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No. 17

CONTENTS

Week in Review	02
House Committee Action.....	16
Bills Introduced in the House This Week	20

WEEK IN REVIEW - APRIL 26-30, 1999

HOUSE FLOOR

The House of Representatives amended approved and sent to the Senate **H.3620** which establishes South Carolina First Steps to School Readiness, a statewide initiative which provides early childhood development and education services to ensure that all children arrive at school ready to learn. These services would include, but not be limited to: increasing prenatal and maternity care; providing parents with support that will strengthen families and promote development of their preschool children; promoting high quality preschool programs; and mobilizing communities to improve services which will enable every child to reach school healthy and ready to learn.

The initiative is to be administered by a Board of Trustees which is to be chaired by the Governor and must include the State Superintendent of Education, both of whom shall serve as *ex officio* voting members of the board. The Board is composed of eighteen members, to be appointed (six each) by the Governor, the President *Pro Tempore* of the Senate, and the Speaker of the House, with representation for parents, the business community, the medical community, early childhood educators, child care and development providers, and the field of transportation. The bill also provides a list of State Agencies and organizations which will be represented on the Board by non-voting, *ex-officio* members. The Board of Trustees is authorized to accept gifts, bequests and grants from any person or foundation. The Board of Trustees, using criteria provided in the legislation, is charged with disbursing funds in the form of grants to further the initiatives of county First Steps partnerships.

Under the legislation, the Board is directed to establish an Office of South Carolina First Steps to School Readiness within the State Department of Education. The Director of the Office is to be selected by the Superintendent of Education with the approval of the First Steps Board of Trustees. The bill provides for the responsibilities of the Office of South Carolina First Steps to School Readiness which include providing an annual report and other information to the Board of Trustees, providing technical assistance to county partnerships, and conducting data collection to assess the degree to which the goals of the initiative have been met.

The bill authorizes each county's legislative delegation to collaborate with the Office of First Steps on creation of a county-wide First Steps governing/oversight board, whose prescribed membership includes, but is not limited to, eight members appointed by the county legislative delegation. The legislation specifies certain segments of the community and organizations which are to be represented in the county First Steps partnership boards. These county boards will oversee the initiative at the local level and will report to the statewide First Steps Board. The administrative costs of each county First Steps Partnership may not exceed eight percent of its grant allocation, unless prior approval is received from the First Steps Board of Trustees.

The First Steps Board of Trustees is authorized to disburse to county First Steps partnerships implementation grants which must be funded annually and may be awarded for up to three years. Implementation grants are renewable based upon criteria established by the Board of Trustees, including the results of performance audits. County First Steps partnerships are to provide an annual match of funds not less than twenty percent. The Board of Trustees may, however, decrease the percentage requirement for a county's match, based upon a county's ability to pay. Funds provided to county First Steps partnerships are not to be used for capital expenses. If, however, a county partnership demonstrates that capital expenditures are a priority need critical to the success of local initiatives, the county partnership may request assistance from the Human Services Facility Consolidation Board.

The legislation establishes the Human Services Facility Consolidation Board to assist state and local human service agencies with the funding and financing of capital projects when proposed projects provide for the consolidation or co-location of several different agencies. This Board would make recommendations to the Joint Bond Review Committee and to the State Budget and Control Board concerning capital project proposals which offer the greatest benefit to the public for ease of accessibility, convenience, and efficiency of service delivery and administration. Capital projects for the First Steps initiative may only be funded through this Board.

Under **H.3620** the provisions of the First Steps initiative are to be repealed in six years unless reauthorized by the General Assembly.

The House amended **H.3697**, the Capital Reserve Appropriation Bill, and returned the legislation to the Senate. The House was in the process of amending **H.3696**, The General Appropriation Bill, when the body adjourned for the week. The House rejected an amendment to **H.3696** which provided for a ban on video poker. Amendments proposing various video poker regulations await the attention of the House in the coming legislative week.

The House enrolled for ratification Joint Resolution **S.620** which prohibits the sale of driver's license information. The joint resolution prohibits the Department of Safety from selling, providing, or otherwise furnishing a private party with the following information: personal information on height, weight, and race; social security numbers in its records; and, copies of photographs or signatures, whether digitized or not, taken for the purpose of a driver's license or personal identification card. The legislation prohibits the Department of Safety from releasing any part of an identification record of a child younger than fifteen years of age to a private party. The joint resolution provides that records of height, weight, race, photographs, signatures, and digitized images from a driver's license or personal identification card are not public records. The legislation also prohibits a private person from using an electronically stored version of a photograph, social security number, height, weight, race, or signature of a person, if the electronically stored information was obtained from a driver's license record.

The House amended, approved and sent to the Senate **H.3911**. This bill provides a phased-in exemption from sales tax on food items eligible for purchase with US Department of Agriculture food coupons, not including restaurant meals. The bill provides that the sales tax on these food items will be 4% from January 1, 2000-December 31, 2000; 3% from January 1, 2001-December 31, 2001; 2% from January 1, 2002-December 31, 2002; and 1% from January 1, 2003-December 31, 2003. The bill requires that for fiscal years 1999-00 through 2003-04, general fund revenues must be credited to the EIA fund in amounts sufficient to ensure that EIA revenues attributable to food sales are not less than such revenues in fiscal year 1998-99. The bill requires that 80% of the revenues from these sales taxes must be credited to the state general fund and used as sales taxes are used, and the remainder must be credited to the Education Improvement Act Fund. The bill also provides that, except where otherwise exempt, the local sales and use taxes authorized by law continue to apply to those sales subject to the reduced state rate of tax provided in this bill. The House approved an amendment to the bill which also provides a state sales and use tax exemption for cooperative direct mail promotional advertising materials, such a packets of discount coupons, advertising leaflets, etc.

The House amended, approved and sent to the Senate **H.3267**. This bill, as amended, provides an exemption from sales and use tax for prescription eyeglasses and contact

lenses and raw materials used in the fabrication of such lenses (but *not* including eyeglass frames) and other specified items and equipment used in aiding the mobility of physically disabled persons. The House also amended the bill by adding an exemption for hospital beds.

The House amended, approved and sent to the Senate **H.3789**, "The Tobacco Escrow Fund Act." The bill establishes a reserve fund to guarantee an eventual source of recovery from tobacco product manufacturers who are not a party to the Master Settlement Agreement between the state of South Carolina and other tobacco product manufacturers (signed November 23, 1988 by the State and leading tobacco manufacturers in the United States). The bill requires each tobacco product manufacturers who sells cigarettes to consumers within this state to either: (1) participate in the Master Settlement Agreement, or (2) place funds in an escrow account according to a payment plan that is based on the number of tobacco product units sold. These funds may be withdrawn from the escrow account to pay a future judgement or settlement. A tobacco product manufacturer who places funds in the escrow account shall receive the interest or other appreciation on such funds as earned. If, during a given year, a tobacco product manufacturer paid more into the escrow account than would have been owed if the manufacturer had been participating in the Master Settlement Agreement, the excess funds are to be returned to the tobacco product manufacturer. If funds held in escrow are not released to pay a judgement or settlement, etc., funds shall be released and returned to tobacco product manufacturers twenty-five years after the date they were first placed in escrow. The legislation requires tobacco product manufacturers who are placing funds in escrow to annually certify to the Attorney General that they are in compliance with the legislation. Any tobacco manufacturer who fails in any year to place the required funds into escrow will be notified by the Attorney General who may bring a civil action against the manufacturer. The court may impose a civil penalty not to exceed 5% of the amount improperly withheld from escrow per day of the violation and in total not to exceed 100% of the original amount improperly withheld from escrow. For known violations, the penalty is up to 15% of the improperly withheld amount and a total of up to 300% of the original amount improperly withheld from escrow. If a manufacturer knowingly withholds funds a second time, the manufacturer will be prohibited from selling cigarettes to consumers in this state for up to two years and must pay reasonable costs and attorney's fees incurred by the State for enforcement of the fund.

The House concurred in Senate amendments to **H.3579** and enrolled the bill for ratification. The bill provides for the implementation of a statewide uniform grading system which the state's public schools are to use instead of the grading systems adopted by individual school districts. The bill directs the State Board of Education to establish a task force composed of superintendents, principals, teachers, and representatives of school boards and higher education, no later than June 30, 1999, to make recommendations concerning such particulars as consistent numerical breaks for letter grades; standards for defining an honors course; appropriate weighting of courses; and determination of courses and weightings to be used in the calculation of class rank. The task force must make its recommendations to the Board no later December 1, 1999. School districts must begin using the standards adopted by the Board no later than the 2000-2001 school year.

