



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

HOUSE WEEK IN REVIEW

The House of Representatives concurred in Senate amendments to **S.83**, the “**TORT REFORM ACT OF 2005 RELATING TO MEDICAL MALPRACTICE**”, and enrolled the bill for ratification.

The legislation provides for the **South Carolina Noneconomic Damage Awards Act of 2005**. The term ‘noneconomic damages’ means nonpecuniary damages arising from pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, other nonpecuniary damages, and other theory of damages including but not limited to, fear of loss, illness, or injury. The legislation places caps on the amount of noneconomic damages that may be awarded in an action on a medical malpractice claim. The caps are as follows:

- In an action on a medical malpractice claim when final judgment is rendered against a **single health care provider** the limit of civil liability for noneconomic damages of the health provider is limited to an amount not to exceed \$350,000 for each claimant, regardless of the number of separate causes of action on which the claim is based.
- In an action on a medical malpractice claim when final judgment is rendered against a **single health care institution**, the limit of civil liability for noneconomic damages is limited to an amount not to exceed \$350,000 for each claimant, regardless of the number of separate causes of action on which the claim is based.
- In an action on a medical malpractice claim when final judgment is rendered against **more than one health care institution, or more than one health care provider, or any combination thereof**, the limit of civil liability for noneconomic damages for each health care institution and each health care provider is limited to an amount not to exceed \$350,000 for each claimant and the limit of civil liability for noneconomic damages for all health care institutions and health care providers is limited to an amount not to exceed one million fifty thousand dollars for each claimant.
- The bill provides for **increases and decreases of the caps** as determined by the State Budget and Control Board and Board of Economic Advisors in the ratio of the Consumer Price Index to the index as of December 31 of the previous year.

The **caps do not apply if:**

- the jury or court determines that a defendant was grossly negligent, willful, wanton, or reckless and such conduct was the proximate cause of the claimant’s noneconomic damages, or
- if the defendant has engaged in fraud or misrepresentation related to the claim, or

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- if the defendant altered, destroyed, concealed, or fabricated medical records with the purpose of avoiding a claim or liability to the claimant.

The **provisions of this bill do not limit the amount of compensation for economic damages** suffered by each claimant in a medical malpractice claim. The term 'economic damages' means pecuniary damages arising from medical expenses and medical care, rehabilitation services, costs associated with education, custodial care, loss of earnings and earning capacity, loss of income, burial costs, loss of use of property, costs of repair or replacement of property, costs of obtaining substitute domestic services, a claim for loss of spousal services, loss of employment, loss of business or employment opportunities, loss of retirement income, and other monetary losses.

The **provisions of this bill do not limit the amount of punitive damages** in cases where the plaintiff is able to prove an entitlement to an award of punitive damages as required by law.

In an action involving a medical malpractice claim arising out of **care rendered in a genuine emergency situation** involving an immediate threat of death or serious bodily injury to the patient receiving care in an emergency department or in an obstetrical or surgical suite, this bill provides that no physician may be held liable unless it is proven that the physician was grossly negligent. This exception does not apply when a patient is medically stable, is not in immediate threat of death or serious bodily injury or has been discharged from the hospital.

In an action involving a medical malpractice claim arising out of **care rendered by an obstetrician on an emergency basis** when there is no previous doctor/patient relationship between the obstetrician or a member of his/her practice with a patient or the patient has not received prenatal care, an obstetrician is not liable unless it is proven the obstetrician is grossly negligent.

The legislation adds certain procedural provisions with regards to an **offer of judgment and the consequences of non-acceptance**. Except in domestic relations actions, after commencement of any civil action based upon contract or seeking the recovery of money damages, whether or not other relief is sought, any party may, at any time more than 20 days before the actual trial date, file with the clerk of the court a written offer of judgment signed by the offeror or his/her attorney, directed to the opposing party, offering to take judgment in the offeror's favor, or as the case may be, to allow judgment to be taken against the offeror, for a sum stated therein, for property, or to the effect specified in the offer. There are provisions detailing how notice of the offer should be made and when the offer is deemed rejected. If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror shall be allowed to recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until judgment; (2) if the offeror is a plaintiff, eight percent interest computed on the amount of the verdict or award from the date of the offer; or (3) if the offeror is a defendant, a reduction from the judgment or award of eight percent interest computed on the amount of the verdict or award from the date of the offer. The bill further provides that this section does not abrogate the contractual rights of any party concerning the recovery of attorneys' fees or other monies in accordance with the provisions of any written contract between the parties to the action.

