: $6,358,406 funds the full formula.

Homestead Exemption: $8,951,475 is allocated to reimburse the counties for the statutorily-required exemption of the first $20,000 of value of a primary residence for those citizens over 65 years of age.

Debt Service: $11,899,645 allocated to fund state-issued bonds on authorized building projects.

Department of Mental Retardation: $6,100,000 raised from the new daily fee placed on beds in Intermediate Care Facilities. This revenue restores base funding for the department and allows an increase in family services and programs for the prevention of mental retardation.

State Employee Budgets: $10,950,000 obtained from the delay in the capital gains

tax rate reduction. The sum will allow for a one-time bonus to state employees in December, 1993. (Senate version does not include pay raises for state employees.)

Corrections: $6,000,000 appropriated: $4 million for to the Dept. of Rehabilitations and Corrections for the startup and transition costs for the Lee County, Trenton, and Watkins institutions; $2 million to the Community Control Council under Probation, Parole, and Pardon so as to provide for alternatives to incarceration.

National Guard Pension: $1,400,000 allocated.

1994 Primary Elections: $1,565,500 allocated.

Status: Passed the House on March 25; Passed with Amendments by the Senate on May 21; Conference Committee to Resolve Differences Between 2 Versions.

Appropriations Limit (H. 3010, Rep. Carnell). This bill is designed to avoid a repeat of the budget shortfalls which have plagued the state in recent years. Under this bill, general fund appropriations in any given year could not exceed the base revenue estimate, which is calculated as the lesser of the following:
(a) the total of recurring general fund revenues collected in the immediately previous fiscal year;
(b) recurring general fund revenues collected in the previous fiscal year plus 75 percent of the difference between that figure and the general fund revenue estimate of the Board of Economic Advisors for the upcoming fiscal year; or
(c) the general fund revenue estimate of the Board of Economic Advisors for the upcoming fiscal year.

The bill provides a procedure for increasing or decreasing the base revenue estimate and provides that appropriations of surplus may be made only for nonrecurring purposes.

Status: Conference Committee Report Adopted by the House on May 13, 1993.

Felony of Carjacking (H. 3057, Rep. Tucker). This bill makes it a felony to commit the crime of carjacking. The bill defines carjacking as a crime in which a person, while possessing a deadly weapon, takes or attempts to take an occupied vehicle by force and violence or by intimidation. A person convicted of this crime must serve up to 15 years in jail, except that if the victim suffers "great bodily injury" during the crime, the perpetrator must be imprisoned up to 25 years.

Status: Passed the House on March 10; Currently in Senate Judiciary Committee.

Shorter Legislative Sessions (H. 3058 and H. 3059, Rep. Wilkins). Both measures seek to shorten the legislative session, one by delaying the start of the session and one by calling for earlier adjournment. H. 3058 is a joint resolution proposing to amend the Constitution by changing the starting date of the annual legislative session in odd-numbered years only from the second Tuesday in January to the second Tuesday in February. During odd-numbered years, House and Senate presiding officers would convene on the second Tuesday in January for not more than two days to accept bills or resolutions introduced by any member and referring these bills and resolutions to appropriate committees. The joint

resolution also requires the Senate to hold organizational meetings, as is currently required of the House, in years shortly after the election of its members. H. 3059 is a bill which changes the final (or "sine die) adjournment date of the General Assembly's annual session from the first Thursday in June to the second Thursday in May. The bill also provides that final adjournment is delayed by 1 statewide day for each day the House fails to give third reading to the general appropriations bill each year by March 15.

Status: Both measures passed the House in April, and both are still in the Judiciary Committee.

Restrictions on Use of Personal Watercraft and Specialty Propcraft (H. 3073, Rep. Cooper). This bill lists restrictions pertaining to the operation of personal watercraft and specialty propcraft. As examples of restrictions, the bill prohibits the operation of these vessels unless persons on the vessels are wearing approved flotation devices and also prohibits these vessels from being operated in a manner which unreasonably or unnecessarily endangers life, limb or property. Anyone who violates these provisions is guilty of a misdemeanor and upon conviction must be fined not more than $200 or jailed not more than 30 days. The bill also lists exceptions; as examples, these provisions do not apply to activity on private waters nor to law enforcement or emergency medical personnel operating these vessels while in the performance of their official duties. The bill defines "personal watercraft" so as to also include "jet skis" and also defines "specialty propcraft."

Status: Passed the House on May 7; Currently in Senate Fish, Game and Forestry Committee.

Voluntary Silent Prayer in Schools (H. 3143, Rep. Meacham). This bill requires public schools to set aside a minute at the beginning of each school day so that students may participate in voluntary silent prayer. This bill prohibits a teacher or student from using this time to advocate or promote a particular religious viewpoint.

Status: Passed the House on January 20; Currently in Senate Education Committee.

Textbook Reform (H. 3145, Rep. Meacham). This bill provides for greater public input in the selection of textbooks in schools and textbook accuracy requirements. The State Board of Education must appoint an Instructional Materials Review Panel for each area of study in which textbooks or instructional materials are considered, and the Board must promulgate regulations pertaining to membership of and guidelines for the panel. The Board also must develop criteria for approval of textbooks offered for sale in South Carolina. Additionally, copies of proposed textbooks approved by the Panel must be made available to the public for review at least 30 days before the date of the State Board meeting at which adoption of a textbook is to be considered. The textbook published must provide for correction of materials in the event that typographical or factual errors are found in the text.

Status: Passed the House on April 23; Currently in Senate Education Committee.

Later State Primary Date (H. 3147, Rep. Corning). This bill changes the date of the state primary, held in even-numbered years, from the second Tuesday in

June to the first Tuesday after the first Monday in August.

Status: Passed the House on April 1; Currently in Senate Judiciary Committee.

Classification of Crimes (H. 3151, Rep. Wilkins). This bill addresses what has been described as South Carolina's "non-system" for classifying crimes. In this "non-system," the General Assembly has created statutory crimes in isolation of one another. As the need for new crimes arose, the General Assembly defined the elements of a crime, categorized it as a felony or misdemeanor, and prescribed a range of punishment, but the General Assembly did so without benefit of any analytical framework and with only limited ability to perform an ad hoc comparison of the new crime to the hundreds of other existing offenses. Consequently, South Carolina has crimes classified as misdemeanors which carry longer maximum sentences than other crimes classified as felonies.

To rectify this situation, H. 3151 establishes a rational classification of existing crimes and a framework for classification of crimes created in the future.

For existing crimes, the bill changes the maximum prison terms of approximately 65 felonies and upon their relative seriousness. Some of the changes are increases in the maximum sentence, while other changes are decreases in the maximum sentence. Under the bill. all felony offenses carry a minimum term of at least 5 years, and all misdemeanor offenses carry a maximum term of not more than 3 years.

The bill also recategorizes about 15 crimes which are now felonies as misdemeanors and about 80 crimes which are now misdemeanors as felonies. Again, the recategorization was based upon an evaluation of crime's relative seriousness.

