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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

The House adopted Concurrent Resolution H.5159 which would permit the General Assembly to return after the June 4 adjournment on Tuesday, June 16 and continue in session until no later than June 17 to consider gubernatorial vetoes, ratify acts, attend to conference reports, and perform other specified activities.

The House adopted the conference report for S.958, pertaining to the investment of state employee retirement funds. (See *1998 Major Legislation*, this issue)

The House returned S.174 to the Senate with amendments. This bill requires the Department of Public Safety to suspend the driver's license of a person under the age of 21 who drives a motor vehicle and has a blood alcohol concentration (BAC) of .02 or more. If a person under age 21 refuses to submit to a chemical test, the Department of Public Safety must suspend his license for 6 months (or for one year if the person within the five years preceding the violation of this section, has been convicted of DUI). If a person under age 21 submits to a chemical test and the test result indicates a BAC of .02 or more, the department must suspend his license for 3 months (or 6 months if the person, within the 5 years preceding the violation of this section, has been convicted of DUI). Additionally, the bill provides that a test may not be administered or samples taken unless the person has been informed in writing that he does not have to take the test or give the samples, but that his privilege to drive must be suspended or denied for at least 6 months if he refuses to submit to the tests and that his refusal may be used against him in court. The person must be informed that his privilege to drive will be suspended for at least 3 months if he takes the test or gives the samples and has an alcohol concentration of .02 or more; that he has the right to have a qualified person of his own choosing conduct additional independent tests at his expense; he has the right to request an administrative hearing within 10 days of the issuance of the notice of suspension; and that he must enroll in an Alcohol and Drug Safety Action Program (ADSAP) within 10 days of the issuance of the notice of suspension. The person may obtain a temporary alcohol restricted license, which allows the person to drive without any restrictive conditions pending the outcome of the administrative hearing, or the final decision or disposition of the matter (this license must be obtained within 10 days of the issuance of the notice of suspension). If the person does not ask for the administrative hearing within the 10 days, he waives his right to the hearing and his suspension must not be stayed. At the hearing, if the suspension is upheld, the person's driver's license must be suspended; if the suspension is overturned, the person must have his driver's license reinstated and is not required to complete ADSAP. The bill also states that it is unlawful for a person to drive a motor vehicle within this State while under the influence of alcohol to the extent that the person's faculties are materially and appreciably impaired. If a person's alcohol concentration is .08 or more, it may be inferred that the person was under the influence of alcohol (the effective date for this provision would be January 1, 2001 - the current provision states that it may be inferred that a person is under the influence

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of alcohol if his BAC is .10). The bill requires video taping at both the incident site and the breath test site, and the bill creates a study committee to examine state law concerning minibottles and alcoholic liquor.

The House sent **S.1167**, the "South Carolina Electronic Commerce Act," to the Senate. This legislation is designed to facilitate and promote public confidence in electronic commerce and online government by clarifying the legal status of electronic records and electronic signatures. The legislation provides that secure electronic records and signatures are as legally valid and admissible as other records and signatures written and recorded by more traditional means. Criteria is established by which electronic records and signatures may be considered "secure." The Budget and Control Board is authorized to make regulations to implement the use of electronic records, electronic signatures, and appropriate security procedures by the state's political subdivisions. The Secretary of State is authorized to implement the use of model procedures for all other purposes, including private commercial transactions and contracts. The House recommitted to the Labor, Commerce and Industry Committee the companion bill **H.5020**.

The House returned **S.994** to the Senate with amendment. The bill provides for the regulation of Deferred Presentment Services and Check-Cashing Services. This legislation establishes annual licensing under the State Board of Financial Institutions for those who offer deferred presentment services, and provides for the regulation of such services. Deferred presentment services involve accepting a fee in exchange for the service of accepting a dated check and holding that check for a period of time prior to presentment for payment or deposit. Among other restrictions, the legislation: sets a three hundred dollar limit on the amount of the check taken for deferred presentment (exclusive of fees); caps fees for presentment at fifteen percent of the face value of the check accepted; limits to thirty one days the amount of time a check may be held for deferred presentment; disallows the acceptance of post-dated, unprinted, or counter checks; forbids video poker on premises; and, requires conspicuous posting of fees for deferred presentment services. Under the bill, applicants for a license must disclose all other businesses in which they are involved. The Board of Financial Institutions is authorized to generate regulations to ensure that adequate records are maintained by those who engage in deferred presentment services. In its amended form, this legislation provides for the licensure and regulation of check-cashing services by the State Board of Financial Institutions. The legislation allows for two levels of licensure. Under Level I licensure, the license holder may also be licensed to engage in deferred presentment services. Under Level II licensure, deferred presentment services are not allowed. Under neither level of licensure may a licensee operate video poker. The legislation requires the licensee to keep written records for all transactions. A licensee must maintain liquid assets of at least fifty thousand dollars. A licensee must deposit a check no later than five days from the date the check is cashed. The legislation sets fees for check-cashing as follows: 2% of the face value or \$3, whichever is greater, for State or Federal Government; 2% of face value or \$3, whichever is greater, for printed payroll checks; and 7% of face value or \$5, whichever is greater, for all other checks or money orders. The legislation regulates and requires the licensure of mobile check-cashing vehicles.

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The legislation imposes a two hundred fifty dollar application fee and a five hundred dollar investigation fee. Licenses expire annually and may be renewed upon payment of a two hundred fifty dollar fee plus a fifty dollar fee for each branch location. The House recommitted to the Labor, Commerce and Industry Committee the companion bill, H.4359.

The House amended and then tabled S.778 which creates a monthly user fee for commercial mobile radio service with funds to be used to upgrade 911 emergency telephone services.

The House amended and sent to the Senate H.4408 which pertains to the receipt of unsolicited mailings. The bill requires that any individual who mails a catalogue, brochure, leaflet, or flyer advertising goods or services to include a clear statement in the mailing which explains how the recipient may request that the mailings no longer be sent to him. The mailer must honor such requests. Violation constitutes an unfair or deceptive act or practice in the conduct of trade or commerce, subject to civil remedies. Upon finding that a violation has occurred, the Attorney General's Office may issue a warning to the violator. If the warning is ignored, the Attorney General may enforce the provisions by imposing a temporary injunction, then a permanent injunction, and then by imposing civil penalties. The bill specifically exempts mailings which solicit voluntary donations to non-profit organizations. Included under this exemption, are requests for campaign contributions for candidates seeking public office.

The House amended and sent to the Senate H.4767. This bill amends the definition of a "victim" and "criminal offense" for purposes of notifying victims of the release, escape, or transfer of persons convicted of committing an offense involving the victim. The bill states that criminal offenses include both statutory and common law offenses, however, drawing or uttering a fraudulent check or a traffic offense that does not involve personal injury or death are specifically excluded as criminal offenses. Additionally, the bill specifies that a victim does not include any individual who was imprisoned or engaged in an illegal act at the time of the offense. The bill also contains provisions addressing notification procedures for certain state agencies (e.g., the Department of Corrections) for post-conviction proceedings and addresses each county's allocation from the assessment charged to a person who is convicted, pleads guilty or nolo contendere to, or forfeits bonds for an offense tried in general sessions court.

The House concurred in Senate amendments to H.4486 and ordered the bill enrolled for ratification. The bill provides that a valid protection order related to domestic or family violence issued in another state is valid in this state and must be enforced as if it were issued in this state. The amendment clarifies that a person violating the terms and conditions of an order of protection issued in this State under Chapter 4, Title 20, the 'Protection from Domestic Abuse Act', or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than 30 days or fined not more than \$500. The amendment also specifies that the family court may order sibling visitation where the court finds it is in the best interest of the children.

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The House approved and enrolled for ratification **S.1069**. This bill provides that the State Election Commission may establish, in cooperation with the Federal Voting Assistance Program, a pilot project for the purposes of permitting armed forces personnel and overseas citizens to transmit their votes to the election authority over an electronic medium using the Internet. For purposes of this project, armed forces personnel and overseas citizens are entitled to cast and have counted votes for only those candidates and questions for which they would be eligible to cast an absentee ballot.

The House approved and ordered enrolled for ratification **S.477**. This bill adds a section to the *SC Code*, providing that if the right to receive retirement income by a taxpayer allowed a specified retirement income deduction was earned by the taxpayer while residing in another state which imposed state income tax on the employee's contributions, a credit is allowed against the taxpayer's South Carolina income tax liability in an amount sufficient to offset the taxes paid the other state. This credit must be claimed over the taxpayer's lifetime, and the SC Department of Revenue must prescribe the method of claiming the credit.