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The legislation has provisions relating to **expert witnesses**. When an expert witness is qualified as to the acceptable conduct of the professional whose conduct is at issue, the expert must be licensed and either board certified or have actual professional knowledge and experience in the area of practice in which the opinion is to be given. In an action alleging professional malpractice, the plaintiff must file with the complaint, an affidavit of an expert witness specifying at least one negligent act or omission claimed to exist and the factual basis for each claim. The legislation does provide for an exception to the contemporaneous filing requirement in cases where the statute of limitations will expire within 10 days of the date of filing. A plaintiff's claim is subject to dismissal if the plaintiff fails to file the required affidavit. The legislation applies to numerous professions.

If a judge finds that **an expert health care provider or health care institution in a medical malpractice action** has offered testimony or evidence in bad faith or without a reasonable basis in fact or otherwise acted unethically in conjunction with testifying as an expert, the judge must report the expert to the state entity that licenses and regulates the profession of the expert or the type of health care entity represented by the expert.

In medical malpractice actions, the legislation requires the parties to participate in **mediation** governed by procedures established in the South Carolina Circuit Court Alternative Dispute Resolution Rules. The bill allows the parties to agree to participate in binding arbitration.

The bill requires prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, **the plaintiff shall file a Notice of Intent to File Suit** in a county in which venue would be proper for filing or initiating the civil action. The notice must name all adverse parties as defendants, must contain a short and plain statement of the facts showing that the party filing the notice is entitled to relief, must be signed by the plaintiff or by his/her attorney, and must include any standard interrogatories or similar disclosures required by the South Carolina Rules of Civil Procedure. Filing the Notice of Intent to File Suit tolls all applicable statutes of limitations. The Notice of Intent to File Suit must be served upon all named defendants in accordance with the service rules for a summons and complaint outlined in the South Carolina Rules of Civil Procedure.

After the Notice of Intent to File Suit is filed and served, all named parties may subpoena medical records and other documents potentially related to the medical malpractice claim pursuant to the rules governing the service and enforcement of subpoenas outlined in the South Carolina Rules of Civil Procedure. Upon leave of court, the named parties also may take depositions pursuant to the rules governing discovery outlined in the South Carolina Rules of Civil Procedure.

Within 90 days and no later than 120 days from the service of the Notice of Intent to File Suit, the parties shall participate in a mediation conference unless an extension for no more than 60 days is granted by the court based upon a finding of good cause. Unless inconsistent with this section, the Circuit Court Alternative Dispute Resolution Rules in effect at the time of the mediation conference for all or any part of the State shall govern the mediation process, including compensation of the mediator and payment of the fees and expenses of the mediation conference. The parties otherwise are responsible for their own expenses related to mediation pursuant to this section. The circuit court has jurisdiction to enforce the provisions of this section.

If the matter cannot be resolved through mediation, the plaintiff may initiate the civil action by filing a summons and complaint pursuant to the South Carolina Rules of Civil Procedure. The action must be filed:

- within 60 days after the mediator determines that the mediation is not viable, that an impasse exists, or that the mediation should end; or
- prior to expiration of the statute of limitations, whichever is later.

Participation in the prelitigation mediation pursuant to this section does not alter or eliminate any obligation of the parties to participate in alternative dispute resolution after the civil action is initiated.

Under the bill, a person who serves on the **Board of the Joint Underwriting Association or the Board of Governors of the Patients' Compensation Fund** is prohibited from being employed in any manner or compensated by the Joint Underwriting Association or the Patients' Compensation Fund, and this prohibition continues for one year after the person ceases to be a member of the board.

All medical malpractice insurance carriers issuing policies of insurance within South Carolina for licensed health care providers shall provide and maintain coverage to all applicants who timely remit payments for the coverage period. Such policies shall be written on either a 'claims-made' or 'occurrence' basis in compliance with the standard set by the board of directors of the Joint Underwriters Association. These provisions apply only to policies written on or after January 1, 2006.

This bill provides that members of certain **professional committees** are exempt from tort liability for any act or proceeding undertaken or performed within the scope of the function of the committee and if the committee member acts without malice.