The House concurred in Senate amendments to **H.3158**, the "South Carolina Religious Freedom Act," and enrolled the bill for ratification. This bill prohibits the State or its political subdivisions from substantially burdening an individual's exercise of religion unless the State or political subdivision can prove that it's actions are 1) in furtherance of a compelling state interest, and 2) the least restrictive means of furthering that compelling state interest. This bill allows a person, whose exercise of religion has been burdened by the State or any of its political subdivisions, to assert the violation as a claim or defense in a judicial proceeding.

Furthermore if the person prevails, he or she is entitled to attorney's fees and costs. **H.3158** does not affect, interpret, or in any way address the portions of the federal or state constitutions prohibiting laws respecting the establishment of religion. Granting state funding, benefits, or exemptions to the extent permissible under either the federal or state constitution is not a violation of this bill. The legislation has a provision which specifically addresses the way in which the act is to be applied with regard to those incarcerated in correctional facilities. Under the provision, an action by a state or local correctional facility which interferes with a prisoner's exercise of religion is to be considered in furtherance of a compelling state interest if the facility demonstrates that: (1) the religious activity proposed by the prisoner is presumptively dangerous to the prisoner; or (2) the proposed religious activity poses a direct threat to the health, safety, or security of other prisoners, correctional officials, or the public. A correctional facility's regulation may not be considered the least restrictive means of furthering a compelling state interest if a reasonable accommodation can be made to protect the safety or security of prisoners, correctional officials, or the public.

The House approved and enrolled for ratification **S.706**. This bill provides counties and municipalities an extension on the time by which they must comply with provisions related to zoning and planning authority imposed under the South Carolina Comprehensive Planning Enabling Act of 1994. Under the 1994 Act, local governments must be in compliance by May 3, 1999, and pre-existing state and local provisions are repealed. The bill extends the effective date to December 31, 1999.

The House concurred in Senate amendments to **S.36** and enrolled the bill for ratification. This bill requires a person serving in an office elected by the General Assembly, who is not seeking re-election, to give written notice of his or her decision not to seek re-election to the joint committee for the review of candidates. Under this bill, the notice must be given at least thirty days before the last date for filing for that office. If the notice is given less than thirty days before the last date for filing for that office, the bill allows the joint committee to reopen or extend the time period for filing for that office.

The House approved and enrolled for ratification **S.728**, The Automated External Defibrillator Act. Under this bill, a person or entity that acquires an automated external defibrillator (AED) must: require its designated AED users to have current training in CPR and AED used by the American Heart Association, American Red Cross, or National Safety Council; maintain and test the AED according to the manufacturer's operational guidelines and keep written records of maintenance; employ or obtain a health care professional to serve as its AED liaison; have in place an AED program approved by its AED liaison; include in its AED protocol or guidelines that a person who renders emergency care using an AED must activate the emergency medical services system or 911 as soon as possible; report any clinical use of the AED to the AED liaison. Any person or entity 1) acting in good faith, and 2) acting gratuitously is immune under this bill from civil liability for the application of an AED, unless the person or entity was grossly negligent. Under the bill, a person or entity acquiring an AED and meeting the above-requirements shall be immune from civil liability for the application of an AED. A prescribing doctor shall be immune from civil liability for authorizing the purchase of an AED, unless the authorization was grossly negligent. This bill does not apply to emergency medical services, a doctor's office, or a health care facility.

The House concurred in Senate amendments to **H.3445** and enrolled the bill for ratification. The bill repeals the current \$120 million limit on outstanding state institution bonds, and instead provides that the maximum amount of annual debt service on all outstanding state institution bonds for each state institution shall not exceed ninety percent of the sums received by such state institution from tuition fees for the preceding fiscal year as provided in the South Carolina Constitution.

The House approved and enrolled for ratification **S.358** which provides that the Department of Natural Resources may issue individual tags for taking antlerless deer statewide, except on properties receiving antlerless deer quota permits.

The House amended, approved and sent to the Senate **H.3759**, a bill which allows persons engaged in commerce in South Carolina that suffer economic loss as a result of a Year 2000 problem the opportunity to recover the economic loss while providing persons responsible for the Year 2000 problem a safe harbor from unlimited liability.

The House approved and sent to the Senate **H.3782**, The South Carolina Conservation Incentives Act. This bill which allows an income tax credit equal to twenty-five percent of the value of a federal income tax charitable deduction for a qualified conservation contribution of a qualified real property interest located in South Carolina. The bill caps the credit, and provides for carry-forward and transfer of any unused credit. The bill also creates the "Conservation Grant Fund" (the Fund), consisting of any monies appropriated to it by the General Assembly and other monies received from public or private sources, and provides for board authority, oversight and administration of the Fund. The bill requires that revenues in the Fund be used only to: defray administrative costs in administering the provisions of the bill; provide education on conservation easements; make conservation grants. The bill delineates specific costs for which grants from the fund may be used, and prohibits using these funds to pay the purchase price of any interest in real property. The bill also amends the SC Probate Code relating to transactions authorized for personal representatives for the benefit of the interested persons, so as to authorize a personal representative or trustee, as applicable, with the consent of all affected parties, to make a donation of a qualified conservation easement to obtain a federal estate tax and state income tax credit benefit. The bill also provides for the method to obtain the consent of persons otherwise unable to give such consent.

The House approved and sent to the Senate **H.3411**. This bill amends *South Carolina Code of Laws* §56-5-6240, relating to the forfeiture, confiscation, and disposition of vehicles seized from a person convicted of driving under the influence of intoxicating liquors or drugs, or while his or her license is suspended. This bill revises the procedure to dispose of a forfeited vehicle, if the person fails to file an appeal within ten days of his or her conviction. This bill provides that a sheriff or chief of police may contract with a private attorney to provide an individual with representation in a vehicle forfeiture proceeding. This bill further provides that attorney costs must be paid from the proceeds of the sale of the vehicle.

The House amended, approved and sent to the Senate **H.3420** bars suits by any party (including the State and its political subdivisions) against a firearms manufacturer, trade association, or dealer; or, ammunition manufacturer, trade association, or dealer for cases arising out of or resulting from the marketing, design, or lawful distribution and sale of firearms or ammunition to the public. However, this bill does not prohibit (1) actions for breach of contract or warranty, or (2) products liability actions arising out of the malfunction or improper design of any device that results in personal injuries uncommon to the normal and intended functioning of a firearm or ammunition.

The House amended, approved and sent to the Senate **H.3632** which amends the definition of "military firearm" so as to exclude pistols, rifles, and shotguns that fire only one shot for each pull of the trigger.

The House amended, approved and sent to the Senate **H.3403**. The bill provides that all money decrees and judgments of courts enrolled or entered shall draw interest according to

law. Under the legislation, the legal interest is 10% a year. Currently, the legal interest rate on accounts and monetary decrees and judgments is 14% per annum.

The House amended, approved and sent to the Senate **H.3361**. When a distribution in kind is made, the personal representative (PR) of the decedent's estate must execute an instrument or deed of distribution assigning, transferring, or releasing the assets. The bill, as amended, requires the deed of distribution to indicate: (1) that the estate's administration over the asset or assets has been completed, and (2) that the distributee's title to the asset or assets as prescribed and transferred by last will and testament or the statute of descent and distribution is confirmed without further obligation to the estate. The bill also provides that, prior to the recording of the deed: (1) the probate judge must examine the deed of distribution to determine that the grantee and grantor names are correct; (2) the deed of distribution must be accompanied by an affidavit from a licensed attorney asserting that the names are correct. The House approved an amendment which requires the deed of distribution to have the seal of the probate court stamped upon the first page; the stamp is required to have the deed recorded. The House amended **H.3361** to provide that the failure of a PR to give a deed of distribution does not affect the validity of the administration of the estate because the title to any asset passed according to *South Carolina Code of Laws* §62-3-101 and not by the deed of distribution. However, the proposed amendment does provide that the failure of a PR to give a deed of distribution constitutes a breach of the PR's duties. The House approved and sent to the Senate **H.3717** which conforms the licensure and regulation requirements for liquid petroleum gas dealers, transporters, and equipment installers to the uniform statutory framework for boards and commissions under the jurisdiction of the Department of Labor, Licensing and Regulation. The legislation makes various other revisions for dealers, transporters and installers of liquid petroleum products including propane, methane, and butane. The bill increases the membership of the revised Liquid Petroleum Gas Board from five to seven. The legislation also provides for such revisions as a new licensing classification for cylinder exchange facilities and an exemption for specialty contractors who are qualified to work with liquid petroleum gas containers. The House approved an amendment to the bill which provides that the licenses issued to individuals working in the liquid petroleum industry are to be renewed on a biennial, rather than an annual, basis.