Under the bill, existing crimes and crimes created in the future are arranged into 9 categories, with each category having its own unique maximum term of imprisonment as follows:

FELONIES

Category	Maximum Sentence
A	30 Years
B	25 Years
C	20 Years
D	15 Years
E	10 Years
F	5 Years

MISDEMEANORS

Category	Maximum Sentence
A	3 Years
B	2 Years
C	1 Year

H. 3151 is only the first step in a two-step process designed to achieve a fair and just system for sentencing convicted criminals. If the second step is pursued, it will be contained in a separate bill and will provide judges with a consistent method of assessing relevant sentencing factors, such as the defendant's prior criminal record. As presently envisioned, the assessment method (i.e., sentencing guidelines) will guide judges in imposing sentences within the categories established by H. 3151.

Status: Passed the House on March 12; Currently in Senate Judiciary Committee.

Longer Jail Sentence for Use of Weapon in Violent Crime (H. 3164, Rep. Govan). This bill increases the additional sentence imposed on a person convicted of a violent crime who possesses or displays a weapon during commission of the crime from 5 to 10 years.

Status: Passed the House on May 13; Currently in Senate Judiciary Committee.

Hunter Education Program Required for Hunting License (H. 3255, Rep. Snow). This bill requires the State Wildlife and Marine Resources Department to establish a hunting education program, which anyone born after June of 1979 must complete in order to obtain a hunting license in South Carolina. In lieu of completing this program, a person may present evidence of completion of a hunting education program offered in another state or country, provided the program is comparable to the one offered in South Carolina. (The Senate version allows lifetime hunting and combination licenses to be issued to those who have not completed the education program, though they may not hunt til the program is completed. Additionally, the Senate version allows a hunting license to be issued without the certificate of completion if that license is to be used solely for hunting game in a preserve of over 10,000 contiguous acres and if onsite hunting instruction and supervision is provided.)

Status: Passed by the House on May 6; Passed, with Amendments, by the Senate on May 21.

Disqualification of Handicapped Jurors (H. 3319, Rep. Baxley). This bill provides that a person who is blind, hearing or speech-impaired, or physically handicapped may not be disqualified to act as a juror or be excluded from a jury list or jury service because of these handicaps, unless the judge determines that the disability would interfere with the juror's ability to comprehend the evidence. If the court determines that a person's disability is such that the person cannot adequately serve as a juror, the court must make a finding on the record. The bill also establishes a Court Interpreter for the Deaf to assist a deaf juror in legal proceedings.

Status: Approved by the House on April 27; Currently in Senate Judiciary Committee.

Expanded Jurisdiction of Magistrates (H. 3517, Rep. D. Smith). This bill increases the jurisdiction of magistrates to include offenses where the maximum penalty which can be imposed does not exceed $500, as currently opposed to $200, or imprisonment of 30 days. The bill also provides that magistrates have jurisdiction over larcenies in which the value of property stolen does not exceed $1,000, as currently opposed to $20, and allows magistrates to order restitution. The bill also increases from $200 to $500 the maximum fine a municipal judge may impose on a person who violates a municipal ordinance or a state law within the court's jurisdiction.

Status: Approved by the House on April 15; Currently in Senate Judiciary Committee.

Smoke Detectors Required in Homes (H. 3531, Rep. Littlejohn). This bill requires smoke detectors to be installed in all one and two-family dwellings. The bill lists the type of detector which must be installed in dwellings. The owner of a dwelling or his authorized agent is responsible for supplying and installing

detectors. The owner of a dwelling or his authorized agent must provide a tenant who rents the dwelling instructions for testing detectors and replacing batteries in battery-powered detectors. The tenant must notify the owner or his agent of any deficiency in the operation of the detector, and upon learning that the detector is deficient, the owner must repair or replace it within 15 days. However, the owner is not obliged to replace or repair a detector which has been altered or destroyed by the tenant or anyone who the tenant authorizes to reside with him. Nor is the owner obligated to provide batteries for battery-operated detectors.

The bill prohibits a person from conveying a title to real estate which includes a dwelling or from transferring possession of a building unless functioning detectors have been installed in the dwelling, although violation of this prohibition does not affect the validity of the conveyance.

A dwelling's owner, his agent, tenant, seller or purchaser is not liable for damages resulting from mechanical failure of a detector unless the failure is caused by improper installation or maintenance by one or more of these persons. If a detector malfunctions because of a tenant's intentional or negligent act (including failure to periodically test the detector and replace defective batteries) or because of the manufacturer's negligent production of the device, then the owner, his agent, tenant, seller or purchaser is not liable for damages resulting from the malfunctioning, provided any one of these persons exercised reasonable care in acquiring, installing and maintaining the detector. No person may remove or tamper with a functioning detector installed under these provisions.

A person violating these provisions the first time has 15 days to install, repair or replace the detector. If the provisions are violated a second time, the person is guilty of a misdemeanor and upon conviction must be fined between $50 and $200 or jailed not more than 30 days.

Status: Passed the House on May 20; Sent to the Senate.

Collection of Information on Health Care Expenditures (H. 3660, Rep. Wilkins). This bill requires the Budget and Control Board's Division of Research and Statistical Services to collect and analyze data on the total public and private health care expenditures for services rendered in all settings in South Carolina. This does not apply to inpatient data, however, which already is reported under current law. This information must be reported in a nonidentifying manner and available for public review.

Outpatient services data must include information on specific procedures performed; the number of times each procedure is performed; the cost per procedure performed; the type of health care provider performing each procedure, and the outcomes if known. These outpatient services must include information about the source of referral or origination point.

The bill creates a Data Oversight Council, to be appointed by the governor. The council will make recommendations to the General Assembly about the health information and policy needs of the state. The council also will work with the Division of Research and Statistics to develop regulations governing data collection and reporting. Data may not be released by the division except in a format recommended by the council and approved by a Legislative Data Oversight Committee. This committee will be comprised of 3 House members and 3 Senators. The bill also expands the types of financial and medical information hospitals must report to the division. The division will have the authority to link data bases for the purpose of providing better information to the General Assembly. Patient and health care provider information are confidential.

The bill also deletes obsolete references pertaining to the Medically Indigent Assistance Program.

Status: Approved by the House on May 21; Sent to the Senate.

Lodging Establishments (H. 3890, Rep. McAbee). This bill lists activities which are not permitted in lodging establishments and allows the establishment to deny accommodations to or to eject persons engaged in prohibited activities. As examples, a lodging establishment may deny accommodations or eject a person who is disorderly or intoxicated or is unwilling or unable to pay for accommodations or services. The bill also provides that it is a misdemeanor, subject to a maximum fine of $200 or up to 30 days on jail, for a person to use accommodations to engage in illegal activities, such as using or possessing a controlled substance or damaging a room or its furnishings. A person who damages a room or its furnishings also may be ordered by the court to provide restitution to the establishment for the damages and to anyone injured because of the damages. An innkeeper also may eject a person for violation of any federal, state or local law or regulation relating to the establishment or any of the establishment's rules, and an innkeeper who denies accommodations to a person for any of these reasons is exempt from liability in any civil or criminal action.