Current law provides for the **confidentiality of the proceedings and records and other information related to the actions of certain professional committees**. When there is a dispute as to the confidentiality over documents, this bill allows for judicial review by a circuit court judge. If the court determines that any of the documents are not subject to confidentiality, and are otherwise discoverable, the court shall provide the documents to the requesting party and shall assess attorneys' fees against the party unsuccessfully asserting the claim of privilege for any fees incurred by the requesting part in obtaining the documents.

With regards to the **Patients' Compensation Fund for Benefit of Licensed Health Care Providers**, the bill provides that the fund and any income from it must be managed by the board according to its plan of operation. The bill further provides that monies may be withdrawn from the fund only upon the signature of the chairman of the Board of Governors or his/her designee.

The **Medical Disciplinary Commission of the State Board of Medical Examiners** investigates formal complaints filed against physicians. Currently, the Commission is composed of 36 members, all of whom are physicians. This bill would increase the size of the Commission to 48 members by adding 12 lay members. The lay commissioners must have at a minimum, a baccalaureate degree or the equivalent and have no ascertainable ties to the health care industry. Each disciplinary panel would be required

to have at least one lay member. Both lay and physician commissioners would be limited to three consecutive terms on the Board.

The bill has provisions for the **Department of Insurance to review data and report to the General Assembly and the Governor** whether this and other related enactments have resulted in reductions in premiums in the health care community and as to any other trends of significance which might impact premium cost.

The House concurred in Senate amendments to **H.3234** and enrolled the bill for ratification. Currently, the State may issue General Obligation Bonds for **AIR CARRIER HUB TERMINAL FACILITIES** meeting certain criteria. These funds may be used for acquiring land, constructing, improving, and equipping facilities, and for purchasing equipment and machinery related to the facility. **H.3234** expands the definition of "air carrier hub terminal facility" to also include (irrespective of the number of flights) facilities that will use two or more specially equipped planes that are used for the transportation of specialized cargo and subject to *ad valorem* property taxation or a fee in lieu of taxes in South Carolina. The bill also amends the statutory definition of an "air carrier" to mean a corporation licensed by the Federal Aviation Administration with a certificate of public convenience and necessity or an operating certificate under other applicable federal law or pertinent regulations which operates aircraft to or from an air carrier hub terminal facility. The term "air carrier hub terminal facility" includes an economic development project, as defined in the State General Obligation Economic Development Bond Act, that is functionally related to a facility satisfying one of the criteria included in the definition of an air carrier hub terminal facility. The bill provides that a request for the issuance of bonds must be accompanied by a binding contract with either an air carrier or the principal user of the air carrier hub terminal, to be financed with the issuance of the obligation. Currently, the contract may only be with an air carrier. If the Secretary of Commerce recommends that the Budget and Control Board consider approving the issuance of bonds, he shall forward his written approval and request to both the Joint Bond Review Committee (JBRC) and the Board, rather than only to the Board. The bill also requires that the Secretary's approval and request must be accompanied by a certificate establishing the maximum principal amount of the bonds requested to be authorized; a description of the infrastructure for which the bonds are to be issued; and a tentative time schedule for the time during which the sum requested is to be expended. The bill provides that following the receipt of the approval and request from the Secretary, and after approval by the JBRC, the Board may approve the issuance of the bonds.

The House approved **S.127** and enrolled the bill for ratification. This bill provides that **WORKERS' COMPENSATION COMMISSIONERS ARE BOUND BY THE CODE OF JUDICIAL CONDUCT**, as contained in Rule 501 of the South Carolina Appellate Court Rules. The bill also requires the Commissioners and their administrative assistants to attend a yearly workshop of at least three continuing education hours concerning ethics and the Administrative Procedures Act.

The House amended Senate amendments to **H.3152** and returned the bill to the Senate. This legislation **AMENDS THE MOTION PICTURE INCENTIVE ACT**. Revisions include, but are not limited to: extending the exemption from sales and use tax to include an exemption from local, as well as state sales and use taxes; allowing up to seven percent of the general fund portion of admissions tax collected and funded to the State

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Film Commission to be used by the Department of Commerce exclusively for marketing and special events; and deleting a rebate to a motion picture company for sales tax paid on accommodations. The bill also authorizes the Department of Commerce to carry-forward their portion of the admissions tax for rebates and grants.