The House amended, approved and sent to the Senate **H.3833** which allows the State Treasurer to authorize a state agency to accept electronic forms of payment including debit cards, bank debits or credits, or electronic purse options. These electronic payments may only be accepted in the course of an electronic commerce transaction, in which the business transaction is conducted by means of the internet, interactive voice response, or other fully electronic means. The bill provides that processing fees may be withheld from revenues collected.

The House approved and sent to the Senate **H.3951**. This bill exempts from those acts that are prohibited in an establishment licensed to sell beer or wine, promotional games conducted in connection with the sale or promotion of a consumer product or service in which no entry fee or purchase is required of a participant and this no fee or purchase requirement is clearly disclosed.

The House amended and sent to the Senate **H.3649**. This bill, as introduced, amends the statutory definition of "new job" for purposes of claiming the job tax credit, by adding to the definition a job reinstated after the employer has rebuilt a facility due to involuntary conversion, by eminent domain or condemnation, of a prior existing facility. The House amended the bill by adding a provision stating that for a qualifying project under SC Code Section 12-20-105 (B)(2) (a project consisting of an office, business, commercial,

or industrial park which is constructed by a county or political subdivision of this State) infrastructure improvements include industrial shell buildings and the purchase of land for an office, business, commercial, or industrial park which is constructed by a county or political subdivision of this State. The House amended the bill to provide a sales tax exemption and other tax incentives for semiconductors, flat panel displays, and liquid crystal displays.

The House approved and sent to the Senate **H.3836**. This bill makes numerous technical amendments, and makes consistent the language in the special sales tax provisions related to correction of errors, implementation dates, and distribution of funds. Proposed changes include: Amending the Local Capital Project Sales Tax Statute date for certification of referendum results; Amending the Local Capital Project Sales Tax statute by deleting the requirement for retailers to break out sales by city; Amending the Local Capital Project Sales Tax Statute by providing that allocations made as a result of city or county coding errors must be corrected prospectively; Amending the Local Capital Project Sales Tax statute by providing that the Department of Revenue shall remit to the State Treasurer any unidentified funds collected, which cannot be identified to any specific county; Amending the Local Transportation Tax Statute by changing the certification date of referendum results, changing the effective date after the referendum, and providing that allocations made as a result of city or county coding errors must be corrected prospectively; Amending the Local Transportation Tax Statute by providing for the Department of Revenue to remit to the State Treasurer unidentified collected funds which cannot be identified to a specific county, and providing for these funds to be distributed back to the local governments on a proportional basis; Amending the Local School District Tax by making a technical change and by also providing that allocations made as a result of city or county code errors must be corrected prospectively and must be distributed back to the local governments on a proportional basis; Providing that the Department of Revenue may expend funds resulting from any fees charged and retained and may carry these funds forward from one fiscal year to the next; Allowing disclosure of documentation concerning any claims or uncollected taxes or fees, and allowing disclosure of this information to the taxpayer's attorney.

The House amended, approved and sent to the Senate **H.3834**. This bill revises current law regarding fiscal impact statements for proposed legislation affecting counties or municipalities, by requiring the acquisition of a fiscal impact statement from the "Economic Research Section of the Budget and Control Board" rather than from the "Department of Revenue" as is currently required. The bill amends current law regarding income tax credit for corporate headquarters, by providing for determining the *per capita* income for purposes of calculating additional tax credit for creation of new headquarters by using "the most recent *per capita* income data available at the end of the taxable year the jobs are filled." Current law makes this determination by using as a basis *per capita* income "at the time the jobs are filled." The bill amends current law regarding retail license requirements by deleting the requirement that a festival be listed as a special event with the Department of Parks, Recreation, and Tourism. The bill also amends current law regarding the homestead exemption by providing that the Board of Economic Advisors, instead of the Department of Revenue, estimate the total school tax revenue loss from the exemption. The bill amends current law regarding time limitations for assessment of taxes by increasing from thirty to ninety the number of days a corporation has to file a claim for refund after an adjustment to its taxable income is made by the Internal Revenue Service. The bill also updates the Federal Code through December 31, 1998 and makes other technical, conforming, and clarifying amendments.

The House amended, approved and sent to the Senate **H.3218**. This bill makes confidential the information that is provided by a taxpayer to a county or municipality in a report, tax return, or application required to be filed by the taxpayer. However, this bill does not prohibit

1) the publication of statistics, 2) the inspection of reports, returns, or applications by persons connected with audits of the taxpayer, 3) appeals by the taxpayer, 4) and collection efforts. Penalties are established for failure to comply. **H.3218** amends *South Carolina Code of Laws* §12-54-240, relating to the confidentiality requirements of state tax returns, so as to extend these confidentiality requirements to the admissions license tax. **H.3218** amends *South Carolina Code of Laws* §30-4-440, relating to matters exempt from disclosure under the Freedom of Information Act, so as to make its provisions conform to the new confidentiality provisions in this bill.

The House amended and sent to the Senate **H.3640**. When a person's criminal charge has been discharged, dismissed, or when the person has been found innocent of a criminal charge, this bill requires the clerk of court to destroy certain records. Also under the bill, the clerk of court is prohibited from retaining certain records. The amendment approved by the House changes the wording of the bill from "innocent" to "not guilty."

The House approved and sent to the Senate **H.3525**, a bill that revises the definition of the term "bail bond runner." Under this bill, a bail bond runner may execute bonds on behalf of a licensed bondsman when a power of attorney has been recorded.

The House approved and enrolled for ratification **S.328**. In the case of nonprofit long-term care retirement or life care facilities where there are co-owners, this bill provides that a β vote of the co-owners suffices to waive the regime and regroup or merge the records of the individual apartments with the principal property so long as: the individual apartments are unencumbered, or if encumbered, the creditors in whose behalf the encumbrances are recorded to agree to accept as security the undivided portions of the property owned by the debtors.

The House returned **S.488** to the Senate with amendments. This bill, as amended, provides that pursuant to written policy adopted by the governing board of a public institution of higher learning, the institution may expend funds from revenues derived from athletics, student contests, student organizations, operations of canteens and bookstores, approved private practice plans and all nonappropriated state funds, for events which recognize academic and research excellence and noteworthy accomplishments of members of the faculty and staff, students, and distinguished guests of the institution. Such an expenditure of funds is considered to meet the public purpose test for the expenditure of public funds. The bill provides that approved written policies are to be sent to the Commission on Higher Education.

The House approved and sent to the Senate **H.3904**. This bill is implementing legislation for the amendment to Article X, Section 11 of the SC Constitution to be ratified by the General Assembly authorizing the investment and reinvestment of endowment funds of state-supported institutions of higher learning. The bill provides for fiduciary duties, investment plans, and responsibilities; provides for the use of a specified annual plan in determining each institution's investment plan; designates the board of trustees of each institution as trustee for the funds held by the State Treasurer, and the State Treasurer as the agent of each trustee for the purpose of carrying out each institution's investment plan; provides for trustees' duties, powers, investment considerations, and liability; provides for periodic reports from the State Treasurer to the respective Boards of Trustees, and authorizes the State Treasurer to invest the funds as directed by the trustees of each institution; provides for Freedom of Information Act exemptions for certain records and executive sessions, under certain conditions.

The House amended and sent to the Senate **H.3118**. This bill adds to the *SC Code of Laws* a section providing for the applicable contribution rates with respect to the computation of the statewide reserve ratio for employer contributions to the State Unemployment Compensation Fund, for the period 1/1/99 through 12/31/99, and for each such annual period thereafter. The rates as provided in the bill are based on the resultant percentage of the employer's reserve balance divided by the annual payroll.

The House amended the bill by lowering the statewide reserve requirements from 3% to 2% of total wages; establishing a single base rate; and establishing a new mechanism which would be effective if the "statewide reserve ratio" falls below 2% of total wages.

The House amended and sent to the Senate **H.3748**. This bill amends current law regarding Lease Purchase or Financing Agreements being subject to applicable constitutional debt limitations, so as to conform the treatment of a lease purchase agreement for energy efficiency products and a guaranteed energy savings contract in the calculation of the debt limit specifically excluding them from those types of agreements subject to the debt limit. The House amended the bill by specifying that no such lease agreement or contract shall constitute in any manner an agreement, consent, authority, or otherwise to provide retail sales of energy by an energy or power provider or creates the authority to sell or provide retail energy or power.