The House approved **S.1013** and ordered the bill enrolled for ratification. This bill authorizes the Governor to execute an Interstate Dairy Compact with other states to assure the continued viability of dairy farming in the South and to assure consumers of an adequate, local supply of pure and wholesome milk. The bill creates the Southern Dairy Compact Commission to be comprised of at least three delegates from each state in the region. The Commissioner of Agriculture is the Compact administrator for South Carolina. All actions taken by the Commission must be by majority vote. The bill provides for the powers and duties of the Commission and allows the Commission to examine the books of any regulated person relating to his or her milk business. The bill authorizes the Commission to borrow money for start-up and regular costs. A negotiated compact will be enforceable when enacted into law by any three of the following states (and with the consent of Congress): Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. A state may withdraw from the compact if that state gives a one year written notification of its intent to withdraw.

The House returned **S.1110** to the Senate with amendments. The bill provides for various technical revisions to insurance statutes. The House amended the bill so as to allow insurance companies to sell life insurance riders while selling accident and health policies, so long as both are approved by the Department of Insurance. The amendment also removes the requirement that the Governor's appointment of board members to the Legal Malpractice Insurance Joint Underwriting Association be conducted with the advice and consent of the Senate.

The House concurred in Senate amendments to **H.4569** and ordered the bill enrolled for ratification. The amended bill requires all licensed mortgage loan brokers to complete at least 8 hours of continuing professional education annually after September 30, 1998, and includes the licensing requirements for mortgage loan brokers.

The House concurred in Senate amendments to **H.4754** and enrolled the bill for ratification. This bill prohibits the sale of live deer and certain deer parts and allows the sale of venison by

certain establishments. The Senate amendment prohibits the sale of whitetail deer and states that an official establishment or a wholesale food distributor may obtain a permit from the Department of Natural Resources, at no cost, to buy and sell exotic farm-raised venison to a permitted food service establishment.

The House gave third reading to **S.1084** and ordered the bill enrolled for ratification. Under state law, to operate a commercial motor vehicle on South Carolina highways without a commercial driver's license is illegal. This bill adopts federal exemptions that allow a person to operate a farm vehicle without a commercial driver's license to transport agricultural products and machinery including hazardous material such as fuels, fertilizers, and other agriculture chemicals that pose no substantial danger to public health and safety.

The House approved **S.1058** and enrolled the bill for ratification. This bill designates a portion of the Ashley River as a scenic river. The designated portion is located between the Highway 17A bridge crossing the Ashley River and the railroad crossing located 21.5 miles downstream commonly known as the Drayton Hall Railroad Trestle.

SENATE

The Senate adopted the conference report on **S.958**, concerning the investment of state retirement system funds in equity securities (see Major Legislation Section of this week's Update). The bill has been enrolled for ratification.

The Senate amended and returned to the House **S.1070**. This bill provides that no person may tender or interchange a vehicle for use on any highway which is in violation of requirements of the US Department of Transportation Federal Motor Carrier Safety Regulations (FMCSR). The bill also allows the Department of Public Safety (DPS) State Transport Police, under certain conditions, to enter upon, and perform courtesy inspections of vehicles for certain purposes before these vehicles are tendered for use on public highways. The bill states that if a vehicle that is tendered is placed out-of-service due to a roadside inspection within five complete working days from the time the motor carrier is tendered, then the operator must be reimbursed for all fines and penalties incurred due to the out-of-service order, including reimbursement for certain expenses necessary to bring the vehicle into compliance with the FMCSR. The Senate amendment provides that the operator must be reimbursed for all fines and penalties incurred pursuant to the out-of-service order, unless the fines, penalties, or repair expenses are due to actions or omissions of the motor carrier operator after the vehicle was tendered.

The Senate concurred in the House amendments to **S.45**. This bill states that it is unlawful for a person to encourage, entice, or conspire to encourage or entice a child enrolled in any public or private elementary or secondary school from attendance in the school or school program. Violators are guilty of a misdemeanor and, upon conviction, must be fined not more than \$1,000 or imprisoned not more than 2 years, or both. The House amendment requires a first

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or second offense to be tried exclusively in magistrate's court, while third and subsequent offenses must be tried in the court of general sessions. The bill has been enrolled for ratification.

The Senate gave third reading to H.4694. This bill clarifies that the entity formerly known as the Division on Aging, Office of the Governor, is now known as the Office on Aging, and is under the Department of Health and Human Services. The bill also adds to the statutory definitions of "Employee", as related to the SC Retirement System, an employee of a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Department of Health and Human Services, and adds to the definition of "Employer", a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Department of Health and Human Services. The bill has been enrolled for ratification.

The Senate gave third reading and sent to the House S.1145, which prohibits shrimp boats from dragging nets closer than one-half mile of Kiawah and Seabrook Island Beaches.

The Senate also gave third reading and sent to the House S.1098, which concerns day care employment (see Bills Introduced in the House, this week).

The Senate returned to the House H.4505 with amendments. The bill concerns the load length on certain pole trailers or pole carriers. The Senate amendment requires a flashing amber strobe light and a red flag to be attached to any overhanging rear load. The amendment also provides that between 2:00 a.m. and thirty minutes past sunset, the limitations regarding length of loads do not apply to loads of iron, steel, and concrete articles up to sixty feet in length carried on a fifty-three foot long flat-bed trailer under specified conditions. The Senate adopted an amendment to the definition of "gross vehicle weight rating". An amendment also provides that most motor vehicles may not exceed a length of forty feet. The Senate also added a provision allowing a person to cross a primary highway or street while operating his golf cart on a secondary street within two miles of his residence during daylight hours only.

The Senate returned to the House H.3901, the Southern Interstate Dairy Compact Act. The amendment states that the State Commissioner of Agriculture shall act as compact administrator for the State of South Carolina, and shall also be a member and serve as chairman of the State's delegation to the Southern Interstate Dairy Compact Commission. Additionally, with the advice and consent of the Senate, the Governor will appoint four additional delegates to represent the State on the Southern Dairy Compact Commission.

The Senate amended the House amendments and returned to the House S.992, which provides for penalties for failure to pay tolls. The Senate amendment strikes a provisions stating that school buses transporting school children for a school event shall be exempt from the payment of any tolls.

The Senate gave third reading to and returned to the House H.3054, a joint resolution to create a committee to study the feasibility of implementing a statewide mass transportation system.

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The Senate amendment adds three members to the study committee and directs the committee to develop a plan to implement practical forms of mass transportation to enhance the economic opportunities of all South Carolinians.

The Senate gave third reading and returned to the House H.3784. This bill conforms the chapter in the S.C. Code of Laws concerning the licensing and regulation of physical therapists to the statutory organizational framework established in the Code for professional and occupational licensing boards.

The Senate gave third reading to H.3896 and enrolled the bill for ratification. This bill amends state laws governing credit for reinsurance so as to adopt provisions from the 1996 Credit for Reinsurance Model Act formulated by the National Association of Insurance Companies. Among other things, the provisions of this legislation reassert that state law, not federal law, governs with regard to compulsory security demanded of foreign reinsurers and claims against insolvent foreign insurers.

The Senate gave third reading and returned to the House H.4439. The bill prohibits a claimant from commencing a suit against a former shareholder of a dissolved corporation arising from the liabilities of the corporation or arising from acts of the corporation unless the suit is commenced within ten years after the corporation's dissolution. Furthermore, no judgment against a dissolved corporation may be satisfied by proceeding against or joining an individual shareholder unless a suit has been filed against the dissolved corporation and the shareholders within ten years of the dissolution of the corporation. The House amended the bill so as to provide that the legislation will not apply retroactively. The Senate amendment provides that the legislation takes effect upon approval by the Governor and applies to corporations dissolved before, on, or after the bill's effective date.

The Senate gave third reading and sent to the House S.1082. This bill relates to the enforcement officers at the Natural Resources Enforcement Division and provides that an enforcement officer may be removed by the director at his discretion.

The Senate amended H.4453 and sent the bill back to the House. The amendment provides that it is unlawful to bait, assist in baiting, or cause to be baited an area over which migratory birds are being hunted in instances where the persons engaged in the hunting have a lawful right to hunt. Violators are guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. The amendment also provides that a property owner shall not be prosecuted for the violation where the person who is engaged in hunting is trespassing or hunting the baited area without the permission of the owner.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

The Judiciary Committee amended and gave a favorable report to H.4977. This bill concerns the procedure for seizing a vehicle forfeited because of multiple driving under suspension or driving under the influence convictions. The committee amendment concerns the notice requirements (by publication) if the sheriff or chief of police cannot ascertain the identity or address of the last registered owner of the vehicle. A minority report was placed on the bill in committee, sending the bill to the contested calendar.