The House amended, approved, and sent to the Senate **H.3244**, pertaining to **AGENCY REPORTS TO THE GENERAL ASSEMBLY**. With the exception of the Governor's Executive Budget and related documents and telephone directories, the bill provides that an agency, a department, or an entity of State government required by law to report to the General Assembly shall prepare its report and transmit its report to the Office of Legislative Printing, Information and Technology Systems (LPITS) electronically. LPITS shall notify the members of the General Assembly that the report is available and make the information available through its network. An agency, a department, or an entity of State government may not provide the General Assembly with hard copies of a publication; a publication only may be provided to a member of the General Assembly if the member requests the publication. Also, a report may be published in hard copy form for distribution to the General Assembly if authorized by the Speaker of the House and the President Pro Tempore of the Senate.

The House approved and sent to the Senate **H.3410**, relating to **FILING DOCUMENTS WITH THE SECRETARY OF STATE**. Current law provides that documents filed with the Secretary of State must be typewritten or printed. This bill provides that documents must be filed in a medium and form as permitted by the Secretary of State.

The House approved and sent to the Senate **H.3325**, pertaining to an **AGREEMENT BETWEEN AN IMPORTER AND A FOREIGN BREWER**. This bill pertains to beer wholesaler franchises. Specifically, the bill pertains to an agreement between an importer and a foreign brewer; the bill clarifies that a foreign brewer includes its successor or assignee.

The House approved and sent to the Senate **H.3196**. This bill relates to **ACTIONS TAKEN BY BALLOT OF A NONPROFIT CORPORATION**; specifically, the bill authorizes the use of an electronic ballot.

The House amended **S.212**, legislation pertaining to hunting, and returned the bill to the Senate. The bill provides that it is not unlawful to hunt **WILD TURKEY** on Sunday on private land during the prescribed season for hunting wild turkey. Under the bill, it is unlawful for a person to take or attempt to take a wild turkey from a watercraft on the waters of this State. Except for law enforcement or military personnel, **S.212** provides that it is unlawful to possess a **SHOTGUN** loaded with buckshot or larger ammunition or a rifle loaded with ammunition larger than .22 in a water conveyance on the waters of this State. Under the bill, the term 'loaded' means any ammunition contained in any part of the weapon including a removable magazine or clip. Violations are misdemeanors punishable by a fine of not less than \$100 dollars nor more than \$500 dollars or imprisonment for not more than 30 days.

The House amended **S.145**, relating to fishing, and returned the bill to the Senate. The bill increases the catch limit for **RED DRUM** from two to three in any one day. **S.145** provides that no more than one **ARKANSAS BLUE CATFISH** over 36 inches may be taken from the waters of Lakes Marion and Moultrie by any one person in one day. This limit applies to commercial as well as recreational fishermen. Violations are

misdemeanors, and each fish over the limit constitutes a separate violation. **S.145** also provides that it is unlawful to transport outside of the boundaries of this State any live **CATFISH** taken from the public waters of this State except flathead catfish.

The House approved and sent to the Senate **H.3393**, relating to **FISHING LICENSES (JUG PERMITS)**. Jug fishing is when a hook, line, and sinker is attached to a free-floating device, like a jug, and is baited and set out in the water. This bill provides that a jug permit is not required for residents assisting jug permit holders.

The House approved and sent to the Senate **H.3782**, a bill designating the portion of the Little Pee Dee River located in Dillon County between the Marlboro County Line and the Marion County line as a **SCENIC RIVER**.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The Agriculture, Natural Resources and Environmental Affairs Committee met on March 29, 2005 and gave consideration to five bills.

H.3393, relating to **FISHING LICENSES (JUG PERMITS)**, received a favorable report from the full committee. Jug fishing is when a hook, line, and sinker is attached to a free-floating device, like a jug, and is baited and set out in the water. This bill provides that a jug permit is not required for residents assisting jug permit holders.

The full committee gave a favorable with amendment report to **S.145**, relating to fishing. The bill increases the catch limit for **RED DRUM** from two to three in any one day.

S.145 provides that no more than one **ARKANSAS BLUE CATFISH** over 36 inches may be taken from the waters of Lakes Marion and Moultrie by any one person in one day. This limit applies to commercial as well as recreational fishermen. Violations are misdemeanors, and each fish over the limit constitutes a separate violation.

S.145 also provides that it is unlawful to transport outside of the boundaries of this State any live **CATFISH** taken from the public waters of this State except flathead catfish.