The House approved and sent to the Senate **H.3888**. This bill revises the manner of selection and conditions of service for commissioners of Municipal Housing Authorities and Regional Housing Authorities. With regard to Municipal Housing Authorities, the bill provides that no less than five nor more than seven persons are to be selected to serve as commissioners for an Authority. The bill provides that one of these commissioners must be a person directly assisted by the Authority. With regard to the commissioner who is directly assisted by the Authority, the bill provides for the terms of his office, conditions of service, the matters which disqualify him from voting, and for conditions under which he is removed from office. With regard to commissioners of Regional Housing Authorities, the bill provides that if the area of operation for such an authority consists of an even number of counties, the commissioners of the authority appointed by the Senators of such counties shall appoint not less than one nor more than three persons as commissioners, rather than appointing one additional commissioner. At least one of the commissioners appointed under these circumstances shall be a person who is directly assisted by the Authority. The bill provides for the term of office and conditions of service for the directly-assisted commissioner and specifies the manner in which he is to be removed from office. Under the bill, the directly-assisted commissioner must remain an assisted resident in order to continue to serve on the Board of Commissioners. If the individual vacates or is evicted from the assisted housing unit, he is, under the bill, automatically removed from the board without opportunity to contest the removal or be heard on the matter.

The House amended and sent to the Senate **H.3522**, which allows the Medical University of South Carolina Board of Trustees to purchase, sell, or lease real and personal property, in accordance with the State Procurement Code.

The House amended and sent to the Senate **H.3705**. Current state law does not require the person who is appointed to the county veterans' affairs officer position to be a veteran. This bill would require that the county veterans' affairs officer position be filled by a qualified veteran or a qualified nonveteran if the veteran under consideration has lesser qualifications than the nonveteran. This bill would also require that all county veterans' affairs officers successfully complete a comprehensive course of training and be issued accreditation within two years following initial appointment, either through the Division of Veterans' Affairs or through an accredited national veterans' service organization. Refresher training would be

required every four years in order to maintain accreditation. Any county veterans' affairs officer who does not complete the required training and receive accreditation within the first two years of being appointed would be ineligible for reappointment.

The House amended and sent to the Senate **H.3357**. This bill amends the Joint Municipal Water Systems Act (SC Code of Laws, Title 6, Chapter 25). A "joint municipal water system" is currently defined as a public body corporate and politic whose members' governing bodies have agreed to create a system to undertake the impounding, acquisition, treatment, production, transmission, distribution, service, and sale of water to a municipality which is a member of the system and other municipalities, and persons which are not members when approved by the governing body of each member. The bill provides that the members may also create a water system for the purpose of creating a *financing pool*. A "financing pool" is defined in the bill as a fund of money, obtained through the issuance of a construction note of a joint municipal water system, which may be loaned to the members of it by way of interim financing. A joint municipal system created for this purpose may issue from time to time its construction notes for the purpose of creating a financing pool and providing funds to defray the cost of administration of the financing pool and the costs of issuance of the construction notes. The bill provides for issuance of and uses of the proceeds from construction notes and for use of monies in a financing pool. The bill provides that the income of a joint system is exempt from state taxes, and that none of the income, profits, or assets of a joint system may inure to the benefit of any individual or private entity.

The House amended and sent to the Senate **H.3835**. This bill, as amended, makes numerous technical and clarifying changes to current tax law.

The House approved and sent to the Senate **H.3779** which revises the definition of "serious injury" under the South Carolina Amusement Riders Safety Code so as to provide that a serious injury is an injury that results in death or requires immediate in-patient hospitalization. Under the new definition provided in the bill, a fracture or disfigurement is considered a serious injury even if no hospitalization is required. Current law provides that a "serious injury" is an injury that requires medical treatment, other than first aid, by a physician.

A conference committee was appointed to reconcile differences with the Senate on **S.27**, a bill prohibiting the use of live animals as prizes and incentives.

The House amended, approved and sent to the Senate **H.3617**. This bill rewrites, revises, and amends the laws governing commercial and recreational saltwater fishing. Inadequate, ambiguous, or unenforceable laws are rewritten or eliminated. Provisions that apply only to certain geographical areas are removed. DNR retains jurisdiction over fishing in saltwater and over anadromous resources in freshwater. Matters that DNR must consider in promulgating regulations are expanded. Resident and non-resident individual commercial fisherman licenses and fees are instituted. These licenses allow a fisherman to sell what he catches. Additional changes are proposed dealing with shellfish, anadromous fisheries, recreational harvesting, seafood and market, fishing equipment, and vessels. Violations and penalties are also modified.

The House amended, approved and sent to the Senate **H.3393** which provides that a certificate of title on watercraft may not be transferred if the Department of Natural Resources has notice that property taxes are owed on the watercraft or outboard motor. The House approved an amendment which would provide that the transfer would be denied if property taxes payable by the current owner within the past three years are owed on the watercraft or outboard motor. The House also amended the bill to provide that, as of the

Legislative Update, May 4, 1999

date of sale, the bill of sale or title to watercraft or an outboard motor shall require certification that property taxes have been paid by the current owner.

The House approved and sent to the Senate **H.3960** which provides that live nongame fish and bream may be used with single-barbed set hooks.

The House approved and sent to the Senate **H.3909** which repeals the section of the SC Code which provides that it is unlawful to take or possess large-mouth bass less than twelve inches in length in Lake Robinson located in Chesterfield and Darlington Counties.

The House approved and sent to the Senate **H.3783** which transfers Calhoun County from the third game zone, comprised of Aiken, Lexington, and Richland Counties, to game zone six. Berkley, Charleston, Dorchester, and Orangeburg counties currently make up game zone six.

SENATE FLOOR

HIGHLIGHTS OF THE BUDGET AS PASSED BY THE SENATE

- did not appropriate funds from anticipated video poker revenues, but did fund numerous projects from “undesignated surplus” funds (“wish list”)
- approved a state employee pay increase, effective July 1, of 3% cost of living adjustment and 1% merit (House plan includes 2% cost of living adjustment, 2% merit)
- approved an appropriation of 5.7 million dollars to fund increasing the senior citizen’s individual income tax exemption to \$15,000 (also included in House budget)
- included 20 million dollars in the base budget to fund the Governor’s First Steps to School Readiness Program (House funded the program at 10 million dollars from video poker revenue)
- authorized the issuance of state capital improvement bonds for projects at higher education institutions, state agencies (including funds for State Ports Authority harbor dredging), and public education (includes 15 million dollars for school buses and maintenance vehicles)
- included a Part II (permanent) proviso enacting the “State School Facilities Bond Act” which authorizes the issuance of 750 million dollars (250 million dollars for 1999-2000) in state school facilities bonds for school building needs

FRIDAY, APRIL 23, 1999

S.749, was read for the third time and ordered sent to the House. This bill authorizes the Department of Revenue to extend individual income tax returns and individual income tax payment due dates for military personnel serving in Operation Allied Force.

TUESDAY, APRIL 27, 1999

Legislative Update, May 4, 1999

The House returned **S.620**, a joint resolution prohibiting the Department of Public Safety from selling or otherwise furnishing information obtained from a driver's license record, with amendments. The Senate amended **S.620**, read the bill for the third time, and order the bill returned to the House with amendments.

H.3158, a bill enacting the "South Carolina Religious Freedom Act," was read for the third time and ordered returned to the House with amendments.

H.3829, a bill relating to the composition of the Gleams Human Resources Commission, was read for the third time and having received three readings in both Houses, it was ordered that the title be changed to that of an act and it enrolled for ratification.

The following bills were read for the third time and ordered sent to the House:

- **S.85**, a bill pertaining to witnesses permitted to view an execution
- **S.618**, a bill providing for an inmate health care ombudsman
- **S.126**, a bill requiring the testing of offenders that expose their victims to body fluids
- **S.250**, a bill relating to ethics and campaign practices
- **S.470**, a bill relating to eavesdropping, peeping, and voyeurism
- **S.505**, a bill amending the definition of "military firearm"
- **S.704**, a bill providing for Special Department of Public Safety Constables
- **S.746**, a bill allowing multiple polling places within a precinct

S.725, a bill pertaining to child support enforcement and collection, was amended and read for the third time, and ordered sent to the House.

The following bills were made Special Orders:

- **S.661**, a bill establishing the "South Carolina Title Lenders Act"
- **S.544**, a bill pertaining to the operation of a motor vehicle while under the influence of alcohol
- **S.12**, a bill enacting the "Farm and Forest Lands Protection Act"

S.695, a bill relating to absentee ballots, was read for the second time.

By prior motion of Senator Moore, with unanimous consent, **H.3002** was read for the second time, passed and ordered to a third reading with notice of general amendments, carrying over all amendments to third reading. By prior motion of Senator Moore, with unanimous consent, the bill remained in the status of interrupted debate. Note that **H.3002**, as passed by the House, enacts the "Gambling Cruise Prohibition."