The Judiciary Committee amended and gave a favorable recommendation to H.4952. The bill applies only to special purpose districts which have unelected governing bodies but are presently authorized by law to levy millage for operation and maintenance up to a given amount and did impose this levy in fiscal year 1997-98. For these special purpose districts, beginning with the levy for fiscal year 1999, ad valorem property tax millage must be levied in the amount equal to the millage levy imposed in fiscal year 1998. The special purpose districts may request the county election commission to conduct a referendum to propose a modification in the district's tax millage. Special purpose districts located within a single county may modify their millage limitations provided the modification is approved by the governing body of the district and the governing body of the county. The committee amendment provides a procedure for dissolving a special purpose district upon a two-thirds vote of the registered voters residing in a district.

The Judiciary Committee gave a favorable recommendation to S.757. This bill would allow the voters residing in a special purpose district with an appointed board to request by petition a referendum on the question of electing the district's governing body by popular vote.

The Judiciary Committee gave a favorable recommendation to S.758. This bill creates the felony crime of assisting suicide. Violators who are convicted must be imprisoned not more than 15 years and/or fined not more than \$100,000.

LABOR, COMMERCE AND INDUSTRY

The House Labor, Commerce and Industry Committee met on Tuesday, May 19, and reported out several bills.

The committee gave a report of favorable with amendment to **S.718** which pertains to the practice of psychology. The proposed committee amendment inserts the language of two bills, **H.3820** and **H.4377**, which have passed the House. In its amended form, the bill prohibits the practice of psychology without a license from the Board of Psychology and revises the list of acts which are considered to be the practice of psychology. Under the bill, an individual must have a doctoral degree in psychology in order to be licensed as a psychologist, but such licensure cannot be obtained with a doctoral degree in an allied field. The legislation revises exemptions to the licensure requirement and increases penalties for violating the requirement. The bill requires the Board of Psychology to report instances of possible violations to the solicitor. The amendment approved by the House exempts from the licensure requirement certain groups including: educators; day care providers; hospital workers providing intervention within their employ; human resources professionals; business consultants; local, state, or federal employees operating within the scope of their employment; SC Department of Alcohol and Drug Abuse employees; and school psychologists when working under contract to a public or private school, but not if practicing in other settings. Additionally, the bill establishes a new tier of licensure as a "Licensed Specialist in School Psychology" which may be obtained by an individual who has a master's degree in psychology and thirty additional hours of course work, and which authorizes the individual to offer his services in the private sector. Under current law, the "school psychologists" who are certified by the Department of Education to work in the public school system may not offer their services in private sector settings such as hospitals, clinics, private schools, etc. This legislation provides guidelines for the private sector service of Licensed Specialists in School Psychology. A Licensed Specialist in School Psychology is added to the Board of Examiners for the Licensure of Professional Counselors, Associate Counselors, Marital and Family Therapists. An amendment approved the House specifies that the bill in no way requires insurance companies to pay for any services of Licensed Specialists in School Psychology. The House also amended the bill to allow school districts which contract with licensed specialists in school psychology to require, at the time of contract renewal, notification of the intent to practice in the private sector.

The committee gave a favorable report to **S.1170**. This bill authorizes a mutual insurance company to form holding companies and sell shares for a stock company subsidiary. Under the legislation, a mutual insurer could reorganize as two new companies: a holding company and a stock insurance company, which would operate together. In such an arrangement, the holding company, comprised of policy holders, could not issue stock, but would own a majority of the voting shares in the stock insurance company. The stock insurance company would be authorized to raise capital by selling a minority interest of its voting stock. Should a mutual insurer reorganize as provided in the bill, officers, directors and employees are prohibited from purchasing stock in the reorganized company for six months. Under current law, a mutual insurer cannot sell stock. This legislation is the companion bill of **H.5056** which passed the House on April 22, 1998.

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The committee gave a favorable report to **S.1212** which amends state laws governing credit for reinsurance so as to adopt provisions from the 1996 Credit for Reinsurance Model Act formulated by the National Association of Insurance Companies. Among other things, the provisions of this legislation reassert that state law, not provisions of the U.S. Bankruptcy Code, governs with regard to compulsory security demanded of foreign reinsurers and claims against insolvent foreign insurers. This legislation is the companion bill to **H.3896** which was approved by the Senate last week and enrolled for ratification.

The committee gave a favorable report to **S.1215** which clarifies a reinsurer's responsibility in the event of an insurance company's insolvency. The bill eliminates existing ambiguity in current law and provides that a reinsurer need pay a specified type of claim only once. This legislation is the companion bill to **H.3897** which passed the House on March 20, 1998.

The committee gave a report of favorable with amendment to **S.442** which adds credit cards to the acceptable methods of payment of county taxes in instances where the county governing body approves payment by credit card.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee did not meet this week.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.5162 OFFICIAL STATE AMPHIBIAN Rep. Hawkins

This bill designates the Spotted Salamander, *Ambystoma maculatum*, as the official state amphibian. The Spotted Salamander is a stout bodied species of 150 to 249 millimeters in length, identified by bright yellow round spots in two irregular rows on a dark background. It inhabits deciduous forests with semi-permanent pools about one meter deep across the whole State.

S.1145 SHRIMPING OFF KIAWAH AND SEABROOK ISLAND BEACHES Sen. McConnell

This bill prohibits shrimp boats from dragging their nets closer than one-half mile of Kiawah and Seabrook Island Beaches.

JUDICIARY

S.1098 DAY CARE CENTER EMPLOYEES Sen. Anderson

This bill provides that DUI offenders may work as day care providers if the conviction for the DUI occurred at least ten years prior to the application for employment.

S.1214 S.C. LAW ENFORCEMENT COORDINATING COUNCIL Sen. Holland

This bill creates the South Carolina Law Enforcement Coordinating Council to coordinate the efforts of the various law enforcement agencies, eliminate overlap of resources, clearly define jurisdictional areas, and approve funding to accomplish specific goals. The council is created to coordinate and administer certain activities between the Department of Public Safety, the South Carolina Law Enforcement Division, and municipal and county law enforcement agencies.

MAJOR LEGISLATION CONSIDERED DURING THE 1998 LEGISLATIVE YEAR

These summaries highlight some of the major bills considered by the General Assembly this year. This document is not intended to be an exhaustive list of the matters debated by the legislature in 1998. Major legislation is summarized here in a format which is intended to be more accessible than a simple reading of the bills, joint resolutions, and acts. This report, which covers legislative activity through *May 21, 1998*, is a guide to, not a substitute for, the full text of the legislation summarized. The status and content of the legislation is subject to change.

CRIMINAL JUSTICE/THE COURTS

SCHOOL SAFETY ACT OF 1998

H.4631 allows the governing body of a municipality or county to designate school resource officers to work within the local government's school systems and provides the school resource officer with statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. Current law requires school administrators to contact law enforcement officers immediately upon notice that a person is engaging or about to engage in school-related crime. This bill states that the failure of a school administrator to report the criminal conduct will subject the administrator and the school district to liability to pay a party's attorney's fees and the costs associated with an action to compel compliance with the reporting requirements. The bill also adds notification requirements if a student has been convicted of certain weapons or drug offenses. The appropriate agency (for example, the Department of Juvenile Justice) or the clerk of court (if the student is not sentenced to probation or incarceration) is required to provide immediate notice of the student's conviction or adjudication to the senior administrator of the school where the student is enrolled.

STATUS - H.4631 has been referred to the Senate Judiciary Committee.

SEXUALLY VIOLENT PREDATOR ACT

(as passed by the House)

H.4360, the "Sexually Violent Predator Act," establishes procedures for determining if a person is a sexually violent predator, and provides for a civil commitment procedure for the long-term care and treatment of a person found to be a sexually violent predator. A "sexually violent predator" is defined as a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in the predatory acts of sexual violence if the person is not confined in a secure facility.

When a person has been convicted of a sexually violent offense, the agency with jurisdiction (for example, the Department of Corrections) must give notice to the Attorney General and the solicitor 90 days before the anticipated release from total confinement. The Attorney General or the solicitor may file a petition alleging that the person is a sexually violent predator. A judge must then determine whether probable cause exists to believe the person named in the complaint is a sexually violent predator. If the judge so determines, the person must be taken into custody. Within 72 hours after being taken into custody, the person must be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause that the detained person is a sexually violent predator.

The court must conduct a trial within 60 days after the completion of the hearing to determine whether the person is a sexually violent predator. A person determined to be a sexually violent predator must be committed to the custody of the Department of Mental Health (DMH) and segregated from other patients under the supervision of DMH. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court must direct the person's release. A person committed as a sexually violent predator must be examined annually and the court must conduct an annual review of the status of the committed person.