The full committee gave a favorable with amendment report to **S.212**, a bill pertaining to hunting. The bill provides that it is not unlawful to hunt **WILD TURKEY** on Sunday on private land during the prescribed season for hunting wild turkey. Under the bill, it is unlawful for a person to take or attempt to take a wild turkey from a watercraft on the waters of this State.

Except for law enforcement or military personnel, **S.212** provides that it is unlawful to possess a **SHOTGUN** loaded with buckshot or larger ammunition or a rifle loaded with ammunition larger than .22 in a water conveyance on the waters of this State. Under the bill, the term 'loaded' means any ammunition contained in any part of the weapon including a removable magazine or clip. Violations are misdemeanors punishable by a fine of not less than \$100 dollars nor more than \$500 dollars or imprisonment for not more than 30 days.

The full committee adjourned debate on **S.291**, relating to **STATEWIDE LIFETIME HUNTING AND FISHING LICENSES**.

The full committee gave a favorable with amendment report to **H.3402**. This bill pertains to definition of terms in matters relating to campaign practices and in matters relating to lobbyists and lobbying. Under this bill, the **DEFINITION OF A LEGISLATIVE CAUCUS IS AMENDED TO INCLUDE A REPRESENTATION OF SPORTSMEN AND WOMEN DESIRING TO ENHANCE AND PROTECT HUNTING, FISHING, AND SHOOTING SPORTS**.

EDUCATION AND PUBLIC WORKS

The full Committee did not meet this week.

JUDICIARY

The full Judiciary Committee met on March 29, 2005 and gave consideration to 11 bills.

H.3015 received a favorable report from the Judiciary Committee, and the bill received the necessary votes to be introduced as a committee bill. On March 30, 2005, the committee bill, **H.3817**, was introduced, read for the first time, and placed on the calendar without reference. This bill provides that an object containing the words of the **TEN COMMANDMENTS MAY BE DISPLAYED ON REAL PROPERTY OWNED BY THE STATE** along with other documents of historical significance that have formed and influenced the United States legal or governmental system. The bill further provides that the display of an object containing the words of the Ten Commandments must be in the same manner and appearance generally as other documents and objects displayed and must not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects.

The full committee gave a favorable report to **S.127**. This bill provides that **WORKERS' COMPENSATION COMMISSIONERS ARE BOUND BY THE CODE OF JUDICIAL CONDUCT**, as contained in Rule 501 of the South Carolina Appellate Court Rules. The bill also requires the Commissioners and their administrative assistants to attend a yearly workshop of at least three continuing education hours concerning ethics and the Administrative Procedures Act.

The Judiciary Committee reported out **H.3285** favorably. This bill provides that a **FINAL DECISION BY AN ADMINISTRATIVE LAW JUDGE INVOLVING THE DEPARTMENT**

OF HEALTH AND ENVIRONMENTAL CONTROL may be appealed as a matter of right to the Court of Appeals.

H.3184 received a favorable with amendment report from the full committee. This legislation makes **REVISIONS WITH REGARDS TO APPEALS TO AND FROM THE ADMINISTRATIVE LAW COURT AND VARIOUS AGENCIES AND COMMISSIONS (EXCEPT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL)**. As of April 4, 2005, drafting of the amendment has not been completed.

H.3411, relating to **CONTESTED MUNICIPAL ELECTIONS**, received a favorable report from the Judiciary Committee. Current law provides that in the case of a contested municipal election incumbents hold over until the contest is finally determined. This bill deletes this particular provision. This bill also deletes the requirement that the notice of appeal of the decision of the Municipal Election Commission acts as a stay of further proceedings pending the appeal.

The Judiciary Committee adjourned debate on **H.3414**, which relates to **CASTING A BALLOT BY MEANS OF AN ABSENTEE BALLOT**.

The Judiciary Committee gave a favorable with amendment report to **H.3189**. This bill extends the subject matter **JURISDICTION OF THE STATE GRAND JURY** to include wilful criminal violations that result in actual and substantial harm to the water, ambient air, soil or land, or both soil and land. Violations include, but are not limited to, violations of: the Atomic Energy and Radiation Control Act, the State Underground Petroleum Environmental Response Bank Act, the State Safe Drinking Water Act, the Hazardous Waste Management Act, the Infectious Waste Management Act, the Solid Waste Policy and Management Act, the Pollution Control Act, the Erosion and Sediment Control Act, the South Carolina Mining Act, and the Coastal Zone Management Act, or any crime arising out of or in connection with environmental laws, or any attempt, aiding, abetting, solicitation, or conspiracy to commit a crime involving the environment if the anticipated damages, including, but not limited to the cost of remediation, are one million dollars or more.