The bill also prohibits an innkeeper from denying accommodations to a person because of his race, creed, color, national origin, sex, disability or marital status. The definition of "lodging establishment" is expanded to conform to the State Tax Code, so as to include "any place in which rooms, lodging or sleeping accommodations are furnished to transients for consideration."

Status: Passed the House on May 14; Currently in Senate Judiciary Committee.

State Policy on Single-Gender Education (H. 4170, Rep. Sheheen). This concurrent resolution constitutes a formal policy statement in support of single-gender educational opportunities in higher education. The Citadel is the only state institution which is single-gender, and currently it is facing 2 sex discrimination lawsuits, including 1 from a high school senior seeking admission to the school. Persons wishing to retain the Citadel's all-male enrollment hope to use this policy statement as a justification for retaining the institution's current status.

Passage by the House of this concurrent resolution came only a few days before Virginia Military Institute (VMI) heard the U.S. Supreme Court's ruling about an appeal of a similar discrimination lawsuit. VMI, located in Lexington, Virginia, is also an all-male, state-supported military institution. In 1992, a federal appeals court, while not ordering VMI to admit women, directed the Commonwealth (State) of Virginia to guarantee that women have equal access to the type of education offered at VMI. As this Update went to press, it was learned that on Monday (May 24), the U.S. Supreme Court left standing the decision of the appeals court. With the Court's decision announced yesterday, a federal judge will direct VMI to do any one of several options---(1) open the institution to women; (2) no longer receive state funds (if it remains all-male); (3) offer a separate program for women; or (4) examine "creative alternatives."

The concurrent resolution also calls for creation of a 10-member committee, with 5 appointed by the Speaker and 5 appointed by the Senate President Pro Tempore, which will develop recommendations for the General Assembly to consider in exploring alternatives for the provision of single-gender educational

opportunities for women. The committee must submit this report to the General Assembly at the beginning of the 1994 session.

Status: Adopted by the House on May 12; Currently on Senate Contested Calendar.

Driver Training Insurance Credit (S. 114, Sen. Giese). This bill requires that insurance companies give an "appropriate" credit to adult drivers who successfully complete a driver training course. Insurers must file the proposed amount of the driver training credit with the chief insurance commissioner for approval. The bill lists instruction requirements. Additionally, anyone age 15 or 16 must complete a driver training course prior to receiving a restricted or regular driver's license, effective October 1, 1994. The Insurance Department is authorized to issue a voucher to 15 and 16 year-olds to cover the cost of taking a driver training course, and upon completion the 15 or 16-year-old is qualified for a 10 percent youthful driver insurance credit.

Status: In House/Senate Conference Committee.

School Attendance Required of Pregnant Students and Students with Children (S. 352, Sen. Washington). This bill deletes the exemption from the state's mandatory school attendance law for a child who is married or has been married, an unmarried child who is pregnant, or a child who has had a child. However, the school district attendance supervisor may grant a child who is the parent of a child a temporary waiver from attendance if he determines that suitable child care is unavailable.

Status: Approved, with an Amendment, by the House on May 20.

Early Child Development and Academic Assistance (S. 329, Sen. Setzler). This bill proposes two initiatives---(1) Early Child Development (preK-3rd grades) and Academic Assistance (4th-12th grades) to allow districts and schools to target assistance to students in need of academic help. Each district and school must write a plan addressing both initiatives, to be implemented by 1995-1996. Districts already meeting the intent of the law may obtain a waiver to start programs for 1993-1994 or 1994-1995 school years. The bill lists features which must be included in these plans and provides for their funding. Student progress is assessed 3 times---at the end of grade three, in grade eight and on the exit exam to evaluate the degree to which the purpose of the legislation is being met. Plans are not submitted or approved before funds are dispersed. If the goals and time lines are not met, the Department of Education will provide targeted technical assistance.

In response to H. 329, the House adopted a proviso in the budget which also establishes an early intervention program by directing schools to choose from a menu of options consisting of strategies to address needs of low-achieving students. Schools must implement a change beginning with the 1993-1994 school year and must submit a plan to be approved by a peer review committee the following year. Plans have an early childhood component (K-3rd grade) and/or intermediate component (4th-12th grade). One of the options available to schools is an "alternative option" by which a school may try an approach other then one of the models listed on the menu to working with students. However, the plan must be based on strategies found to be effective in research and must be approved. Next year funds are allocated based on the same percentage as received for remedial and compensatory programs this year. The State Department of Education

will develop a funding formula, to be presented to the Ways and Means and Senate Finance Committees for the following years.

Status: Passed the House, with Amendments, on May 20; Sent to Senate, which amended House Amendments also on May 20 and returned the bill to the House.

Prescriptions May Be Issued by Therapeutically Certified Optometrists and Physician's Assistant (S. 622, Sen. Bryan). This bill permits therapeutically-certified optometrists and physician's assistants to issue prescriptions. Additionally, pharmacists are permitted to refill prescriptions on an emergency basis without authorization of the professional who prescribed the medication. The bill lists conditions under which the pharmacist may refill the prescription. These provisions do not abridge the right of the pharmacist to refuse to fill or refill a prescription. The bill deletes provisions which limit the number of physician's assistants a physician may supervise and allows the Department of Health and Environmental Control to issue registrations to nurse practitioners and physician's assistants to prescribe certain controlled substances.

Status: Approved, with Amendments, by the House on May 21.

Legislative Update, May 25, 1993

Still on the Calendar

(as of Monday, May 24)

Listed below are some of the bills still pending on the House Calendar.

Off-Campus Religious Instruction (H. 3387, Rep. Fair). This bill requires a school district board of trustees to allow a student to be excused from school to attend a class in religious instruction. The bill lists conditions under which the student may attend this instruction; as examples, the student's parent or guardian must give written consent, and no public school personnel may be involved in providing the religious instruction. It is the student's responsibility to make up any missed school work.

Status: On House Second Reading Uncontested Calendar.

Continuing Education Required of Real Estate Brokers and Salesmen (H. 3636, Rep. Baxley). This bill requires, after July 1, 1994, a real estate broker, salesman, property manager or time share licensee to complete 6 hours of continuing education annually as a condition for renewal of his license. Instruction on changes in federal and state law affecting licensees must be included in the continuing education. A licensee who has successfully completed a 30-hour instruction course for qualification as a broker would be exempt from participating in continuing education for that particular year. Additionally, a licensee who decides to become inactive is not required to meet the continuing education requirement but must complete 6 hours of continuing education before returning to active status. A licensee who reaches age 55 and with a minimum of 20 years' continuous licensure also is exempt from the continuing education requirement.

The State Real Estate Commission must approve the schools, instructors and courses acceptable for this continuing education requirement and is authorized to promulgate regulations prescribing the overall parameters of the program and to require licenses to provide proof of compliance with the requirement as a condition of license renewal. However, a nonresident agent who has satisfied the continuing education requirements of his home state is deemed to have satisfied the requirements for this state. A nonresident agent who lives in a state that does not require continuing education must meet South Carolina's continuing education requirement.

Status: On House Second Reading Uncontested Calendar.