WEDNESDAY, APRIL 28, 1999

The House insisted upon its amendments to **S.27**, a bill relating to live animals as prizes and inducements to enter contests, games, and other competitions. Senators Leventis, Jackson, and Waldrep were appointed to the Committee of Conference.

The Senate concurred in the House's amendments to the following bills:

- **S.56**, a bill revising the enforcement mechanisms for ensuring that the utilities regulated by the Public Service Commission provide adequate and proper water and sewer service
- **S.539**, a bill eliminating certain countersignature requirements imposed upon insurance business

Legislative Update, May 4, 1999

The following bills were read for the third time and ordered sent to the House:

- **S.558**, a bill establishing the South Carolina Indian Affairs Commission
- **S.758**, a bill relating to the designation of voting precincts in Richland County
- **S.543**, a bill pertaining to jury areas for magistrates' courts in Lancaster County

The following bills were amended, read for the third time, and ordered sent to the House:

- **S.351**, a bill relating to recording satisfaction or cancellation of a mortgage
- **S.206**, a bill pertaining to the Department of Revenue and the sale of alcoholic beverages
- **S.284**, a bill relating to sexually violent predators

The Senate resumed its interrupted debate on **H.3002** with the question being the adoption of Amendment No.P-1. This proposed amendment, among other things, provides for a statewide referendum to be conducted at the time of the general election in the year 2000 to ascertain whether or not video game payouts will continue to be allowed in South Carolina. Debate was interrupted by adjournment with Senator Ryberg retaining the floor.

THURSDAY, APRIL 29, 1999

The following bills were read for the third time and ordered sent to the House:

- **S.757**, a bill enacting "The South Carolina Vacation Rental Act"
- **S.721**, a bill pertaining to the Second Injury Fund
- **S.304**, a bill enacting "The South Carolina Dietetics Practice Act"
- **S.764**, a bill establishing a Task Force to Study Civil Cases in Circuit and Magistrates Courts
- **S.561**, a bill pertaining to special motor vehicle license plates for County Veterans' Affairs Officers
- **S.697**, a bill relating to municipal and regional housing authorities
- **S.726**, a bill pertaining to pharmacies and pharmacists
- **S.739**, a bill 1) relating to the tobacco economy and 2) creating the South Carolina Tobacco Community Development Board

The following bills were amended, read for the third time, and ordered sent to the House:

- **S.619**, a bill establishing an Electronic Equipment Recycling Program
- **S.139**, a bill pertaining to body piercing
- **S.226**, a bill relating to political subdivisions and municipal corporations (Note that the Committee Amendment to this bill was tabled)
- **S.434**, a bill pertaining to 1) deferred presentment services, 2) check cashing services, 3) fraudulent checks, and 4) banks and savings and loans

S.753, a bill relating to wildlife management areas, was given second reading with notice of general amendments.

The Senate adopted a committee amendment and gave second reading to **S.581**, a bill deleting the prohibition against the sale of malt liquor in containers greater than one liter.

The Senate resumed its interrupted debate on **H.3002** with the question being the adoption of Amendment No.P-1. This proposed amendment, among other things, provides for a

statewide referendum to be conducted at the time of the general election in the year 2000 to ascertain whether or not video game payouts will continue to be allowed in South Carolina. Amendment No. P-1 was laid on the table. The Senate proceeded to a consideration of Amendment No. P-8, and it was also laid on the table. Debate on **H.3002** was interrupted by adjournment.

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 full Judiciary Committee did not meet this week; the meeting scheduled for April 28, 1999 was canceled.

On April 20, the Judiciary Committee gave a favorable report with amendment to **H.3218**. However, the Judiciary Committee's proposed amendment was not available in time to be included in last week's *Legislative Update* (April 27, 1999). This bill makes confidential the information that is provided by a taxpayer to a county or municipality in a report, tax return, or application required to be filed by the taxpayer. However, this bill does not prohibit 1) the publication of statistics, 2) the inspection of reports, returns, or applications by persons connected with audits of the taxpayer, 3) appeals by the taxpayer, 4) and collection efforts. Penalties are established for failure to comply.

H.3218 amends *South Carolina Code of Laws* §12-54-240, relating to the confidentiality requirements of state tax returns, so as to extend these confidentiality requirements to the admissions license tax.

H.3218 also amends *South Carolina Code of Laws* §30-4-440, relating to matters exempt from disclosure under the Freedom of Information Act, so as to make its provisions conform to the new confidentiality provisions in this bill.

The Judiciary Committee's proposed amendment to **H.3218** adds a clause to the bill which provides that "[t]he Act takes effect upon approval by the Governor."

On April 20, the Judiciary Committee gave a favorable report with amendment to **H.3216**. However, the Judiciary Committee's proposed amendment was not available in time to be included in last week's *Legislative Update* (April 27, 1999). The introduced version of the bill provides that the Director of the Department of Corrections (Director) must deduct from a prisoner's wages the amounts required by law for federal and state tax withholdings. This bill establishes a distribution plan for the remainder of a prisoner's wages so as to include

Legislative Update, May 4, 1999

payments for victim restitution, child support, prisoner room and board, prisoner incidentals, and prisoner escrow account.

The Judiciary Committee's proposed amendment for **H.3216** rewrites the bill. The proposed amendment requires the Director to deduct the following amounts from the gross wages of a prisoner:

- 20% to fulfill restitution obligations

if no restitution has been ordered to a particular victim then the 20% must be placed on deposit with the State Treasurer for credit to a special account to support victim assistance programs

- 20% to pay the prisoner's child support obligations

if there are no child support obligations, then

one-half of the 20% must be used by the Department of Corrections to defray the cost of the prisoner's room and board

the other half of the 20% must be made available to the inmate for the purchase of incidentals

- 15% must be made available to the inmate for the purchase of incidentals
- 10% must be held in an interest bearing account for the benefit of the prisoner

a prisoner may receive the escrowed wages when released without community supervision

a prisoner serving life in prison has the option of having escrowed wages included in his or her estate or distributed to the persons or entities of his or her choice

a prisoner released to community supervision may receive \$200.00 or the escrow balance, whichever is less, upon release

- remaining balance must be used to pay federal and state taxes required by law

any monies not used to satisfy federal and state taxes must be made available to the inmate for the purchase of incidentals

On April 20, the Judiciary Committee gave a favorable report with amendment to **H.3419**, a bill creating the "South Carolina Shooting Range Protection Act of 1999." However, the Judiciary Committee's proposed amendment is still not available.

LABOR, COMMERCE, AND INDUSTRY

The full Labor, Commerce and Industry Committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

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

WAYS AND MEANS

The committee gave a recommendation of favorable with amendment to **H.3037**. This bill would be effective upon ratification of a constitutional amendment to Section 14, Article X of the SC Constitution, authorizing counties to incur indebtedness for redevelopment projects (as municipalities currently do).

As introduced, the bill provides for implementation of such authorization and provides for the payment of such indebtedness from added increments of tax revenues. The bill defines "redevelopment projects" as any buildings, improvements, including street improvements, water, sewer and storm drainage facilities, parking facilities, and recreational facilities. Also, the bill provides that any project authorized under SC Code of Laws Section 6-21-50 (*Revenue Bond Act for Utilities - Authorized Public Works Which May be Purchased or Constructed*) may also qualify as a redevelopment project. All such projects are to be owned by the county.

The bill, as introduced, also provides that the millage rate for an area under the Tax Increment Financing Law will be calculated using the base assessment of the Tax Increment Financing Law should a municipality annex into a Tax Increment Financing District., as introduced, authorizes counties to incur indebtedness for redevelopment projects, provides for implementation of such authorization, and provides for the payment of such indebtedness from added increments of tax revenues.

The committee recommended amending this bill by allowing each taxing district to decide to exclude all or a portion of their property tax revenue for a particular project; and providing for notice to be given and allowing for consent options if any part of the proposed redevelopment district lies within an area within two miles of the boundary of any incorporated municipality. The committee amendment also addresses urban sprawl.

The committee gave a favorable recommendation with amendment to **H.3641**, the "South Carolina Development Impact Fee Act." This bill, as introduced, authorizes a qualifying county or municipality, under certain conditions, to impose a "development impact fee." As defined in the bill, a "development impact fee" or "impact fee" is a payment of money imposed as a condition of development approval to pay a proportionate share of the cost of system improvements needed to serve the people utilizing the improvements. The stated overall purpose of the bill is to avail counties and municipalities of an additional source of revenue to address growth issues.

The bill provides conditions which a governmental entity must meet before imposing an impact fee, including but not limited to preparation of a report estimating the effect of impact fees on the availability of affordable housing, and passage of an ordinance by a positive majority. The bill specifies a process which must precede adoption of such an ordinance, provides information which must be included in the ordinance, and provides for determination of the amount of the impact fee and for the effective date of the fee.