H.3189 requires that in investigations of crime, except in matters where the Department of Health and Environmental Control (DHEC) or its officers or employees are subjects of investigation, the Commissioner of DHEC must consult with and, after investigation, provide a formal written recommendation to the Attorney General and the Chief of the South Carolina Law Enforcement Division. The Attorney General and the Chief of the South Carolina Law Enforcement Division must consider the impaneling of a state grand jury necessary before the Attorney General presents a petition, which includes the Commissioner's written recommendation, to the Chief Administrative Judge.

In the case of evidence brought to the attention of law enforcement by an employee or former employee of the alleged violating entity, **H.3189** provides that there must also be separate, credible evidence of the violation in addition to the testimony or documents provided by the employee or former employee. Where an individual employee performs a wilful criminal violation of the environmental laws, only the individual employee is subject to investigation unless or until there is separate, credible evidence that the individual's employer knew of, concealed, directed, or condoned the employee's actions.

H.3410, relating to **FILING DOCUMENTS WITH THE SECRETARY OF STATE**, received a favorable report from the full committee. Current law provides that documents filed with the Secretary of State must be typewritten or printed. This bill provides that documents must be filed in a medium and form as permitted by the Secretary of State.

The full committee reported out **H.3196** favorably. This bill relates to **ACTIONS TAKEN BY BALLOT OF A NONPROFIT CORPORATION**; specifically, the bill authorizes the use of an electronic ballot.

H.3325, pertaining to an **AGREEMENT BETWEEN AN IMPORTER AND A FOREIGN BREWER**, received a favorable report from the full committee. This bill pertains to beer wholesaler franchises. Specifically, the bill pertains to an agreement between an importer and a foreign brewer; the bill clarifies that a foreign brewer includes its successor or assignee.

H.3244, pertaining to **AGENCY REPORTS TO THE GENERAL ASSEMBLY**, received a favorable with amendment report from the Judiciary Committee. With the exception of the Governor's Executive Budget and related documents and telephone directories, the bill provides that an agency, a department, or an entity of State government required by law to report to the General Assembly shall prepare its report and transmit its report to the Office of Legislative Printing, Information and Technology Systems (LPITS) electronically. LPITS shall notify the members of the General Assembly that the report is available and make the information available through its network. An agency, a department, or an entity of State government may not provide the General Assembly with hard copies of a publication; a publication only may be provided to a member of the General Assembly if the member requests the publication. Also, a report may be published in hard copy form for distribution to the General Assembly if authorized by the Speaker of the House and the President Pro Tempore of the Senate.

LABOR, COMMERCE AND INDUSTRY

The full committee did not meet this week.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full Committee did not meet this week.

BILLS INTRODUCED IN THE

HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.535 CATCH LIMITS FOR CERTAIN FISH ON PORTIONS OF THE SAVANNAH RIVER Sen. Hutto

Under this bill, it is unlawful to possess more than two striped bass, striped bass hybrids, white bass, or any combination of these species in certain portions of the Savannah River. The bill further provides that any lawful possessed fish of each of these species must be a minimum of 27 inches in total length. The bill repeals S.C. Code Ann. §50-13-120, relating to no size limits on certain fresh water fish.

H.3818 SEASON FOR COMMERCIAL FISHING FOR SHAD IN THE COMBAHEE RIVER Rep. Bowers

This joint resolution provides that the season for the commercial fishing for shad in the Combahee River and its tributaries and distributaries as prescribed in S.C. Code Ann. §50-5-1506 for the year 2005 expires on April 30, 2005, rather than March 31, 2005.

H.3827 COASTAL TIDELANDS AND WETLANDS Rep. Loftis

This bill relates to the authority of the Department of Health and Environmental Control to permit or deny alteration or utilization within coastal tidelands and wetlands areas designated as critical areas. Under the bill, a critical area delineation incorporated or referenced in a permit is valid for the term of the permit.

Current law provides that a survey delineating coastal waters or wetlands must include in bold type the following statement: "The area shown on this plat is a general representation of Coastal Council permit authority on the subject property. Critical areas by their nature are dynamic and subject to change over time. By generally delineating the permit authority of the Coastal Council, the Coastal Council in no way waives its right to assert permit jurisdiction at any time in any critical area on the subject property, whether shown hereon or not." Under the bill, this statement would not be required to be on the survey.