Railroad Preservation (Rails to Trails) (H. 3677, Rep. Jaskwhich). This bill designates the State Department of Highways and Public Transportation as the

state agency mainly responsible for preserving railroad rights-of-way for future use. By July 1, 1994 the department must develop and submit a state railroad corridor preservation and revitalization plan, to be submitted to the House Education and Public Works Committee and Senate Transportation Committee. The bill lists factors the department must consider in developing a plan, which include, but are not limited to, studying the feasibility of preserving existing rail corridors for future mass transit purposes, examining the preservation potential for transportation uses of corridors proposed for abandonment, and evaluating existing and former railroad rights-of-way within incorporated areas (municipalities) of the State for trail or other compatible interim public uses. The Department may allow to be used for public compatible interim recreational purposes only corridors or portions of corridors acquired for preservation and/or revitalization which are located in incorporated parts of the State. Before use of the right-of-way for public compatible interim recreational uses, the Department must secure agreement for this use from all landowners whose property adjoins the corridor.

A railroad right-of-way held for railroad right-of-way preservation or the subject of a railroad right-of-way preservation agreement must be considered held for railroad use and may not be considered abandoned for the purpose of any law. The department also has preferential right to acquire railroad rights-of-way and easements proposed for abandonment or discontinuance of service and may use or distribute state, federal or other funds to private or public entities for the purpose of rail corridor preservation or revitalization programs or other compatible uses consistent with these provisions. No property owner of a railroad right-of-way may dispose of the property without first obtaining a release of the preferential right from the department or unless the department has failed to exercise its preferential rights. The department may acquire property which is part of a railroad line through purchase, gift, condemnation or other methods.

The department must establish an advisory council for railroad rights-of-way the department acquires for preservation or revitalization and which will be used for interim recreational purposes. The council must assist and advise the department concerning protection and management of each existing or abandoned right-of-way prior to use of the corridor for any interim compatible purpose. The bill provides for membership of the council. The department also must establish rules concerning public access to the corridors and is responsible for maintenance costs which were required of the railroad. The bill also provides for acquisition of corridor property which the department decides to dispose and lists conditions under which corridor property is taxable.

Status: On House Second Reading Uncontested Calendar.

Settlement of Catawba Indian Land Claims (S. 608, Sen. Hayes). This bill provides for the settlement of the Catawba Indian Land Claims settlement. The tribe claimed that its lands had been taken many years ago without congressional approval and had contemplated filing claims against over 60,000 landowners involving thousands of acres in Chester, Lancaster and York Counties. This settlement is an effort to resolve the claim. Among its features are the following:

---A $50 million settlement, of which the federal government pays $32 million and the State pays $12.5 billion. The remaining $5.5 million comes from local and private sources. The state's payments are to be made over 5 years, with a $2.5 million payment every year. If the state's contribution falls short, the tribe has a cause of action against the state for the amount not paid when due.

---Allows the tribe to establish a tribal council, which may have criminal and civil jurisdiction and which may be vested with exclusive jurisdiction over internal matters of the tribe. However, if the tribe fails to establish a tribal council, then the State exercises jurisdiction over all civil and criminal cases

arising out of acts and transactions occurring on the Reservation or involving members of the tribe.

---Lists provisions governing the playing of Bingo on the Reservation.

---All nonresidential buildings, fixtures and property improvements owned by the tribe or held in trust for the tribe by the United States are exempt from property taxes for 99 years after this settlement is effective.

---Residences located on the tribe's Reservation are exempt from property taxes, provided certain conditions as listed in the bill are met.

---Property and improvements owned by the tribe, its members, or both and which are not located on the Reservation are subject to property taxes.

---All personal property owned by the tribe and used solely on the Reservation is exempt from personal property taxes for 99 years following the effective date of the settlement. Motor vehicles owned by the tribe during the 99-year period are exempt from personal property taxes even if used off the Reservation. All personal property located on the Reservation which is not exempt from personal property taxes is subject to property taxes.

---The tribe, its members and the Tribal Trust Funds are liable for the payment of all state and local sales and use taxes, except in limited circumstances; for example, purchases made by the tribe for tribal government functions are exempt from sales and local sales and use taxes for 99 years after this settlement becomes effective. However, the tribe must levy a special tribal sales tax on most items sold on the Reservation, with the tax rate equal to the state sales tax rate.

---All state and local environmental laws and regulations apply to the tribe and its reservation, and all public health codes of South Carolina and any county where the reservation is located are applicable to the reservation.

---The maximum land area authorized for the reservation is 4,200 acres, of which 600 acres include lands the tribe may not develop because of environmental considerations (flooding, etc.) or public right-of-way easements through the land. The bill lists provisions for expansion of the Reservation.

Status: On House Second Reading Uncontested Calendar.

Consumer Freedom of Choice in Motor Vehicle Insurance (H. 3246, Rep. H. Brown). This bill would give motorists the right to choose the kind of personal protection available in case of an automobile accident and the amount of financial protection they deem appropriate and affordable. Motorists no longer would be required to buy traditional fault insurance; instead, motorists would have the opportunity to buy a policy to protect themselves and their families regardless of fault in an auto accident. However, motorists could continue to retain the right to sue and be sued in auto accident liability cases. This concept of auto insurance commonly is referred to as "no fault choice."

Under this system, a motorist who retains the traditional system of insurance and is involved in an accident with another motorist retains the right to sue or be sued based on fault. Motorists choosing non-fault coverage and who are involved in an accident with a motorist would be promptly compensated for their economic losses, regardless of fault. However, these no-fault motorists also could sue the motorist at fault for economic damages if the damages exceed their personal protection limits and for non-economic damages if the injuries exceed the verbal threshold. No fault drivers who are at fault in an accident

could still be sued for liability to others. Two no-fault drivers who are involved in an accident would be promptly compensated for their economic losses regardless of fault. In this case, the two motorists would not be able to sue for noneconomic damages based on fault unless the damages exceed a verbal threshold. However, if either motorist suffers a loss in excess of the policy's benefits, he could sue the person at fault for uncompensated economic loss.

If a motorist with fault coverage is involved in an accident with an uninsured motorist, the insured motorist could be compensated for losses under the uninsured motorist provisions of his policy based on fault and could sue the uninsured motorist for full damages based on fault. The uninsured motorist would forfeit any right to claim for property damage up to $10,000 or to claim for non-economic loss against the driver with fault coverage except when the motorist with fault coverage was driving under the influence of drugs or alcohol or had committed intentional misconduct and was at fault in the accident. An uninsured motorist could claim against the motorist with fault insurance for economic losses based on fault.

If a person with no fault coverage is involved in an accident with an uninsured motorist, the insured would be compensated promptly for economic losses under his policy regardless of fault and would retain the right to sue the uninsured motorist based on fault if the injury exceeds the verbal threshold. The uninsured motorist would forfeit any right to claim for the first $10,000 of property damage or for injury against the no-fault driver, except when the no-fault driver was driving under the influence of alcohol or drugs or had committed intentional misconduct and was at fault in the accident. The uninsured motorist, however, could sue the insured driver for economic losses based on fault.