The bill allows local planning commissions (established under current law to undertake a continuing planning program for the growth, development, and redevelopment of the area within its jurisdiction) to establish a development impact fee advisory committee. The bill provides for the membership of this advisory committee and specifies the areas for which the committee's advice and recommendations are requested.

After receiving the advisory committee's recommendations, the local planning commission must recommend to the governmental entity a capital improvements plan, which the governmental entity may amend or alter. In general, the capital improvements plan identifies capital improvements for which development impact fees may be used as a funding source. The bill specifies certain information which must be included in the plan, and provides a process for adoption of an ordinance to approve it.

The bill provides for computation and payment of the impact fees, which may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve the new development. The bill also specifies structures and activities which are exempt from impact fees, and provides for administrative appeals, payment under protest, and mediation in the event of disagreement between the developer or fee payor and the governmental entity.

The bill limits the use of revenues from impact fees to system improvements within or for the benefit of the service area for which the impact fee was imposed. The bill also delineates circumstances under which an impact fee must be refunded, and provides the method for payment of any such refund. The bill also provides for fund sharing between the governmental entity and certain other units of government that have the responsibility of providing the service for which an impact fee may be imposed.

The committee recommended amending the definition for the terms "capital improvements," "development," "development impact fee," "public facilities," and "service unit." The committee also recommended amending the conditions which a government entity must meet before imposing an impact fee and amending the conditions of determining the impact fee. The committee also recommended amending the bill by: deleting the impact fee advisory committee; deleting language regarding a credit or reimbursement against other tax liabilities of the fee payor; deleting language that the impact fee must be refunded if service is available but not provided; and allowing a fee payor and developer to enter into an agreement with a governmental entity to provide for payments instead of impact fees for facilities or services. The committee also recommended amending the fund sharing provision between the governmental entity and other units of government.

The committee gave a favorable recommendation to **H.3359**. This bill provides that a motor home on which the interest portion of indebtedness is deductible pursuant to the Internal Revenue Code as an interest expense on a qualified primary or second residence is also a primary or second residence for purposes of *ad valorem* property taxation in this State and is considered real property rather than personal property for property tax purposes.

The committee gave a favorable recommendation with amendment to **H.3893**, and reported the bill out as a committee bill (**H.4017**). This bill, as introduced, amends current law regarding organization and powers of the Board of Trustees of the Medical University of South Carolina ("the Board"). The bill provides that the Board shall constitute the "Medical University Hospital Authority" ("the Authority") for the management and operation of the Medical University hospitals and clinics in order to provide a high level of management and operational flexibility to the authority and to remove the hospitals and clinics from central state program regulation of procurement, real property, and human resources. The bill sets forth duties and powers of the Board (as "the Authority") and exempts employees of the hospitals and clinics from State Budget and Control Board personnel administration, from the state employee Grievance Act, and from the State Procurement Code.

The committee bill (**H.4017**) also includes a provision (not included in **H.3893**) requiring that the Budget and Control Board provide approval for MUSC to sell, convey, lease, exchange, and otherwise dispose of its property.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.3996 BALD EAGLE AS OFFICIAL STATE BIRD OF PREY Rep. Limehouse

This bill designates the American bald eagle, *Haliaeetus Leucocephalus*, as South Carolina's official state bird of prey.

H.3981 PUBLIC BOATING ACCESS TO STATE WATERS Rep. Witherspoon

This bill mandates the Department of Natural Resources (DNR) to coordinate with county legislative delegations to provide adequate and safe public boat access to state waters. This responsibility includes acquisition of land, construction, operation and maintenance of ingress and egress.

S.670 DEER HUNTING PROHIBITED WITHIN 300 FEET OF RESIDENCE Sen. Elliott

It is unlawful to hunt deer within 300 yards of a residence without the permission of the landowner. This bill exempts persons taking deer pursuant to a DNR permit from the residence hunting restrictions.

S.591 DISSOLVED OXYGEN CONCENTRATION Sen. McConnell

This bill establishes statutory requirements for dissolved oxygen depression in a naturally low dissolved oxygen waterbody. If a party (or facility) seeks approval for a site specific effluent limit depression for dissolved oxygen concentration greater than 0.10 mg/l, the facility must notify the Department of Health and Environmental Control (DHEC) in writing. DHEC must publish a public notice in a statewide and local newspaper for the affected area in addition to the usual public notice procedures. A public hearing must take place if at least 20 citizens of the affected area request it.

The party seeking the new limit must conduct a study to determine natural dissolved conditions and to assess the ability of aquatic resources at the specific site. DNR and the United States Environmental Protection Agency must approve the methodology used in the study. Several federal agencies must review, comment, and concur on the design and results of the study before the limitation is implemented.

H.3998 DOMESTIC ANIMAL REGULATIONS Rep. Sharpe

This bill makes the county regulation of domestic animals chapter of the S.C. Code applicable to cats. Also, the bill requires animal shelters to thoroughly scan dogs and cats for any implanted microchip or similar device when the animal comes into or is accepted by the shelter. If the shelter must pay for the scanner, the shelter is not mandated to comply. Shelters are required to make a good faith effort to locate the owner of the dog or cat. If a dog or cat is adopted, the shelter may implant a microchip in the animal for identification.

The bill decreases from 21 to 5 days the time that the shelter must keep an unclaimed dog or cat before the shelter destroys it or turns the animal over to an organization established to care for these animals (i.e., Humane Society). The bill limits the methods of euthanasia for

dogs and cats to (1) Barbituric acid derivatives, (2) Carbon Monoxide gas, and (3) shooting only in emergency cases of extreme suffering or for the safety of people and other animals.

**H.4013 SOUTH CAROLINA GRAIN AND COTTON DEALERS
AND HANDLERS FUND Rep. Bowers**

This bill renames the South Carolina Dealers and Handlers Guaranty Fund to the South Carolina Grain and Cotton Dealers and Handlers Guaranty Fund. When a loss is incurred from cotton delivered to a cotton dealer in South Carolina, the producer may submit proof of loss to the Department of Agriculture for payment from the fund. The price for each pound of cotton must be for the fair market value on the day the loss occurred. The bill provides definitions for "cotton" and "cotton dealers," and provides for an initial assessment of \$1 for each bale of cotton delivered by producers to licensed cotton gins. The fee must be collected by the cotton gin at the time of settlement with the producers and must be reported by the gin to the South Carolina Department of Agriculture. For cotton ginned outside the state but delivered to a dealer licensed in South Carolina, the dealer must either collect the fund directly from the producer or deduct the amount from the sum due for sale of the cotton, at the option of the producer.

The Department of Agriculture shall collect assessments and investigate losses for which payment is requested. The State Treasurer is responsible for the investment of the fund. Once the fund reaches \$1 million, the \$1 assessment must be cut to \$.50 per bale of cotton. The assessment shall cease once the fund reaches \$3 million. The bill establishes assessment reporting dates and a 10% penalty for failure to report within 10 days after notice of assessment is mailed.

EDUCATION AND PUBLIC WORKS

H.3993 REGIONAL TRANSPORTATION AUTHORITY Rep. Rodgers

This bill addresses the activation and dissolution of a Regional Transportation Authority. The bill defines the new sources of revenue that require the activation of an Authority to be approved by the voters within a proposed service area. ("Service area" means the area served by the regional transportation authority and may be all or part of the area of jurisdiction of an authority, and must contain at least fifty thousand population.) The bill also provides that if a Regional Transportation Authority expands into a contiguous county, or municipality, the expansion must be approved by the voters in those counties and municipalities only. The bill also revises the law regarding powers and duties of a Regional Transportation Authority by deleting the current provision relating to Authority's preparation of a plan to coordinate public transportation services provided by each entity in the Authority's service area. The bill also amends current law relating to sources of funds that may be used to operate a Regional Transportation Authority. The bill adds to these sources a sales tax on gasoline, a tax per gallon of gasoline sold, or a general sales tax. The bill also deletes the current requirement that a majority of the members of the General Assembly representing a Regional Transportation Authority's service area must approve an increase in the motor vehicle registration fee.

H.3997 STINK BOMB PROHIBITION Rep. Harvin

This bill prohibits the possession of a stink bomb on school property or while attending a school activity. A student who violates this prohibition is subject to discipline as provided by school board policy.