STATUS - H.4360 was reported favorable with amendment by a majority of the Senate Judiciary Committee on May 20, 1998. A minority report was placed on the bill. Senators Ford, Glover, and Jackson are listed as desiring to be present.

SEX OFFENDER REGISTRY INFORMATION

(as passed by the House)

The House of Representatives amended and sent to the Senate H.4805, which concerns the release of sex offender registry information to the public. The bill provides that a person may request a list of registered sex offenders residing in a city, county, or zip code zone or a list of all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED if the person requesting the information provides the name or address of the person about whom the information is sought. SLED must provide the person making the request with the full names of the requested registered sex offenders, any aliases, any other physical identifying characteristics, each offender's date of birth, a current home address, the offense for which the offender was required to register, and the date, city, and state of conviction.

A sheriff must release information regarding a specific person required to register to a member of the public if the request is made in writing. The bill provides that the sheriff may disseminate information from the registry regarding a specific person who is required to register if he has reason to believe the release of the information will deter the criminal activity. The bill deletes the requirement that the sheriff must be presented with facts giving rise to a reasonable suspicion of criminal activity before releasing information about a specific person.

The bill also adds an additional requirement for offenders determined to be sexually violent predators. While current law requires a person required to register to do so annually, this bill requires a person adjudicated as a sexually violent predator to verify registration and be photographed by the sheriff's department in the county in which he resides every 90 days.

The bill provides that it is the duty of the offender to contact the sheriff in order to register. An offender may not knowingly and wilfully give false information when registering. These crimes are punishable by imprisonment.

STATUS - H.4805 was reported favorable with amendment by the Senate Judiciary Committee on May 20, 1998. Senators Ford and Glover are listed as desiring to be present.

SENTENCING GUIDELINES

The House has passed H.3842. This bill extends the provisions of Truth in Sentencing to all crimes and establishes advisory sentencing guidelines for crimes with maximum penalties of one year or more. The bill provides that the court should consider the guidelines when determining the appropriate sentence for applicable criminal offenses. The advisory sentencing guidelines use a two-dimensional grid to determine the appropriate sentence for offenders. The intersection of the horizontal and vertical score (based on several factors concerning the crime and the offender) meet at the appropriate sentencing grid cell. Within each grid cell, there are three sentencing ranges - the presumptive range (for cases with no extraordinary circumstances), the aggravating range (for cases warranting a longer sentence because of aggravating sentences), and the mitigating range (for cases warranting a lesser sentence because of mitigating factors). The bill also gives the court discretionary authority to determine if a departure from the guidelines' recommendation is warranted. The court may consider such factors as whether the defendant assisted in the investigation or prosecution of another person, or whether the defendant caused the victim to suffer protracted physical or mental harm.

The bill also extends the provisions of Truth in Sentencing to all crimes. A prisoner convicted of a crime and sentenced to the Department of Corrections would not be eligible for early release, discharge, or community supervision until the prisoner has served 85% of the actual term of imprisonment imposed (the provisions of Truth in Sentencing currently apply only to "no parole offenses"). This percentage must be calculated without the application of earned work credits, education credits, and good time credits. All or part of these credits may be forfeited at the discretion of the Director of the Department of Corrections if the offender commits an offense or violates one of the rules of the institution.

STATUS - H.3842 has been referred to the Senate Judiciary Committee.

MAGISTRATES COURT REFORM

The House passed H.4378, the Magistrates Court Reform Act of 1998. This bill requires a magistrate appointed to office after July 1, 1999 to have a four-year baccalaureate degree (although a grandfathering provision exempts any magistrate serving on 7/1/99 from this provision). The South Carolina Court Administration, in cooperation with the technical college system, must administer an eligibility exam to test the basic skills of persons seeking an initial appointment as a magistrate after July 1, 1999. The senatorial delegation must use the results of the eligibility exams to assist in its selection of nominees (the Governor appoints magistrates with the advice and consent of the Senate). Persons may be exempted from taking the examination if certain prescribed educational equivalency requirements have been met.

The bill also requires magistrates to observe 10 trials before presiding over a trial. Magistrates would be paid by the state through the SC Court Administration, and counties would be prohibited from supplementing the salaries of magistrates. Three base categories for salaries are established, depending on the population of the county where the magistrate is located. Magistrates in counties of 150,000 or more would be paid 55% of a circuit court judge's salary; for counties between 50,000 and 150,000, magistrates would be paid 45% of a circuit judges salary; and for counties below 50,000, magistrates would be paid 35% of a circuit court judge's salary. Magistrates would not be paid 100% of the base salary until after four years in office.

The bill also increases the fee in magistrates court for issuing a summons and complaint in a civil action and for giving judgment from \$25 to \$45, increases the fee for proceedings by a landlord against a tenant from \$10 to \$20, and raises the costs charged by the court for writing bad checks from a maximum of \$20 to a maximum of \$41. The bill also raises the fee for the party applying for a warrant to a maximum \$41 if the case is dismissed for lack of prosecution (current law provides a maximum \$20 liability). The House also allowed concurrent civil jurisdiction for magistrates on specified legal actions which do not involve over \$7,500 (as opposed to the current cap of \$5,000 on these itemized legal actions).

STATUS - H.4378 has been referred to the Senate Judiciary Committee. The Senate version of the Magistrates Court Reform Act of 1998 (S.885) is pending on the Senate calendar.

DUI LEGISLATION

The House has passed S.174. This bill requires the Department of Public Safety to suspend the driver's license of a person under the age of 21 who drives a motor vehicle and has a blood alcohol concentration (BAC) of .02 or more. If a person under age 21 refuses to submit to a chemical test, the Department of Public Safety must suspend his license for 6 months (or for one year if the person within the five years preceding the violation of this section, has been convicted of DUI). If a person under age 21 submits to a chemical test and the test result indicates a BAC of .02 or more, the department must suspend his license for 3 months (or 6 months if the person, within the 5 years preceding the violation of this section, has been convicted of DUI).

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Additionally, the bill provides that a test may not be administered or samples taken unless the person has been informed in writing that he does not have to take the test or give the samples, but that his privilege to drive must be suspended or denied for at least 6 months if he refuses to submit to the tests and that his refusal may be used against him in court. The person must be informed that his privilege to drive will be suspended for at least 3 months if he takes the test or gives the samples and has an alcohol concentration of .02 or more; that he has the right to have a qualified person of his own choosing conduct additional independent tests at his expense; he has the right to request an administrative hearing within 10 days of the issuance of the notice of suspension; and that he must enroll in an Alcohol and Drug Safety Action Program (ADSAP) within 10 days of the issuance of the notice of suspension.

The person may obtain a temporary alcohol restricted license, which allows the person to drive without any restrictive conditions pending the outcome of the administrative hearing, or the final decision or disposition of the matter (this license must be obtained within 10 days of the issuance of the notice of suspension). If the person does not ask for the administrative hearing within the 10 days, he waives his right to the hearing and his suspension must not be stayed. At the hearing, if the suspension is upheld, the person's driver's license must be suspended; if the suspension is overturned, the person must have his driver's license reinstated and is not required to complete ADSAP.

The bill also states that it is unlawful for a person to drive a motor vehicle within this State while under the influence of alcohol to the extent that the person's mental and physical abilities are materially and appreciably impaired. If a person's alcohol concentration is .08 or more, it may be inferred that the person was under the influence of alcohol (the effective date for this provision would be January 1, 2001 - the current provision states that it may be inferred that a person is under the influence of alcohol if his BAC is .10). The bill requires video taping at both the incident site and the breath test site, and the bill creates a study committee to examine state law concerning minibottles and alcoholic liquor.

STATUS - The House gave third reading to S.174 on May 21, 1998. The bill has been sent to the Senate.

EDUCATION (K-12)

EDUCATION ACCOUNTABILITY

The House passed H.4399, the "South Carolina Performance and Accountability Standards for Schools (PASS) Act." This bill creates a system of accountability for the state's kindergarten through twelfth grade public education system by equipping students with a strong academic foundation and providing a clear means of measuring the progress of individual students, schools and school districts. To provide oversight, the bill creates the Performance and Accountability Standards for Schools Commission, composed of fifteen voting members who serve four-year terms. The PASS Commission would include legislators, members representing business and industry, and members representing public education.

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The bill directs the Board of Education (the Board) to adopt specific performance-oriented education standards for math, English/language arts, science, and social studies for kindergarten through twelfth grade, and requires a cyclical review of these standards to ensure the maintenance of high expectations for learning and teaching.

The bill directs the Board to develop a statewide assessment program for grades two through eight; end of course tests for gateway courses in English/language arts, mathematics, science, and social studies for grades nine through twelve; and an exit exam which is linked to the adopted standards. The Board also will develop or adapt a first and second grade readiness test which is linked to the adopted standards.