Current law provides that a critical area line established expires after three years from the department date on the survey. Current law also provides an exception for eroding coastal stream banks where it can be expected that the line will move due to the meandering of the stream before the expiration of the three- year time limit and where manmade alterations change the critical area line. The bill deletes the eroding coastal stream bank exception to the three-year expiration of critical area lines.

H.3828 NATIONWIDE PERMITS AND COASTAL ZONE MANAGEMENT CRITERIA Rep. Loftis

This bill provides that a permit promulgated pursuant to 33 Code of Federal Regulations Part 330 adopted or approved by the Charleston District of the United States Army Corps of Engineers is deemed to comply with the applicable Coastal Zone Management criteria. The bill further provides that the Department of Health and Environmental Control may not impose any additional conditions on such a nationwide permit.

H.3830 METHODS OF EUTHANIZING ANIMALS Rep. Dantzler

This bill removes barbituric acid derivatives from the authorized list of methods for euthanasia. The bill adds Schedules II and III controlled substance euthanasia agents to the authorized list of methods for euthanasia. The bill clarifies procedures for obtaining authorization to use these controlled substances.

EDUCATION AND PUBLIC WORKS

H.3816 SOUTH CAROLINA PARENTAL INVOLVEMENT AND RESPONSIBILITIES ACT Rep. W.D. Smith

This bill enacts the "South Carolina Parental Involvement and Responsibilities Act of 2005," requiring school districts to adopt a student disciplinary policy that outlines expectations for student conduct and consequences for inappropriate behavior and other infractions. The bill provides that if a parent fails to attend, participate, or respond to a public school's third request for a "conference" (defined as a face-to-face meeting, conference call, or telephone conversation) to discuss the child's academic progress or the child's alleged violation of school rules or regulations, the district may file a complaint with the Magistrate to compel the presence of the parent at a face-to-face conference with the school. The bill delineates evidence which the district must provide indicating reasonable attempts to schedule conferences at a time that does not conflict with the parent's employment hours, and indicating certain written notice of the conference to the address of the parent. The bill provides that if the parent fails to obey the Magistrate's order to attend a face-to-face conference, the district shall file a motion for an order holding the parent in contempt of court. If the Magistrate finds the parent in contempt of court, the bill provides options for sentencing including any one or a combination of the following: attendance at a district-sponsored parental responsibility program, shadowing the child, a fine of up to five hundred dollars, and imprisonment for up to thirty days for each violation.

The bill encourages and provides for employers to grant employees leave from work to attend conferences if the conference cannot be scheduled during the employee's nonworking hours.

The bill requires the State Department of Education to develop training programs for school personnel who work with students at risk of school failure and those students' parents.

The bill also includes plans and procedures for truancy, including but not limited to a requirement that school district boards must adopt an attendance policy and the district's schools must implement attendance plans based on that policy. These plans must include consideration for parental training on their role in supporting school attendance; providing parents with study guides on the child's courses; developing parent support groups, and using in-school mentors.

The bill amends current provisions relating to procedures for school districts regarding parents who do not enroll their children in school and the bill strengthens punishment (increases the potential fine) for parents who fail to comply with a court order to enroll their child. The bill includes requirements for district school boards to notify students

and parents of attendance laws and penalties and provides revised procedures for school districts to follow when pursuing excessive unlawful absences (ten or more) through the family court. The bill also outlines options and procedures for the court regarding parents and students who fail to comply with attendance requirements.

The bill also requires school districts to notify the Department of Motor Vehicles if a student has been expelled and requires the DMV, except under certain hardship conditions, to suspend the student's driver's license for the length of the expulsion.

JUDICIARY

S.259 EARLY RELEASE BILL Sen. Fair

The bill requires the Department of Corrections to develop policies, procedures and guidelines to allow certain prisoners to receive a reduction in their sentence. The bill allows credits for participation in self-improvement programs, which may include counseling, substance abuse programs, religious programs or recommended health improvement programs.

The bill authorizes an award of up to 180 days of good time to any inmate who performs a particularly meritorious act which results in the reduction or avoidance of serious injury or death to any employee, civilian or member of the public while risking his or her own life or health. However, a prisoner's sentence may not be reduced to a level below that is required by law to be served.

The bill provides that a reduction in these credits may be implemented pursuant to an administrative law judge's recommendation.