Verbal threshold as defined in the bill is an injury consisting of permanent and serious disfigurement, permanent and serious bodily injury, permanent and serious loss of an important bodily function, or death.

The legislation directs that no fault policies be set at a rate 15 percent lower than the rates of traditional fault policies. This rate could not be raised or renewed between January 1 and December 31, 1994. No fault drivers would be required to carry mandatory $5,000 property damage coverage. Basic personal protection benefits (no fault) would cover an aggregate limit of $15,000 per person arising out of one accident. This coverage would consist of medical expenses, loss of income, replacement services and death benefits of $5,000. No fault drivers would have the option of purchasing additional uninsured and underinsured driver coverage; however, a no fault driver could not collect on these coverages if he is at fault in an accident.

Insurers providing no fault coverage could require a covered driver to obtain care for injuries from a preferred provider or a designated managed health care system, if the injured driver consents to being subject to this care at an appropriately reduced premium. Incentives also could be offered to no-fault drivers to use seat belts, air bags and child restraint seats.

The bill lifts the mandate to write physical damage coverage and retains the Reinsurance Facility. All business ceded to the facility must be ceded at the Facility rate or the individual company's filed rate, whichever is greater, phased in over a 2-year period.

Drivers who have retained their safe driver discount would be allowed to drive without insurance upon the payment of $250. This allows them to drive without insurance without violating the Financial Responsibility statutes. The fee would go into the uninsured motorist fund. All other drivers would be required by law to carry insurance.

Under this bill, four rates would replace the current two rates---the

objective rate and the base rate---now in the law. The four rates would be the preferred rate, the standard rate, the non-preferred rate and the substandard rate. Anyone who has maintained a safe driver discount for the past 10 years must be given the preferred rate and may not be ceded to the Facility. A person who has lost the safe driver discount could only qualify for the non-preferred and substandard rates.

The bill also increases fines for driving without insurance and provides for public service requirements in addition to fines imposed for this violation.

Status: On House Second Reading Contested Calendar.

Comprehensive Auto Insurance Reform (H. 3421, Rep. Cato). This bill addresses several aspects of the auto insurance market, including lawsuits arising out of accidents, proof of insurance and rate tiers offered. The bill prohibits lawsuits for damages arising out of accidents for pain and suffering unless the injury reaches the "verbal" threshold or the at-fault person was driving under the influence or guilty of intentional misconduct. The bill defines "verbal threshold." Insurers no longer would be required to write physical damage coverages, and the insurance commissioner must compile an analysis for whom physical damage coverage is written and for whom such coverage is denied. The data must include categories of race, sex, income, occupation and geographical territory. The commissioner must report annually to the General Assembly.

Rates for policies ceded to the Reinsurance Facility are set at the designated agent's rate, or the individual company's filed rate, whichever is greater. This is phased in over a 2-year period. The bill also provides for a 4-tier rate system for auto insurance, replacing the current 2-tier system. The four tiers are: (1) preferred; (2) standard; (3) non-preferred; and (4) substandard. The bill defines these rates and lists persons who must receive coverage at the preferred or standard rate. Insurance companies or agents must provide written notice to the insured of the tier in which he is written and the reasons he was written at that tier.

The bill requires officers to give a driver issued a traffic ticket an insurance verification form, to be completed by the driver and returned to the Highway Department. The Highway Department must contract with local law enforcement to confiscate plates on vehicles operated without insurance or on which coverage has lapsed. The local city, county or municipal governing body of the local law enforcement agency collecting the tag receives 50 percent of the reinstatement fee and 50 percent of the per diem fine collected for each license plate.

Additionally, the Highway Department must, on a daily basis, select a computerized sample of 500 registered vehicles and require them to provide verification of insurance coverage.

Finally, the bill requires insurers to submit rate filings by October 1, 1994, reflecting rate decreases, if any, attributable to repeal of the mandate to write physical damage coverages.

Status: On House Second Reading Contested Calendar.

Informed Decision for Abortion (H. 3267, Rep. Corning). This bill requires facilities which perform abortions to provide information pertaining to the procedure before a woman may seek an abortion. The woman must be informed about the procedure and the probable gestational age of the embryo or fetus at the time the abortion is to be performed. Additionally, the facility must give the woman

the option to review materials, published by the Department of Health and Environmental Control (DHEC). These materials must inform the woman of characteristics of the embryo or fetus at 2-week stages, the risks of the procedure, and agencies and programs which can assist a woman who carries a child to term. The materials must be provided at no cost to facilities which perform abortions.

After a woman acknowledges she has been given the information required under these provisions, and has had the option to review materials printed by DHEC, she must wait 2 hours before obtaining an abortion. The waiting period does not apply, however, if the woman acknowledges she received the required materials, either by mail or by obtaining them at a local health department, more than 24 hours before the abortion is scheduled to be performed. Neither the 2-hour waiting period or the 24-hour review applies in a medical emergency, if the abortion is performed pursuant to court order, or if the woman is mentally retarded and her parents or legal guardian consent in writing to the abortion. If a minor seeks an abortion and her parents consent to the procedure, the information as required under these provisions and materials provided by DHEC must be furnished to the parents and the parents must acknowledge receipt of these materials.

A person who performs an abortion in violation of these provisions is guilty of a misdemeanor and upon conviction must be fined between $1,000 and $5,000. A person convicted a second or subsequent time of violating these provisions must be imprisoned between 1 year and 5 years and also fined between $1,000 and $5,000.

A fee must be remitted to DHEC by the physician or clinic for every abortion performed under these provisions. The fee is $10 the first year and must be adjusted every succeeding July 1, either upward or downward, for the ensuing 12-month period, to cover the cost to DHEC over the previous 12 months of printing the materials required under these provisions on the abortion procedure and alternatives to abortion.

Status: On House Second Reading Contested Calendar.

<u>Dates for School Attendance Changed</u> (H. 3310, Rep. Phillips). This bill changes from November 1 to September 1 the date in a particular school year which determines required school attendance based on age. Under this bill, a child must be age 6 by September 1, as currently opposed to November 1, of the year in which he or she seeks to enroll in the first grade. This month change also applies to attendance by 5 year-olds in kindergarten and 4 year-olds in school district child development programs. The date change does not apply to children who have "substantially initiated" kindergarten or first grade in another state with a different age requirement.

Status: On House Second Reading Contested Calendar.

<u>Repeal of Mandatory Vehicle Inspections</u> (H. 3281, Rep. Spearman). This bill repeals the state law which requires motor vehicles to undergo safety inspections annually.

Status: On House Second Reading Contested Calendar.

Still in Committee

(as of Monday, May 24)

The following bills are still in Committee.

Administrative License Revocation for Driving Under the Influence (H. 3345, Rep. Jennings). This bill provides for the suspension of the driver's license of (1) a person age 21 or older who while operating a motor vehicle is determined to have a blood alcohol content of .15 percent or above, and (2) a person under age 21 who while operating a motor vehicle is determined to have a blood alcohol content of .04 percent or above. Testing may be ordered on any person arrested for offenses arising out of acts done while under the influence of alcohol. If the person refuses to consent to testing, his license or permit to drive must be suspended for 3 months. If the person refusing testing is a resident without a license or permit to operate a motor vehicle in South Carolina, then issuance of a license or permit to drive must be denied for 3 months after the date of the alleged violation.