The bill requires the State Department of Education to provide data from these assessments to the schools and districts of the State, and the schools and districts must then disseminate this information to parents. The bill requires establishment of an annual report card for elementary, middle, and high schools, and for school districts, which would assign schools letter grades (A, B, C, D or F) to indicate the school's success in meeting student achievement benchmarks as well as the progress the school has made towards meeting benchmarks since the last grading period. The bill allows a student who attends a school which receives an "F" grade to transfer to any other school in the district. If a district does not contain any schools receiving better than an "F," a student may transfer to a school in an adjoining district, if space is available.

The bill establishes a program to recognize and reward schools with high levels of performance and schools with improved performance. Assistance for poorly performing schools is also provided, including the establishment of a separate fund within the State's General Fund to provide financial support for poorly performing schools. The fund may consist of grants, gifts, public or private donations, and appropriations from the General Assembly. The bill also provides assistance to poorly performing schools by providing the schools access to qualified teachers and principals who will be paid an incentive wage for three year contracts placing them in the low-performing schools.

The bill requires the Commission to review professional development, including principal leadership development and teacher staff development, and requires a subcommittee of the Commission to explore the development of an on-going public relations campaign and issue a report to the Commission of the plan by July 1, 1999.

The bill authorizes the PASS Commission to monitor and review the funding of Education Improvement Act programs. If a school district has adopted a policy permitting corporal punishment, the school district and its employees are immune from civil and criminal liability while administering corporal punishment in conformity with the district's policy, absent gross negligence or recklessness.

The Senate also passed a plan for education accountability, **S.850**, the SC Performance and Accountability for Excellence in Teaching and Learning (EXCEL) Act. Included among the differences between the Senate and House proposals: the Senate proposal does not assign

letter grades to indicate a school's performance (schools are designated as "successful," "proficient," "acceptable," "on notice," or "challenged"); the Senate proposal does not allow a student who attends a school receiving a low ranking to transfer to another school; the Senate proposal provides \$39 million in funding for the first year of a four-year phase-in for districts choosing to lower the pupil-teacher ratio to 15:1 in kindergarten through grade three (the House proposal provides \$8.1 million for 15:1 pupil-teacher ratio only in districts of greatest need); the Senate proposal provides for forty-six alternative schools (one per county), which, having met certain criteria, would be eligible to receive state funding (this is not addressed in the House bill); the Senate proposal provides for a principal mentoring program for principals in poorly performing districts; and principal-specialists on site (with salaries and supplements for specialists paid for by the State) to help these schools meet academic standards (not included in House bill).

The Senate's proposal also includes: creation of thirteen multi-school district regional service centers to provide technical assistance to schools and districts; a requirement for the establishment of grant programs to fund homework centers in schools and districts designated as "on notice" or "challenged"; a grant program to assist with additional costs incurred with intersession assistance for students with a "D" average or below in the core academic areas.

STATUS - The House amended the Senate bill (S.850) by striking everything except the title of the Senate bill and inserting the House-passed version of H.4399, the PASS Act. The Senate refused to concur in the House amendment to S.850. A conference committee is working to resolve the differences. (NOTE: The Senate Education Committee replaced the language in the PASS bill (H.4399) with the language from the EXCEL proposal and that bill is pending on the Senate calendar). Both the House and the Senate included their accountability plans in their respective versions of the 1998-99 budget bill.

HIGHER EDUCATION

TUITION ASSISTANCE

The House passed H.4535, the Legislative Incentives for Future Excellence (LIFE) Scholarship bill, which provides \$2,000 per year for full-time attendance at South Carolina four-year colleges and \$1,000 per year for full-time attendance at the state's two-year colleges to students who meet specified academic and residency requirements. To be eligible for LIFE Scholarship, a student must graduate from high school with at least a 3.0 grade point average (on a 4.0 scale) and a minimum score of 1000 on the Scholastic Aptitude Test (SAT), or an equivalent score on the ACT beginning with the 1998-99 school year. The minimum SAT/ACT score requirement does not apply to scholarships to two-year institutions of higher learning, including technical schools. The minimum SAT/ACT score requirement will be raised to 1050 beginning school year 2000-2001, and 1100 beginning school year 2002-2003.

By the year 2000, students graduating from high school must comply with the curriculum requirements of the STAR (*Superior Scholars for Today and Tomorrow*) diploma to be eligible for the LIFE scholarship. A student who does not meet the SAT requirement as a graduating high school senior may earn the scholarship after his freshman year in a four-year institution of higher learning, if the student earns a 3.0 grade point average on a 4.0 scale. The student will lose the scholarship if he does not maintain a 3.0 grade point average, but the scholarship may be reinstated after one year if the student's grade point average improves to a cumulative 3.0. Students must also pass thirty credit hours each year to maintain the scholarship.

Scholarships may only be used at institutions of higher learning in the state which meet certain criteria, usually accreditation from the Southern Association of Colleges and Schools (SACS). The House amended the bill to include Bob Jones University as an institution which may receive LIFE Scholarship funds. Another House-passed amendment provides for special review by the Commission on Higher Education and the possible waiver of certain requirements in the case of applicants for a LIFE Scholarship who are enrolled at the SC School for the Deaf and Blind or the Wil Lou Gray Opportunity School.

An individual is ineligible for the LIFE Scholarship if he has been convicted, adjudicated delinquent, or plead *nolo contendere* to a felony or an alcohol or drug-related offense.

*STATUS - The Senate Education Committee amended **H.4535** by striking the bill after the enacting words and inserting the Senate's tuition assistance plan, which provides income tax credits for a portion of tuition paid at public or independent institutions of higher learning in South Carolina. **H.4535** is pending on the Senate calendar with two Senators listed as "desiring to be present." Both the House's LIFE scholarship plan and the Senate's tax credit plan are also included in each body's respective version of the 1998-99 General Appropriation bill. The House budget includes \$30.3 million to fund the LIFE scholarship program, and the Senate-passed bill includes a \$7 million appropriation to fund the Senate's tax credit plan.*

FAMILY/HEALTH

GENETIC INFORMATION

Both the Senate and the House of Representatives have approved **S.535** and the bill has been enrolled for ratification. The bill provides for privacy of genetic information with regard to insurance coverage. Proponents of the legislation contend that many individuals are hesitant to undergo genetic testing for fear that the results of the tests will make it more difficult for them, and their blood relatives, to obtain affordable health insurance coverage. Proponents offer this legislation to encourage individuals to obtain potentially life-saving information from genetic tests without fear of an adverse impact on their insurance rates. To that end, this bill prohibits insurers from denying or restricting coverage on an individual on the basis of information obtained in genetic tests. An accident or health insurer may not require a person to consent to disclosure of genetic information as a condition for obtaining accident and health insurance. Neither may an insurer charge rates which vary on the basis of information obtained from genetic tests.

Under the legislation, it is unlawful to perform a genetic test on blood, urine, or any other biological sample without consent, unless the test is performed: (1) by a law enforcement agency in a criminal investigation; (2) to identify a dead body; (3) in the course of a scientific study where the identities of test subjects are not disclosed; (4) to establish paternity; or (5) pursuant to statute or specific court order. Under the legislation, all genetic information is confidential, and such information may be released only: (1) if the information is necessary to a criminal investigation, inquest, or proceeding; to identify a dead body; (2) pursuant to a court order; (3) when disclosure of the genetic information of a deceased individual would assist medical diagnosis of blood relatives; (4) to establish paternity; or (5) as required by state or federal statute.

Civil remedies are provided for individuals harmed by unauthorized disclosure or use of genetic information. The bill authorizes the following remedies: equitable relief, which may include a retroactive order, directing that health insurance be provided under the same terms and conditions as would have applied had the violation not occurred; actual damages; and, recovery of costs and reasonable attorney fees.

STATUS: S.535 has been ratified (R.351).

"OMNIBUS HEALTH BENEFITS AND EDUCATION ACT OF 1998"

The House sent to the Senate H.3985, the "Omnibus Health Benefits and Education Act of 1998." The legislation requires a health benefit plan to allow its female enrollees, who are at least thirteen years of age, a minimum of two visits each year, without prior approval, to a obstetrician-gynecologist (OB/GYN) in the health benefit plan. Should the OB/GYN find during these two visits that continued treatment is medically necessary, additional visits must be authorized by the health benefit plan. The health benefit plan must notify enrollees of these benefits. The bill also requires that all health insurers which provide coverage for mastectomies, must provide coverage for hospitalization for at least forty-eight hours following the mastectomy. The bill further requires that all health insurers which provide coverage for mastectomies, must provide coverage for prosthetic devices and restorative surgery following a mastectomy so as to produce a symmetrical appearance. Additionally, the bill requires all health insurers to provide coverage for mammograms and annual pap smears.