**H.4000 SC EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999
Rep. Hamilton**

This bill authorizes the State Department of Education (the department) to grant waivers to schools and school districts from specified state statutory and regulatory educational requirements under certain conditions. Schools or school districts may be granted such waivers only if they have developed a reform plan, and if the waiver will assist the school or the district in reaching its educational goals. The bill includes requirements for the Department in monitoring and reviewing districts which receive waivers, and provides that the Department shall not approve a waiver application for a period exceeding five years. The bill prohibits the Department from granting waivers relating to maintenance of effort; comparability of services; parental participation and involvement; distribution of funds to local school districts; school attendance areas; and applicable constitutional requirements. The bill requires that the Department report to the General Assembly and the Governor on statutory and regulatory requirements that have been waived; the effect of the waivers upon state and local education reforms; and the performance of students affected by the waivers.

H.4014 PURPLE HEART LICENSE PLATES Rep. Neal

This bill provides that no fee may be charged for the special Purple Heart motor vehicle license plate.

H.4016 SCHOOL FOR THE DEAF AND BLIND Rep. Davenport

This bill increases the board of the School for the Deaf and Blind by three members. These three members must be parents of students or former students. One must be the parent of a blind child, one must be the parent of a deaf child, and one must be the parent of a multihandicapped child.

JUDICIARY

S.85 WITNESSES AT EXECUTIONS Sen. Thomas

Currently, counsel for the convict and a minister of the gospel may be present to witness the execution. This bill allows a convict to substitute one person for either his or her counsel or minister of the gospel, or two persons for both his or her counsel and minister of the gospel.

S.126 REQUIRED TESTING OF OFFENDERS THAT EXPOSE THEIR VICTIMS TO BODY FLUIDS Sen. Passailaigue

Upon the request of a victim (or victim's legal guardian) that has been exposed to body fluids during the commission of a criminal offense, this bill requires the solicitor to petition the court to have the offender tested for Hepatitis B and HIV. The bill outlines when a solicitor may petition the court and what the solicitor must demonstrate to obtain a court order for the testing. At the request of the victim or victim's legal guardian, the bill authorizes a court to order a follow-up HIV test for the offender if the initial HIV test was negative. The bill expressly provides that an offender may not be tested for Hepatitis B or HIV without a court order.

Under the bill, test results are confidential and may be disclosed only to the solicitor who obtained the court order. For the purpose of providing medical treatment, the bill requires the solicitor to disclose positive test results to the state or local correctional facility where the offender is imprisoned or detained and to the Department of Health and Environmental Control. The solicitor may also notify the victim or victim's legal guardian, the victim's attorney, the juvenile offender's parent or guardian, and the offender's attorney. Disclosure of the test results must be accompanied with a disclaimer stating that 1) the test results cannot determine infection by Hepatitis B or HIV with absolute accuracy, and 2) persons receiving test results should continue to monitor their health and seek additional testing in approximately six months.

If testing was not requested by the victim or victim's guardian and the offender was convicted or adjudicated delinquent, then the bill requires the court to order the offender to undergo testing for Hepatitis B and HIV.

The bill provides that the State shall pay for the tests. If the offender is subsequently convicted or adjudicated delinquent, under the bill the offender or the parents of the offender must reimburse the State for costs of the tests. Exceptions are provided in the event the offender or the offender's parents are indigent.

Upon a showing of probable cause that the offender committed a crime, the collection of additional samples, including blood, saliva, head or pubic hair, may be contemporaneously ordered by the court so that the State may conduct scientific testing, including DNA analysis. The results of the testing, including DNA analysis, may be used for evidentiary purposes in any court proceeding. Otherwise, the bill provides that test results may not be used as evidence in any criminal trial of the offender.

The bill provides immunity for individuals and entities that administer the tests and disclose the test results.

S.250 ETHICS AND CAMPAIGN PRACTICES Sen. Leatherman

Currently, lobbyists and lobbyist principals must report any lobbying activity not reflected on the October tenth report and not reported on a statement of termination pursuant to *South Carolina Code of Laws* §2-17-20(C) or 2-17-25(C) no later than December thirty-first. This bill extends the deadline to January tenth of the succeeding year.

Currently, each state agency or department must, no later than April first and October first of each year, file a report with the State Ethics Commission covering that agency's lobbying during that particular filing period. This bill extends the deadlines for submission of the report from the first of the month to the tenth of the month. Under the bill, the filing periods are from January first to March thirty-first for the April tenth report and from April first to September thirtieth for the October tenth report. The bill further provides that any lobbying activity not reflected on the October tenth report and not on a statement of termination pursuant to *South Carolina Code of Laws* §2-17-25(C) must be reported no later than January tenth of the succeeding year.

Currently, no lobbyist's principal may offer, solicit, or provide to a public official or public employee, and no public official or public employee may accept lodging, transportation, entertainment, food, meals, beverages, or an invitation to a function paid for by a lobbyist principal. However, there are exceptions. This bill provides an exception for cabinet officers for functions to which all cabinet officers are invited. The bill amends other code sections to reflect the addition of the exception for cabinet officers.

This bill requires the approval of the State Ethics Commission in order to waive the confidentiality of the existence of the complaint after it has been dismissed because the complaint does not allege facts sufficient to constitute a violation.

This bill eliminates the requirement that campaign reports must be sent to the State Election Commission. This bill amends *South Carolina Code of Laws* §8-13-1366, relating to the public availability of certified campaign reports, so as to eliminate the State Election Commission as the location of these reports. The bill also amends *South Carolina Code of Laws* §8-13-1372, relating to technical violations of rules on campaign reports, so as to substitute the State Ethics Commission for the State Election Commission as the agency responsible for determining errors or omissions on campaign reports.

S.470 VOYEURISM Sen. Martin

This bill prohibits the use of electronic video or audio equipment for the purpose of eavesdropping or peeping. This bill further prohibits a person from committing the crime of voyeurism. A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, videotapes, or films another person without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy. Penalties are established for failure to comply.

In addition to any punishment, the bill requires the person procuring the video or audio recording to immediately forfeit all copies of such recordings. The bill requires the copies to be destroyed when they are no longer required for evidentiary purposes.

The bill does apply to the following:

- viewing, photographing, videotaping, or filming by law enforcement for security purposes in a detention center or during the investigation of alleged misconduct by a person in the custody
- security surveillance for the purposes of decreasing or prosecuting theft, shoplifting, or other security surveillance measures in bona fide business establishments
- any official law enforcement activities conducted pursuant to *South Carolina Code of Laws* §16-17-480

S.505 DEFINITION OF MILITARY FIREARM Sen. Martin

Under this bill, the term "military firearm" does not include a pistol, rifle, or shotgun which fires only one shot for each pull of the trigger.

S.618 INMATE HEALTH CARE OMBUDSMAN Sen. Moore

This bill provides for an inmate health care ombudsman, appointed by the Governor upon advice and consent of the Senate, to ensure proper health care service to inmates. Under the bill, the ombudsman must investigate allegations or reports of lack of medical services for inmates in state facilities. The bill requires all departments, officers, and employees of the State to cooperate with the ombudsman in carrying out his or her duties. This bill does not apply to a prison, jail, or detention center operated by a county or municipality.

S.704 DEPARTMENT OF PUBLIC SAFETY SPECIAL CONSTABLES Sen.

Holland

This bill authorizes the Director of the Department of Public Safety (Director) to commission former law enforcement officers as Department of Public Safety Special Constables. Before assuming office, the bill requires special constables to take the oath of office required by law and successfully complete a training course specified by the Director. Under the bill, the Director determines the powers and duties of special constables, including the ability to carry pistols on and about their persons. However, the bill provides that 1) special constables are entitled to enforce the laws of this State, and 2) a commissioned or uniformed officer of the Department of Public Safety (Department) may make traffic stops. The bill prohibits special constables from receiving compensation. Special constables are subject to removal by the Director at any time.

Under the bill, any uniforms and equipment issued by the Department remain the property of the Department. However, in the discretion of the Director uniforms and equipment may be

entrusted to the care and control of special constables. The bill requires special constables assisting full-time Department law enforcement officers to wear uniforms or other insignia so as to identify themselves as special law enforcement officers. The bill also requires the Department to issue identification cards to special constables.

The bill provides that the Director may provide worker's compensation benefits on an as needed basis for special constables in the same manner as benefits are provided for full-time officers. The bill further provides that for purposes of compensation or benefits arising from duty-related injury or death, special constables are considered as employees of the Department.

S.746 MULTIPLE POLLING PLACES WITHIN A PRECINCT

Sen. Judiciary Committee

Under this bill, a county election commission may establish multiple polling places within a precinct, so long as voters are assigned to these polling places alphabetically or geographically as determined by the county election commission and approved by a majority of that county's legislative delegation. The bill requires that a voter must be notified in writing of his or her transfer to a new polling place and the location of the new polling place.