The bill allows persons whose licenses are suspended under these provisions to obtain a hearing to review the suspension. In a hearing pertaining to a person's refusal to be tested, the sole issues to be considered are whether (1) the person was placed under arrest; (2) the person was informed he did not have to take the test, but that his privilege to drive would be suspended or denied if he refused to submit to testing; and (3) the person refused to submit to the test as requested by the officer. Based on these factors, the Department would then order that the suspension or denial of issuance of a license either be rescinded or sustained. In a hearing pertaining to whether the person tested .04 or above (if under 21) or .15 or above (if 21 or over), the only issues to be considered are whether (1) the person was placed under arrest; (2) the person was advised of the consequences of registering .15 or above; (3) the person registered .15 or above on 2 sequential tests and there was not a variance of these tests of more than .02 percent and the lesser reading is at least .15; (4) the individual taking samples or administering tests was qualified; and (5) the samples given and tests administered were in accordance with these provisions. If the Department upholds the suspension or denial of issuance to drive, then the suspension period is:

(a) 3 months, if the person's driving record shows no prior DUI convictions, license suspensions or refusals to submit to testing for DUI; or

(b) 6 months, if the person's driving record shows one or more prior DUI convictions, license suspensions or refusals to submit to DUI testing in the previous 10 years.

The bill also requires videotaping of persons arrested for DUI. During the videotaping, the defendant must furnish background information and be advised of his rights to refuse the test and the consequences of the refusal. The videotape must also include the defendant taking the test. The videotape is admissible as evidence in a DUI trail. Anyone who pleads guilty or nolo contendere, or is convicted of DUI, is charged a $35 fee for the video. The State Law Enforcement Division (SLED) is responsible for administering the testing program, to include supplying and maintaining the video equipment.

Additionally, the educational services component of an Alcohol and Drug Safety Action Program, required of anyone issued a provisional driver's license, must include a presentation by a victim or a member of a victim's family of a DUI accident.

Status: Committed to House Ways and Means Committee on May 20.

State Lottery/Riverboat Gambling (H. 3117, Rep. Williams; H. 3765, Rep. Scott; and H. 3986, Rep. Scott). H. 3117 and H. 3765 are joint resolutions which propose amending the Constitution to establish a state lottery. Both joint resolutions require that no more than 15 percent of lottery revenues be used for the lottery's operational expenses, while 50 percent of lottery revenues must be spent on prizes. However, the two differ on how the remaining revenues are to be spent; H. 3117 provides that revenues remaining after prizes and operational expenses must be spent equally on education and elderly/indigent care, while H. 3765 requires that remaining revenues be spent on public education, health care, water and sewer infrastructure and other capital improvements in the manner the General Assembly provides by law. H. 3986 is a joint resolution seeking to amend the Constitution to establish riverboat gambling and also establish a State Gambling Commission to regulate gambling. Once the amendment is approved, the General Assembly would pass statutes pertaining to the duties, authority and composition of the commission, along with distribution of proceeds derived from gambling.

Status: All 3 joint resolutions are in the House Judiciary Committee.

Judicial Nominating Commission (H. 3198 and 3199, Rep. McElveen; and H. 3362, and Rep. Corning; and H. 4024, 4025, Rep. Graham). These measures would revise the process by which candidates for judicial vacancies are screened and by which judges and justices are retained. An explanation of these measures is as follows:

(1) H. 3198 is a joint resolution proposing to amend the Constitution to require the General Assembly to establish a Judicial Nominating Commission. This commission must consider the qualifications and fitness of candidates for all judicial positions filled by election of the General Assembly---namely, Family Courts, Circuit Courts, the Court of Appeals and the Supreme Court. The commission must nominate the best qualified applicants for a court vacancy, and the General Assembly must select judges and justices from among the commission's nominees to fill a vacancy. If the constitutional amendment wins two-thirds approval in each house of the General Assembly and is approved by the voters in the general election, then the General Assembly must pass a statute to provide for organization, membership and qualifications of the commission. Two (2) bills have been introduced to provide for the commission:

(a) H. 3199 and H. 3362 are designed to assist the General Assembly in this process. H. 3199 establishes a 7-member commission, with 3 members elected by the House, 3 elected by the Senate and 1 appointed by the governor. The bill provides for qualifications to serve on the commission and requires the commission to examine the qualifications of candidates seeking judicial posts and recommend a list of nominees for a judicial post to the General Assembly. H. 3362 establishes an 18-member commission, consisting of 6 legislators (3 from the House, 3 from the Senate), 6 (non-lawyer, non-legislative) "citizens" and 6 attorneys. The bill provides for qualifications and selection of the commission, along with its terms and commissions. The commission must determine when judicial vacancies are to occur and investigate in advance the qualifications of those seeking a judicial nomination, including incumbents. The commission must submit to the General Assembly a list of nominees for a judicial position, and the bill lists conditions under which the commission's nominations are binding on the General Assembly.

Status: All 3 Measures in House Judiciary Committee

Appointment of Judges by Governor and Judicial Retention Elections (H. 3361 and 3363, Rep. Corning; H. 4024 and 4025, Rep. Graham; and H. 3339, Rep. Wofford). Of these 5 measures, all but 1 (H. 3339) are designed to allow the governor to appoint justices and judges of state courts. Currently, these

justices and judges are elected by the General Assembly. These measures are explained below:

(1) H. 3361 is a joint resolution to amend the Constitution to allow the governor to appoint justices to the Supreme Court, Court of Appeals and Circuit Court. Appointment must be made with the advice and consent of the General Assembly, and nominations must come from a list of nominees supplied to the governor by a newly-created judicial nominating commission. The commission also must review the qualifications of any justice or judge seeking to be retained in office. If the constitutional amendment is adopted, then H. 3363 would be introduced. This bill creates the judicial nominating commission to assist the governor in selecting qualified nominees for vacancies on the Supreme Court, Court of Appeals, Circuit Court and Family Court. The 18-member commission includes 6 House and 6 Senate members and 6 practicing members of the State Bar. The bill provides for organization, terms and compensation of the commission and requires the commission to investigate qualifications for persons seeking nomination or renomination to a judicial post. The commission must submit names of qualified nominees to the governor, who then places the name of 1 of the nominees before the General Assembly for confirmation. If the General Assembly fails to approve the nominee, the same appointment procedure must be followed again.