STATUS: On 5/7/98, H.3985 was recalled from the Senate Banking and Insurance Committee.

PREGNANCY PREVENTION

H.3760 requires an unmarried pregnant female under age 18 to attend a free pregnancy prevention education course offered at a local health department. The original bill required the Department of Health and Environmental Control (DHEC) to specify the content of the course. The Senate amended the bill to require the course to be specified by the Department of Social Services (DSS) instead of DHEC. The course must include information on birth control methods and sexually

transmitted diseases. Health care professionals who provide care to these teenagers must refer them to the appropriate county health department and inform them that attendance and completion of this course is a required component of their care. DHEC must report to the General Assembly by January 1, 1999 on the cost to develop and implement a comparable pregnancy and sexually transmitted disease prevention education course for males. The Senate amendment to H.3760 requires parental notification if birth control devices are given to a woman under the age of 18. The Senate also amended the bill to require the course material to contain a statement that abstinence outside of marriage and sexual relations with an uninfected marriage partner is the only absolute way to prevent sexually transmitted diseases and to prevent pregnancy."

The Senate amendment establishes the County Grants Fund for Adolescent Pregnancy Prevention Initiatives. This fund must be administered by DSS and county governments as provided in this new chapter. The stated purpose of the fund is to support local efforts to prevent early sexual activity and to measurably reduce the rate of adolescent pregnancy in each county and in the State and to ensure that these efforts reflect local community values. Local public or private agency or organization or combination of these agencies and organizations may apply to the county government for an allocation of funds to operate an adolescent pregnancy prevention initiative. All initiatives funded by the county government must emphasize premarital sexual abstinence and male responsibility. The bill also includes the formula for distributing funds under the County Grants Fund for Adolescent Pregnancy Prevention Initiatives. Ten percent of the money must be used to evaluate the effectiveness of each initiative and the fund under guidelines provided by the bill; 15% must be allocated evenly among the counties; 15% must be allocated to the counties based on the size of their adolescent population; 20% must be allocated to counties based on their rate of adolescent pregnancy; 40% must be allocated to counties based on their number of adolescent pregnancies; and the county may retain up to 5% to cover the costs of administering the fund. All grant funds received by the county must be allocated within two years of receipt. If the county does not designate an agency or organization to assume these responsibilities, DSS may designate another agency or organization within the county. A local public or private agency may apply to the county government for an allocation of funds to operate an adolescent pregnancy prevention initiative. All initiatives funded by the county government must emphasize premarital sexual abstinence and male responsibility.

STATUS - On May 20, 1998, the House adjourned debate on the Senate amendments to the bill until June 2, 1998.

GAMING/GAMBLING

STATE LOTTERY

On April 23, 1998, The House Ways and Means Committee gave a report of favorable with amendment to Joint Resolution H.4682 which proposes amending the South Carolina Constitution so as to establish a state lottery, the proceeds of which would be used to fund scholarships for in-state residents to attend South Carolina's postsecondary institutions. The joint resolution was

subsequently recommitted to Ways and Means. A state lottery has also been mentioned in the Senate as a possible alternative funding source for the personal property tax relief provided under S.941.

STATUS: H.4682 was recommitted to the House Ways and Means Committee on 4/29/98.

VIDEO POKER BAN

The House passed H.4577, which, effective June 1, 1999, would ban video poker in South Carolina. The video poker ban also was placed in the House-passed General Appropriation Bill. The Senate Finance Committee gave a favorable recommendation to S.947, which would ban video poker effective June 1, 1999. On Thursday, April 8, after several days of filibuster, the Senate adjourned debate on S.947 (the Senate bill which would ban video poker) and placed H.4577 in the status of adjourned debate immediately following S.947, not to be taken up until either consideration on the General Appropriation Bill has been completed or a decision on the legality of video poker has been rendered by the Supreme Court, whichever event occurs first. On May 12, 1998, the Senate adjourned debate on S.947.

STATE GOVERNMENT

AFFIRMATIVE ACTION PROHIBITION

The House passed H.4115, which prohibits the state of South Carolina and its political subdivisions from using race, sex, color, ethnicity, national origin religion, age, or disability as criteria for either discriminating against or granting preferential treatment to any individual or group in the state's system of public employment, education, or contracting. The legislation applies only to actions taken following the enactment of the bill, and does not preclude adherence to pertinent court orders or consent decrees. The bill provides that employment of quotas to achieve equality is prohibited. The bill also provides that no preferential treatment may be granted to the families of members of the General Assembly in public employment by the state or its political subdivisions.

STATUS - H.4115 was referred to the Senate Judiciary Committee.

STATE EMPLOYEE PAY RAISE

The House-passed 1998-99 General Appropriation bill included an appropriation of \$23.5 million for a 2% pay increase for state employees, effective October 1, 1998. The Senate-passed budget bill provides a 2-1/2% state employee pay increase, effective July 1, 1998. Cabinet agencies must absorb the pay increase in the Senate-passed bill. This issue will be negotiated in the House-Senate 1998-99 budget conference committee proceedings.

STATUS: Pending as a portion of the 1998-99 General Appropriation Bill.

FREEDOM OF INFORMATION ACT

The House amended and returned to the Senate S.22, which revises the State Freedom of Information (FOI) Act. As amended, the bill states that a public body may but is not required to exempt from disclosure certain matters that are currently exempt (including trade secrets, law enforcement records, and certain compensation paid by public bodies). The amended bill further specifies that a public body may exempt from disclosure documents incidental to a proposed contractual arrangement and documents incidental to proposed sales or purchases of property; however, these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased. A contract for the sale of real estate will remain exempt from disclosure until the deed is executed. Confidential proprietary information provided to a public body for economic development or contract negotiations purposes need not be disclosed. The bill also exempts from disclosure certain matters gathered by a public body during a search to fill an employment position and certain data collected by staff at an education institution. The bill specifies when a public body may hold a meeting closed to the public and that no action may be taken in executive session except to adjourn or to return to public session. Furthermore, the members of a public body may not commit the public body to a course of action by a polling of members in executive session.

The Senate amended S.22 and returned the bill to the House. The Senate amendment provides that a contract for the purchase or sale of real estate must remain exempt from disclosure until the deed is executed, but this exemption applies only to contracts of sale or purchase where the execution of the deed occurs within 12 months from the date of sale or purchase. The Senate amendment also requires the responsible official of each state agency or department, upon receipt of a written request, to immediately furnish to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or the chairman of any standing committee of the Senate or of the House any information regarding any of the respective affairs or activities of the entity. Any person who obtains this information is subject to the rules and laws governing the confidentiality of the information. Correspondence or work products of legal counsel, any information violative of the attorney-client privilege, trade secrets, information of a personal nature the disclosure of which would constitute an unreasonable invasion of personal privacy, and certain law enforcement records are exempt from this disclosure requirement. If the responsible official

willfully refuses to comply with the request for information, he must be suspended without pay (not to exceed 10 days) before an administrative hearing is held. The amendment further provides that no responsible official may be terminated from employment for violating these provisions except by the impeachment proceedings delineated in the State Constitution.

STATUS - On May 7, 1998, the House refused to concur in the Senate amendments. On May 12, 1998, conference powers were granted by the House and the Senate.

INVESTMENT OF STATE EMPLOYEES' PENSION FUNDS

S.958 is the implementing legislation for the 1996 amendment (ratified in 1997) to Article X, Section 16 of the *SC Constitution*, authorizing the investment and reinvestment of the funds of various state-operated retirement systems in equity securities.

The bill establishes the State Retirement Systems Investment Panel, consisting of five members - one each appointed by the Governor, the State Treasurer, the Comptroller General, and the chairs of the House Ways and Means Committee and the Senate Finance Committee. The bill provides for panel members' qualifications, terms of service, duties, and compensation, and provides for the authorities of the panel. The bill requires that the panel develop an annual investment plan for the retirement systems for the next fiscal year, which must be adopted and implemented by the State Budget and Control Board (the board), as trustee of the retirement system and its funds. The board must also provide the panel with a statement of actuarial assumptions and general investment objectives. The adopted plan must include components and meet requirements that are specified in the bill, including a requirement that the plan must provide the minimum and maximum portions of system assets that may be allocated to equity investments on an ongoing basis not to exceed forty percent and the minimum and maximum portions of system assets not to exceed ten percent that may be allocated to additional equity investment during the plan fiscal year. When investments in equities attain the maximum allocation allowed, up to forty percent of current member and employer contributions to the retirement system may be invested in equities. If, due to growth in value of equity investments, equity investments exceed forty percent of the total assets of the retirement system, the bill does not require the sale of equities to reduce the percentage of equities to forty percent. The plan must be reviewed and assessed by the panel at least once each fiscal year quarter, and implementation of the plan must be regularly reviewed by the board. The plan may be amended with the approval of the board. Costs of administering the panel's duties must be paid from investment earnings of the systems, and the expenses must be approved by the board. The bill also provides that the State Budget and Control Board, as trustee, may invest and reinvest the funds of the system in equity securities of a corporation within the United States that is registered on a national securities exchange as provided in the Securities Exchange Act of 1934, or a successor act, or quoted through the National Association of Securities Dealers Automatic Quotations System, or a similar service.