H.4003 JUVENILE RECORDS, JUVENILE FINGERPRINTING, JUVENILE PHOTOGRAPHS, AND JUVENILE DIRECTORY INFORMATION Rep. Allen

This bill provides that juvenile records maintained by the entities listed below may be transmitted between those entities without a court order or consent of the judge, so long as the juvenile records are requested for a legitimate criminal justice purpose.

- Courts
- Department of Juvenile Justice
- solicitors' offices
- Attorney General
- Other law enforcement agencies

The bill authorizes the transmission of all records of adjudication and pending criminal cases to an appropriate administrative official of any school upon request. The bill provides that the records may be transmitted without a court order or consent of the judge, so long as the juvenile is a student at a school or may be a student at school under the authority of the requesting official.

This bill authorizes the fingerprinting of a juvenile charged with an offense other than a status offense. Under the bill, a juvenile charged with a status offense must not be fingerprinted except upon order of a family court judge. The bill allows a juvenile to be fingerprinted by law enforcement at intake or booking, or anytime before a hearing. The bill allows a copy of the fingerprint records to be maintained by the agency responsible for intake of or booking the juvenile at the local level.

This bill authorizes an exchange of directory information (juvenile's name, address, phone number, parent or guardian information, and agency contact information) between the Department of Juvenile Justice, solicitors' offices, and other law enforcement agencies, and state human services agencies.

S.725 CHILD SUPPORT ENFORCEMENT AND COLLECTION Sen. Holland

The bill requires the following to include and / or provide alien identification numbers assigned to resident aliens who do not have social security numbers:

- marriage license applications
- decrees of divorce
- administrative or judicial orders
- obligors and obligees in a child support or paternity action
- applications for a license or renewal of a license
- orders finding that a putative father is the natural father of a child
- voluntary acknowledgement of paternity
- liens in favor of obligees
- governmental agencies and utilities
- financial institutions
- birth records
- death records

The bill requires the Department of Social Services (DSS) to establish and operate a centralized wage withholding system for the collection and disbursement of wage withholding child support funds. Under the bill, the centralized system must be established and operated using funds appropriated to the Department of Child Support Enforcement operating expenses. When required by federal statute or regulation, this bill authorizes the family court to order payment of sums ordered paid for support through a centralized wage withholding system. An employer must pay the amount withheld to the centralized wage withholding system within seven working days of the date the income is withheld, and DSS must disburse funds received from an employer to the appropriate county clerk of court for disbursement to the custodial parent. Child support amounts collected through the centralized wage withholding system are subject to a three-percent court cost.

Currently, after receiving notice of noncompliance a licensee has ninety days to pay the arrearage or establish a schedule for payment of the arrearage in order to avoid revocation of the license. This bill reduces that time frame to forty-five days. This bill also amends current procedures pertaining to when an agreement on a schedule for payment of the arrearage is reached.

The bill requires DSS to provide consumer credit reporting agencies an automated monthly report of obligors in Title IV-D cases who have an arrearage in an amount of one thousand dollars or greater.

H.4015 CRIMINAL USE OF AN ARTICLE WITH AN ALTERED IDENTIFICATION
MARK Rep. Beck

Under this bill, it is a felony to use an article (radio, piano, safe, firearm, watch, etc.) when the individual knows that the manufacturer's name plate, serial number, or any other distinguishing number or identification mark has been removed for the purpose of concealing or destroying the identity of the article. Penalties are established for failure to comply. The bill does not apply to instances in which the original manufacturer makes the changes or alterations as part of an established practice in the ordinary and regular conduct of business.

S.558 SOUTH CAROLINA INDIAN AFFAIRS COMMISSION Sen. Elliott

This bill creates the South Carolina Indian Affairs Commission whose general purpose is to support the advancement and unity of Native American Indian people living in every region of this State. The bill outlines specific duties of the Commission. Under the bill, the Commission does not have the power or authority to take any action that would advance or promote any form of gambling in South Carolina.

Under the bill, the Commission will have six members each representing different South Carolina Native American Indian nations and tribes. The bill authorizes the Governor to appoint the chairman of the Commission. Members of the Commission serve four-year terms and until their successors are appointed and qualify. Members serve without pay but are allowed the usual mileage, per diem, and subsistence provided by law. **S.558** requires the Commission to meet at least monthly. The bill authorizes the Commission to hire 1) an executive director, who shall be a Native American Indian, and 2) other personnel.

LABOR, COMMERCE AND INDUSTRY

H.3995 ORIGINATION FEE FOR LOANS SECURED BY INTEREST IN REAL ESTATE Rep. Tripp

This bill revises the list of fees which lenders may charge in addition to loan finance charges so as to provide that, with respect to a consumer loan secured by an interest in real estate, a loan origination fee may be charged in an amount which does not exceed that which is considered usual and customary. On an open end loan secured by an interest in real estate, the fee may be computed on the line of credit. The loan origination fee is fully earned on the date of the credit transaction, is not subject to refund or rebate upon payment in full, and may be paid in cash at the time of the credit transaction or may be deducted from the proceeds and included in the original principal balance.

H.4011 EXEMPTIONS FROM REGULATION AS CHECK-CASHING OR DEFERRED PRESENTMENT BUSINESS Rep. Bowers

Under current law, a retailer who performs incidental check-cashing or deferred presentment services without charging a fee is exempt from licensure and regulation as a check-cashing or deferred presentment business. This bill also exempts such retailers who perform incidental check-cashing or deferred presentment services and charge a nominal fee. A nominal fee is defined as not more than one percent of the face value of the check, draft, or money order, or one dollar for each check, draft, or money order, whichever is greater. The gross aggregate income from services must not exceed five thousand dollars annually at each location of the retailer for the exemption to apply.

H.4019 SALE OF BUSINESS OPPORTUNITIES Rep. Mason

This bill revises regulations pertaining to the sale of business opportunities. The bill redefines "business opportunity." The legislation requires registration with the Secretary of State by sellers of business opportunities. The legislation revises the Secretary of State's authority to investigate possible violations of the Business Opportunities Sales Act and the administrative penalties incurred for violations.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

This bill allows the South Carolina Department of Corrections to consider placing an inmate in an institution closest to the inmate's home if the placement does not jeopardize security and does not interfere with other criteria for institutional placement.

WAYS AND MEANS

H.3999 TAX CREDITS FOR FILM INVESTMENT Rep. J. Smith

This bill eliminates the current fifteen thousand dollar limit on the tax credit allowed for a taxpayer's investment in a qualified South Carolina motion picture project. The bill also

increases from five years to fifteen years the allowed carry-forward period for unused credit. The bill clarifies the entities which are eligible for the tax credit, and provides that the credit is earned when the cash is spent or when qualifying real property is dedicated for use as part of a motion picture production facility or post-production facility. The bill includes a provision for a motion picture project, motion picture production facility, or post-production facility's failure to meet the requirements for the credit within three years from the end of the taxpayer's tax year when the credit was first claimed. The bill provides requirements for cash to be qualified as "investment," and provides that investments in the form of real property must be real property located in this State on which facilities are located and can include the fair market value of a long-term lease of real property minus the fair market value of any consideration for the lease. The bill also clarifies various definitions relating to these tax credits.

H.4004 ANNUAL GENERAL APPROPRIATIONS BILL Rep. Davenport

This bill requires a statement of objectives and annual measures of progress for attaining these objectives for new recurring programs in the annual general appropriations act and for increased appropriations for existing recurring programs above the rate of inflation. The bill prohibits subsequent appropriations for such programs for four years if the annual measure of progress is not met. The bill also requires that these statements be approved by a joint standing committee and provides for that committee's membership.

H.4005 STATE & LOCAL TAX & FEE STUDY COMMITTEE Rep. Davenport

This House resolution establishes the House of Representatives State and Local Tax and Fee Study Committee, consisting of fifteen members appointed by the Speaker of the House - twelve appointees representing standing committees of the House, and three appointees representing the House at large. The committee is charged to conduct a review of state and local taxes and tax policy and fees for the purpose of preparing recommendations to achieve a tax system that is balanced, simple in administration and enforcement, and fair to all. The committee will be staffed by existing House staff, and committee expenses will be paid from approved accounts of the House. The resolution provides that the committee report to the House by January 14, 2000, and that the committee is abolished on the date it makes its report or on January 14, 2000, whichever is earlier.

S.749 TAX RETURNS FOR CERTAIN MILITARY PERSONNEL Sen. Passailaigue

This joint resolution authorizes the Department of Revenue (DOR) to extend individual income tax return and individual income tax payment due dates for military personnel serving in Operation Allied Force. The resolution provides for the waiver of penalties and interest during these special extensions, and suspends collection activities with respect to these taxpayers until their return.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.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, 1999-2000. 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.