(2) H. 4024 is a joint resolution to amend the Constitution to allow the governor to appoint the members of the Supreme Court, the Court of Appeals, and circuit courts. Appointments made by the governor must be made with the advice and consent of the General Assembly and from a list of nominees supplied by a newly-created Judicial Nominating Commission (discussed immediately below in H. 4025). The joint resolution also provides that once these justices and judges have been appointed, retention elections must be held shortly before expiration of their terms so that the state's voters may determine if these justices and judges should be retained to serve another term. If a majority of voters is against retention, the justice or judge must vacate his seat at the end of his term, and the position must be filled by the governor. Once this constitutional amendment is adopted, H. 4025 would be introduced. This bill creates a judicial nominating commission to assist the governor in selecting qualified justices and judges for vacancies on the Family Court, Circuit Court, Court of Appeals and the Supreme Court. The 18-member commission would include 6 House and 6 Senate members and 6 practicing members of the State Bar. The bill provides for the selection, terms and compensation of the commission. The commission must determine when judicial vacancies are to occur and must investigate the qualifications of those seeking nomination to the court. The commission must submit a list of nominees best qualified for the judicial post to the governor. The bill also provides for judicial retention elections, in which the state's voters may decide whether or not to retain a judge for another term in office. If a majority of those casting ballots vote against retention, the justice's or judge's seat is declared vacant and must be filled by appointment, as required under these provisions.

(3) H. 3339, introduced by Representative Wofford, is a joint resolution proposing to amend the Constitution to allow voters to decide whether or not justices appointed to the Supreme Court or Court of Appeals and judges appointed to the Circuit Court should be retained in office when their terms expire. If a majority of voters are against retention, then a vacancy exists upon expiration of the justice's or judge's term, and the General Assembly must elect someone to fill the position. The defeated justice or judge is not eligible to succeed himself.

Status: All 5 measures in House Judiciary Committee.

Term Limits (H. 3210, Rep. Wilkins; H. 3237, Rep. Clyborne; H. 3252, Rep. Cato; and H. 3290, Rep. Klauber). These four joint resolutions seek to amend the Constitution to limit the terms of members of the General Assembly and state

constitutional officers. H. 3210 provides a lifetime limit of 12 years in office for House and Senate members. This contrasts with the other three bills, which limit the number of consecutive years members can serve in office. H. 3210 also limits state constitutional officers (except for the governor and lieutenant governor) to 12 years in office over a lifetime. H. 3237 limits House and Senate members and state constitutional officers to 8 consecutive years in office and provides that persons elected to office in the state's political subdivisions are limited to 2 consecutive terms in office. H. 3290 limits House and Senate members to 12 consecutive years in office and state constitutional officers to 8 consecutive years in office. H. 3252 is identical to H. 3290 except that H. 3252 provides that a person serving more than 50 percent of a term is considered to have served a full term under these provisions. Neither of these 4 measures is retroactive, so members serving at office at the time the amendment is ratified by the voters could continue to serve in office for the time specified by the amendment.

Status: H. 3210, 3237 and 3252 were tabled by the House Judiciary Committee on May 18. H. 3290 to be considered by the Judiciary Committee on May 25.

Biennial Appropriations (H. 3386, Rep. Hutson). This bill requires the State, beginning in 1994, to adopt a biennial (2-year) budget and also requires the State Budget and Control Board and the General Assembly to use a "zero-base" budget process in preparing the budget.

Status: In House Ways and Means Committee.

State Government Accountability and Reform (H. 4081, Rep. Boan). This bill gives state agencies greater flexibility in procuring services. As examples, the bill increases the minimum value of contracts which must be awarded by competitive sealed bidding from $2,500 to $50,000, and allows agencies to contract for architectural-engineering services or land surveying services up to $18,000 (as currently opposed to $12,000) per project or $54,000 (as currently opposed to $36,000) over a 24-month period without approval of the state engineer. The bill also provides that the minimum full-time workweek for State employees is 37.5 hours a week and allows agencies to vary an employee's work schedule through the use of alternative scheduling strategies. Additionally, the bill provides that reclassification, reassignments and transfers of employees to the same pay grade are not subject to grievance procedures.

Status: In House Ways and Means Committee.

Operation and Transaction of Business by Nonprofit Corporations (H. 4180, Rep. Harrison). This lengthy bill is based on a model American Bar Association Code and was prepared by a committee at the University of South Carolina Law Institute. The bill updates provisions governing the operation and transaction of business by nonprofit corporations in South Carolina, dividing non profit corporations into 3 categories: (1) Religious (churches); (2) Public Charities (United Way, Boy Scouts, etc.); and (3) "business-like" corporations (homeowners' associations, Blue Cross/Blue Shield, etc.) and provides guidance for how non profit corporations are to operate. Among the provisions listed in the bill are procedures for mergers of churches, greater oversight and powers on the State's part in addressing problems at public charities (e.g, financial mismanagement), and more streamlined procedures for changing directors of homeowners' associations.

Status: In House Judiciary Committee.

Nonpartisan Election of Sheriffs (S. 184, Sen. Stilwell). This bill requires that sheriffs, beginning in 1994, must be elected in nonpartisan elections. Nominations for sheriff must be made by petition. A candidate for election or re-election as sheriff may not: (1) campaign as a member of a political party; (2) publicly represent or advertise himself as a member of a party; (3) accept or solicit contributions from a party; (4) accept or retain a place on a party committee; (5) make a contribution to a person, group or organization for its endorsement; or (6) agree to pay all or part of an advertisement sponsored by a person, group or organization in which the candidate may be endorsed by a party, group or organization. A sheriff or candidate for sheriff who violates these provisions is guilty of a misdemeanor and upon conviction must be fined a maximum of $5,000, imprisoned up to 1 year, or both.

Status: In House Judiciary Committee.

Abolishment of ABC Commission (S. 323, Sen. Moore). This bill abolishes the Alcoholic Beverage Control (ABC) Commission and terminates the terms of ABC commissioners as of January 1, 1994. The functions of the ABC Commission pertaining to licensing and penalties for administrative violation of law or regulations are transferred to the State Tax Commission, while the Commission's functions pertaining to law enforcement, regulation enforcement and inspections are transferred to the State Law Enforcement Division (SLED). The bill also provides for the appointment of ABC hearing officers.

Status: Passed the Senate on April 27; Currently in House Judiciary Committee.

Initiative Petition (H. 3070, Rep. Rudnick; H. 3160, Rep. Corning; H. 3236, Rep. Clyborne; H. 3465, Rep. McElveen; H. 3874 and H. 3875, Rep. Clyborne; and H. 3954, Rep. Cromer). Supporters of initiative petition wish to amend the Constitution so that the state's voters may enact laws and constitutional amendments through petition, as is done in over 20 states today. Four of these measures are joint resolutions proposing a constitutional amendment to allow initiative petition, and three of the measures list statutory requirements for circulating the petition, which could be implemented once a constitutional amendment is approved which permits voters to enact laws and constitutional amendments through initiative petition.