STATUS - Ratified 5/21/98 (R.356)

SHORTENING THE LEGISLATIVE SESSION

The House has passed a joint resolution, H.3041, amending the State Constitution to allow the General Assembly to convene the second Tuesday in February during odd numbered years (currently the General Assembly begins each legislative year on the second Tuesday in January). The change would provide time for legislative committees to meet and begin debating legislation before the start of the session. This measure also requires the Senate to meet in an organization session in odd-numbered years to elect officers and prepare for the regular session.

The House also has passed H.3042, which shortens the legislative session by scheduling the *sine die* adjournment date of the General Assembly on the second Thursday in May. Currently, *sine die* adjournment occurs on the first Thursday in June.

STATUS - H.3041 and H.3042 have been referred to the Senate Judiciary Committee.

TAXATION

PERSONAL PROPERTY TAX RELIEF

The House has passed and sent to the Senate H.4846 and H.4847. H.4846 proposes freezing personal property taxes (i.e. taxes on motor vehicles, boats, aircraft and business personal property) at their current levels. If the freeze is authorized, H.4847 phases out motor vehicle property taxes in each county and then phases out the remaining personal property taxes.

H.4846 is a joint resolution proposing an amendment to the South Carolina Constitution which would freeze personal property taxes at their current (1998) levels. The freeze would affect property taxes imposed on motor vehicles for tax years beginning after June, 1999, and all other personal property taxes for tax years beginning after 1998. Under the constitutional amendment, local taxing authorities would annually adjust millage rate, if necessary, so that the revenue raised by personal property taxes does not exceed the amount collected in 1998.

If the above constitutional amendment is approved, H.4847 establishes a mechanism whereby expected growth in state revenue would be used to eliminate personal property taxes, reimbursing local taxing authorities for the revenue lost. The bill establishes as a separate fund in the State Treasury the Motor Vehicle and Personal Property Tax Relief Trust Fund into which 15% of new recurring State General Fund revenue growth must be deposited each year. Revenue credited to this fund must be disbursed to local taxing authorities which must, in turn, reduce personal property tax bills accordingly. First priority is given to eliminating personal property taxes paid on motor vehicles, then all other personal property taxes must be eliminated. When all personal property is wholly exempt, each taxing entity will receive a monthly reimbursement equal to one-twelfth of its local personal property base payment.

The fund must be used to reimburse local taxing authorities up to the maximum amount of an estimated \$1.3 billion- that is, the amount collected in personal property taxes as of fiscal year 1998-99, when personal property taxes are frozen under the proposed constitutional amendment.

STATUS: The House passed H.4846 and H.4847 and sent them to the Senate where they have been referred to the Finance Committee. Should Joint Resolution H.4846 be approved by the General Assembly, the proposed constitutional amendment would have to be approved by the state's voters at the general election and ratified by the General Assembly before taking effect. H.4847 depends upon amendment of the state constitution.

The Senate has also discussed such a plan for eliminating personal property taxes through a constitutional freeze on personal property taxes as proposed in Joint Resolution S.941 and creation of a fund for eliminating personal property taxes as provided in S.940. These measures have not received third and final reading in the Senate.

STATUS: S.941 has received second reading in the Senate, but, debate was interrupted on the measure by adjournment. S.940 has not received second reading in the Senate.

The Senate approved Joint Resolution S.1055 which proposes amending the South Carolina Constitution so as to afford local taxing authorities an opportunity, but not an obligation, to provide taxpayers with relief on personal property taxes paid on cars, boats, motors, and aircrafts. Currently, the state constitution provides that such items of personal property must be taxed on an assessment of 10.5% of fair market value. The joint resolution proposes amending the state constitution so as to allow a county governing body, in consultation with all taxing entities in the county, to tax the personal property of cars, boats, motors, and aircrafts on an assessment of no more than 10.5% and no less than 6%.

STATUS: Joint Resolution S.1055 was passed by the Senate and sent to the House where it has been referred to the Ways and Means Committee. Should the joint resolution be approved by the General Assembly, the proposed constitutional amendment would have to be approved by the state's voters at the general election and ratified by the General Assembly before taking effect.

TRANSPORTATION

SPEED LIMITS

The House passed H.3150, which defines the highways encompassed by the interstate highway system and the state highway primary system, and revises the speed limits to seventy miles an hour on the interstate highway system and other officially posted freeways; sixty miles an hour on officially posted multilane divided primary highways; fifty-five miles an hour in other locations or on other sections of highways. Maximum speed in an "urban district" is thirty miles an hour, and speed limits on unpaved roads are limited to forty-five miles an hour.

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The bill also revises the language on signs posted in a work zone and provides that the penalty displayed on signs posted in a work zone are in addition to other penalties for speeding. The bill also provides that manufactured modular or mobile homes must not be transported at a speed in excess of ten miles below the posted speed limit when the posted limit is in excess of forty-five miles per hour, and never in excess of fifty-five miles an hour. The bill also provides that a local authority, under certain conditions, may determine that the maximum speed limit permitted is less than thirty miles an hour in an urban district.

STATUS - This bill was reported favorable with amendment from the Senate Transportation Committee, and is pending on the Senate calendar with three senators listed as "desiring to be present."

1998-99 GENERAL APPROPRIATION BILL

The House and the Senate have passed their respective versions of a state budget for 1998-99. The House-Senate budget conference committee is meeting to work out the considerable differences between the two bills. The conferees for this year are Reps. Brown, Boan, and Young-Brickell for the House; and Sens. Drummond, Land, and McConnell for the Senate.

AS PASSED BY THE HOUSE

Highlights of the House bill, as last amended on May 13, include, but are not limited to:

Statewide Appropriations:

State Health Insurance Rate Increase	21.0 million
State Employee Pay Increase - (2% effective 10/1/98)	23.0 million
Property Tax Relief - Annualization and Growth	20.6 million
General Reserve Fund	7.2 million
Capital Reserve Fund	4.8 million
Debt Service	2.5 million
Property Tax Relief - Reduced Manufacturing Depreciation (2nd of 3 year phase-in)	10.9 million
Homestead Exemption Projected Growth	1.4 million

The House appropriated \$1.5 million to annualize only the 1997-98 state employee pay increases at the Department of Public Safety and the Department of Corrections. Other state agencies must find the remaining \$7.8 million needed for pay increase annualization, within their existing budgets. The House budget includes a separate \$354 million Property Tax Relief Trust Fund, which is intended to assure that these monies will only be used for tax relief to South Carolina's citizens. Although the Senate budget does include property tax relief, it does not set aside the money in a separate fund.

PUBLIC EDUCATION: Highlights of House appropriations for public education include: an increase of \$39.1 million to fund fringes and the Education Finance Act base student cost of \$1,879 (2.2% inflation) and 786,060 weighted pupil units; \$4 million for 62 school buses; \$14.4 million to phase in the Performance and Accountability Standards for Schools (PASS) initiative; \$14.5 million for final year phase-in for full-day kindergarten (includes \$3.7 million for fringes); \$8.1 million for reducing the size of classes in grades one through three in districts with greatest need; \$6.1 million for textbooks; \$1.6 million start-up/operational funding for the year-round Governor's School for the Arts and Humanities; \$4.2 million to help cover costs resulting from the increase in credits required to graduate from high school; \$5.9 million for basic skills-academic

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assistance (under Act 135 of 1993); \$9 million to keep teachers' salaries above the Southeastern average (Southeastern average salary has increased from \$33,547 to \$34,565); \$1 million to fund the 1997 Assisting, Developing, and Evaluating Professional Teaching (ADEPT) legislative initiative; and \$437,900 to fund giving all tenth graders the opportunity to take the Preliminary Scholastic Aptitude Test (PSAT) or the preliminary test for the American College Test.

HIGHER EDUCATION: The House-passed funding for higher education includes, but is not limited to \$30.3 million for the Legislative Incentives for Future Excellence (LIFE) Scholarship initiative; \$6 million for performance/formula funding; \$2 million for special schools' annualizations; \$2.5 million for EPSCoR (Experimental Program to Stimulate Competitive Research); and \$900,000 for tuition grants.

HEALTH: The \$24.4 million recurring appropriation in this area includes, but is not limited to \$15.4 million to annualize the current year's funding for Health and Human Services; \$4 million for nursing home rate adjustment; \$1.1 million for rural health clinic growth; \$1.6 million for supplemental Medicare insurance premium increase; and \$919,000 for Medicaid match rate change.

ECONOMIC DEVELOPMENT, NATURAL RESOURCES, CULTURAL: Recurring appropriations total \$2.5 million, including \$1.5 million to Clemson Public Service Authority; \$500,000 to the Department of Commerce for employee incentives and \$500,000 to the Department of Commerce for advertising.

CRIMINAL JUSTICE: Recurring appropriations total \$13.8 million, including but not limited to \$2.4 million to the Judicial Department for annualization of judges and staff, annualization of tiered judges' salaries, judges' expense allowance, judicial commitment, and court appointed funding; \$158,000 to SLED for forensic lab equipment; \$255,868 to the Attorney General's Office for Medicaid fraud control, capital litigation, and prevention of violence against women; \$500,000 to the Prosecution Coordination Commission for Judicial Circuit state support; \$2.5 million to the Department of Corrections for operating funds and for the substance abuse facility at Lee; \$2.6 million to the Department of Probation, Parole and Pardon Services for annualizations and restitution collection; \$5.2 million to the Department of Juvenile Justice for annualization of 1997-98 funding.

TRANSPORTATION: No new funding recommended.

LEGISLATIVE/EXECUTIVE: After factoring in the \$1 million in recommended legislative/executive budget reductions, the recurring funds appropriated in this area result in new funding of slightly over \$1 million. Recommendations for new funding include \$530,622 to the Adjutant General's Office for State match for FEMA funds; \$1.5 million to the State Budget and Control Board for Capitol Complex rent; and \$37,482 to the State Ethics Commission for one investigator. Budget cuts include \$300,000 reduction to Legislative Printing; \$50,000 reduction to Administrative Law Judge base; \$50,000 reduction in Total Quality Management Funds under the Budget and Control Board; and \$400,000 base reduction to the Department of Revenue.

HOUSE-PASSED PROVISOS

Major provisos in the House-passed 1998-99 appropriation bill include, but are not limited to: A ban of video poker (included in both *Part I* and *Part II* - also passed the House as separate legislation); removal of the Palmetto Unified School District 1 of the SC Department of Corrections from eligibility for funding under the Education Finance Act (although it would still be eligible for adult education funding through the SC Department of Education); the LIFE Scholarship initiative (which also passed the House as a separate bill); an extension of the steps in the State Minimum Salary Schedule for teachers, from seventeen to twenty years by one-year increments (each additional year will be increased by one percent over the previous year); and the Performance and Accountability Standards for Schools (PASS) initiative, which has already passed the House as a separate bill. Also, the House included: a provision that no state funds shall be used to pay for an abortion either directly or indirectly, except when an abortion is necessary to save the life of the mother; a provision to dissolve the State Reorganization Commission with the assets and employees of the Commission evenly divided between the House of Representatives and the Senate.

SUPPLEMENTAL APPROPRIATIONS

The House budget includes a *Part III* section which makes supplemental appropriations of surplus general fund revenues of the 1997-98 fiscal year, to the extent that such funds are available. Highlights of those appropriations include (but are not limited to): \$1 million to the State Department of Education for textbooks; \$5 million for education technology (telecommunication lines); \$9.4 million to the Property Tax Relief Trust Fund; \$21.8 million to maintain the Fiscal Year 1997-98 funding level for the Local Government Fund; \$10.9 million to the Local Government Fund to cover growth; \$5.7 million to the Department of Health and Human Services for Medicaid growth; \$5.5 million to the Department of Social Services for emotionally disturbed children; and \$2 million to the Department of Commerce to help fund the Spartanburg Renaissance Downtown Development Project (the bill provides that these funds are to be matched 2:1). The bill also provides that, effective July 1, 1998, the Advisory Coordinating Council for Economic Development (the Council) must establish the "Downtown Redevelopment Program" for the purpose of making grants for revitalizing and enhancing downtown areas through partnerships of local government and private investors. The bill provides that the Council must establish program guidelines, regulations, and criteria by which grants must be evaluated, including a specific requirement for matching funds and a requirement for completion of an economic impact before an award is made.

CAPITAL RESERVE FUND

H.4702, as passed by the House, appropriates \$86.9 million from the Capital Reserve Fund for Fiscal Year 1997-98. These appropriations include, but are not limited to: \$25 million for higher education formula funding; \$10.8 million to the State Department of Education for textbooks; \$5.7 million to Horry-Georgetown Tech for library and student services; \$4 million to Clemson PSA for the Agriculture and Life Sciences Biotechnology Complex; \$3 million to Clemson for Littlejohn Coliseum; \$3 million to the University of Charleston for the Health and Physical Education Complex; \$2.5 million to the University of South Carolina for the Arena; \$3.5 million to the University of South Carolina for the School of Public Health; \$2 million to DHEC for Horry Beach Renourishment; and \$2 million to PRT for the Columbia Conference Center.

AS PASSED BY THE SENATE

NOTE: *The Senate-passed budget includes a \$47.9 million "wish list" of projects that the Senate proposes to pay for with as-yet unrealized 1997-98 surplus revenues. The House budget did not include such a list. The Senate budget also includes a \$101.3 million bond bill, which is not included in the House's budget plan.*

Statewide appropriation highlights of the Senate's bill include, but are not limited to: state health insurance rate increase - \$12.1 million; state employee pay increase (2.5% July 1-*cabinet agencies must absorb increase*) - \$38.9 million; annualization of 1997-98 state employee pay increase - \$9.36 million (funded under Senate's "wish list" - House plan included \$1.5 million to cover annualization for Dept. of Corrections and Dept. of Public Safety only).

Other funding in the Senate's bill includes, but is not limited to:

PUBLIC EDUCATION: \$40.8 million to fund EFA and fringes (includes funding for Department of Corrections School District, which was not included in House plan); \$4 million to buy school buses (Senate plan funded this in their bond bill; House plan funded the same amount but in recurring funds); \$61.1 million to fund EXCEL, the Senate's education accountability package (includes \$39.1 million to begin phased-in reduction of pupil/teacher ratio to 15:1 in grades K-3); \$13.6 million for full-day kindergarten; \$7.2 million for an extension of teacher longevity pay increases from eighteen to twenty years (funded on the "wish list").

HIGHER EDUCATION: \$7 million for tuition tax credits (House tuition assistance plan is LIFE scholarship program, funded at \$30.3 million); \$16 million increase to performance funding (Senate included this funding in Capital Reserve funds, House did not provide this increase).

HEALTH: \$4.7 million for new nursing home beds; \$6.4 million for 4,322 community long-term care slots; \$1.75 million for residential services for persons with disabilities; \$750,000 for support services for families of persons with disabilities; and creation of a tobacco settlement advisory committee. The House did not include any of these items in its budget plan.

ECONOMIC DEVELOPMENT, NATURAL RESOURCES, CULTURAL: \$3 million for the Heritage Corridor (included on Senate's "wish list;" House included \$1 million for the Heritage Corridor in Capital Reserve funds); \$16 million for Ports Authority harbor dredging (included in Senate's bond bill; not funded by the House); \$1.6 million for repairs to parks (included in Senate bond bill; not funded by the House); \$3.5 million for Parks, Recreation, and Tourism Department for restoration of reserve funds (included on Senate "wish list;" not funded by the House).

CRIMINAL JUSTICE: \$500,000 for Alternate Dispute Resolution (not funded by House); \$6.1 million to the Department of Public Safety for Department of Motor Vehicles computers, additional troopers, cars, vests (House funded \$6.8 million by provisos); \$6.6 million for operating funds for four 256-bed additions (included in Senate's "wish list;" House funded at \$1.9 million); \$6.1

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million Department of Juvenile Justice annualization for current program efforts (included in Senate "wish list;" House funded at \$5.2 million); \$1.6 million for Palmetto Unified School District 1(not included in the House budget).

LEGISLATIVE/EXECUTIVE: \$1.95 million for Capitol Complex Site Improvements (included in Senate bond bill; not included in House budget); \$1 million for State House operations and management (not included in the House budget); \$5.6 million for local government grants (\$4.6 million on Senate "wish list" and \$1 million in Capital Reserve funds; House bill includes \$800,000 in Capital Reserve Funds); \$7 million for the Infrastructure Revolving Fund (\$4 million on Senate "wish list" and \$3 million in Capital Reserve funds; House funded this item at \$800,000).

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

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.