H. 3070 is a joint resolution which requires that a petition be signed by at least 8 percent of the number of registered voters at the last general election before a proposed law or constitutional amendment may be submitted to the voters. The joint resolution also lists requirements (among others, verification of signatures and wording requirements) for circulating the petition. H. 3160, also a joint resolution, requires that a petition be signed by at least 15 percent of the number of registered voters at the last general election and also lists requirements for circulation and approval of the petition. H. 3465 is a joint resolution requiring a petition to be signed by at least 10 percent of the number of registered voters at the last general election and differs from the other three joint resolutions in that under this measure, once a petition has been verified (for signatures) and approved by the State Election Commission, it (the petition) must be transmitted to the presiding officer of the House and the Senate. Each presiding officer would order that the petition be prepared in bill form. If the bill is not ratified by the General Assembly, vetoed by the governor or rejected on second or third reading in either chamber by the final adjournment date, the Secretary of State must submit the proposed law or constitutional amendment to the voters at the next general election. H. 3874, a joint resolution, requires that a petition contain a number of signatures equal to at least 8 percent of all votes cast for governor in the

last gubernatorial election before the proposed law or constitutional amendment may be submitted to the voters. H. 3875 is a bill designed to be implemented once H. 3874 is approved. H. 3875 lists measures (including, but not limited to, regulation of religious institutions and removal or recall of judges) which may not be proposed through initiative petition and allows the General Assembly to amend or repeal laws which are adopted by the voters. The bill also prohibits a person or association of persons, or a corporation or a public body, from using or authorizing the use of public funds, property or time to influence the outcome of an initiative petition.

Two other bills listing statutory requirements for initiative petition are not linked to any particular joint resolution which would authorize the initiative petition process, but could be implemented once a constitutional amendment allowing initiative petition is passed. H. 3236 prohibits certain measures from being proposed through initiative petition and allows petition sponsors 6 months to circulate and obtain valid signatures for the petition. The bill also provides that no law or constitutional amendment adopted by the voters may be vetoed by the governor, but a law approved by voters could be amended or repealed by the General Assembly after taking effect, while constitutional amendments may be repealed or amended as currently provided by law. H. 3954 lists measures which may not be proposed through initiative petition and requires a petition to be signed by at least 10 percent of the number of registered voters at the last general election. Petition sponsors would have 6 months to obtain sufficient signatures to place the proposed law or constitutional amendment on the ballot.

Status: All 7 measures in House Judiciary Committee.

Workers' Compensation Reform (S. 540, Sen. Saleeby). Under this bill every employer and employee in the state is presumed to have accepted, and to be bound by, the provisions of the workers' compensation act of Title 42. Considered as employees under the bill, officers in a corporation are allowed to reject coverage under the workers' compensation act and subsequently waive such an exemption so long as they give proper notice to the Workers' Compensation Commission in either case. Any employer who is exempt from Title 42 adopts it by obtaining workers' compensation or by operating under an approved self-insurance program.

The bill specifies that work-related stress unaccompanied by physical injury is *not* considered a compensable injury if its occurrence is incidental to ordinary personnel actions. The injuries which do qualify are subject to new record-keeping and reporting requirements: an employer is no longer compelled to report an injury which requires only minimal medical (not exceeding a Commission-set cost and not requiring the loss of more than one work day). Employers must still provide compensation for such minor injuries and include records of them on annual reports. More serious injuries must be reported within ten business days of occurrence.

Should an employer who is not exempt from the workers' compensation act refuse to secure insurance coverage for employees, he is fined $50 per each day of refusal (the fee is $100 per day in the case of willful or repeated violations). Should such an employer who has obtained neither an exemption nor proper insurance coverage be sued by an employee to recover damages for death or injury on the job, certain legal defenses are denied that employer: contributory negligence of employee, comparative negligence, negligence of a co-worker, and assumption of risk by employee.

The Workers' Compensation Commission is allowed to provide information and statistics to any state or federal agency charged with the duty of enforcing occupational safety laws. Such information is only permissible as evidence in a

workers' compensation trial.

Health care providers are restricted from actively pursuing collection procedures against a workers' compensation claimants until their claims are finally adjudicated. Neither are health care providers allowed to actively pursue collection procedures against a workers' compensation claimants for charges in excess of fees on the Commission schedule. A $500 penalty in paid to the claimant in the case of either violation.

The Omnibus Insurance Fraud and Reporting Immunity Act is established to uncover and prosecute insurance fraud (an offense which is made a felony under the bill). The act creates the Insurance Fraud Division within the Attorney General's Office to investigate allegations of fraud, prosecute violators, and collect fines. The act also grants immunity to whistle blowers who assist in the division in its investigations. The penalty for committing the felony of insurance fraud is set at no more than $50,000, or up to 5 years' imprisonment, or both. Convicted parties may also be required to make full restitution of any economic benefit obtained through fraud.

Status: Passed the House on April 23; Currently in Senate Labor, Commerce and Industry Committee.

Small Employer Health Insurance Availability (S. 541, Sen. Saleeby). This bill is designed to (1) promote the availability of health insurance coverage to small employers, regardless of their healthy status or claims experience; (2) provide for development of basic and standard health insurance plans, to be offered to all small employers; (3) provide for establishment of a Reinsurance Program; and (4) improve the overall fairness of the small group health insurance market. Every small employer insurer, as a condition of transacting business in South Carolina with small employers, is required to market to small employers at least two health insurance plans---(1) a basic plan; and (2) a standard plan. This requirement, however, does not apply to a class of business into which the small employer is no longer employing new small businesses, nor does the requirement apply to health maintenance organizations (HMOs) under certain conditions. With limited exceptions, a small employer insurer is prohibited from (1) modifying a health insurance plan with respect to a small employer or any eligible employee or dependent, or (2) restricting or excluding coverage or benefits for specific diseases, conditions or services otherwise covered under the plan. The Governor's Committee on Basic Health Services must recommend the form and level of coverages to be made available by small employer insurers with regard to the basic and standard plans. The bill lists factors and requirements by which the committee must abide in developing these coverages. The Committee must submit these plans to the Chief Insurance Commissioner within 180 days after the bill's passage.

The bill also provides for creation of a South Carolina Small Employer Insurer Insurance Program, which becomes operational on January 1, 1995. The bill provides for organization of the program, its plan of operation and conditions under which a reinsuring insurer may reinsure with the program. Any net loss of the program in a given year must be recouped by assessments of reinsuring insurers, under a formula as listed in the bill. Small employer insurers not operating as a reinsuring insurer must operate as a risk-assuming insurer, under conditions as provided in the bill.

The bill lists activities in which small employer insurers may not engage and amends the definition of "small employer" under these provisions so as to include businesses employing not more than 50, as currently opposed to 25, eligible employees. The definition of "health insurance plan" as pertains to these provisions is amended so as to exclude vision, Medicare supplement and long-term care. The bill also provides a definition for "late enrollee" and lists conditions under which an employee or dependent is not considered to be a later

enrollee. The bill also deletes a provision which allows insurers to request proof of individual insurability for groups of 10 or less persons and amends the definition of "private review agent" under the state's Utilization Reviews and Private Review Agents Act, providing that the Act, with limited exceptions, applies to insurance companies, administrators of insurance benefit plans, and HMOs licensed and regulated by the State Department of Insurance.

The bill lists case characteristics small employer insurers may use without prior approval of the commissioner in determining premium rates. If a small employer insurer uses industry as a case characteristic in establishing rates, the highest rate factor associated with any industry classification must not exceed the lowest rate factor associated with any industry classification by more than 15 percent.

Status: Passed the Senate on March 25; Currently in the House Labor, Commerce and Industry Committee.

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