The bill provides that architectural plans, drawings or schematics or law enforcement policies whose disclosure would be used to facilitate an escape from lawful custody are matters exempt from disclosure under the Freedom of Information Act.

S.293 FRESH PURSUIT OF A PERSON WHO IS IN IMMEDIATE AND CONTINUOUS FLIGHT FROM THE COMMISSION OF A CRIMINAL OFFENSE Sen. Knotts

This bill allows an officer employed by a Georgia or North Carolina law enforcement agency to enter South Carolina in fresh pursuit of a person who is in flight from the commission of a criminal offense in the neighboring state and to arrest the person. The bill provides for procedures to (1) determine the lawfulness of the arrest, (2) the release of the person arrested, and (3) the extradition of the arrested person. This provision applies only to law enforcement officers employed by Georgia or North Carolina when the state has enacted a provision similar to this section relating to the arrest and custody of a person pursued into a neighboring state.

S.403 PENALTIES FOR SALE OF A LOTTERY TICKET OR SHARE TO A MINOR Sen. Sheheen

This bill relates to the penalties for sale of a lottery ticket or share to a minor. The bill grants the court the discretion to reduce the fine or give a warning upon conviction for a first offense.

S.422 UNIFORM TRUST CODE Sen. McConnell

This bill pertains to trust administration. The bill enacts the Uniform Trust Code by providing a comprehensive codification or recodification of much of existing trust law and supplementing existing common law, unless the code specifically contradicts it.

S.491 MAXIMUM SALARY FOR THE ADMINISTRATIVE DIRECTOR OF THE ADMINISTRATIVE DEPARTMENT OF THE WORKERS' COMPENSATION COMMISSION Sen. McConnell

This bill pertains to the Administrative Director of the Administrative Department of the Workers' Compensation Commission. The bill ties the maximum salary paid to the Administrative Director to the salary paid to Workers' Compensation Commissioners instead of circuit judges.

H.3800 LABOR ORGANIZATIONS Rep. Tripp

Under this bill, it is unlawful for a labor organization to make contributions to or expenditures on behalf of a candidate or committee by using funds: (1) secured by physical force or threat of force, job discrimination or threat of job discrimination, membership discrimination or threat of membership discrimination, or economic reprisals or threat of economic reprisals; or (2) from union dues. The bill further provides that it is unlawful for a labor organization to pay a member for contributing to a political activities fund by providing a bonus, expense account, rebate of union dues, or by any other form of direct or indirect compensation. Violations are misdemeanors.

A labor organization may only make contributions to or expenditures on behalf of a candidate or committee if the labor organization establishes a separate segregated political activities fund. The bill outlines requirements for solicitation of contributions, and the labor organization has the burden of proof to establish that the requirements are met.

The bill authorizes a labor organization to use union dues to lobby or communicate directly with its own members about candidates, ballot measures, and other political issues.

H.3802 DEFENDANT CHARGED WITH A VIOLENT CRIME'S PARTICIPATION IN A TRIAL THROUGH CLOSED CIRCUIT TELEVISION Rep. Howard

Under certain circumstances, this bill permits the Court to allow a person charged with a violent offense to participate in his or her trial through the use of two-way closed circuit television. The bill outlines a procedure for the use of the two-way closed circuit television.

H.3805 SUSPENSION OF THE DRIVER'S LICENSE AND VEHICLE REGISTRATION OF A PERSON WHO FAILS TO FILE AND PAY A MOTOR CARRIER PROPERTY TAX ON A VEHICLE Rep. Kirsh

This bill provides for the suspension of the driver's license and vehicle registration of a person who fails to file and pay a motor carrier property tax on a vehicle. The bill further provides that a suspension pursuant to this provision does not subject the person to custodial arrest or the requirement of proof of financial responsibility.

H.3812 MAXIMUM PERIOD A PERSON MAY SERVE A PROBATIONARY SENTENCE OR HAVE HIS OR HER SENTENCE SUSPENDED

Rep. Weeks

This bill relates to the maximum period a person may serve a probationary sentence or have his or her sentence suspended. The bill provides that the maximum period may be tolled when the person has violated the conditions of his or her probation.

H.3815 AMENDMENTS TO THE SOUTH CAROLINA PRESCRIBED FIRE ACT

Rep. Witherspoon

This bill amends the South Carolina Prescribed Fire Act; specifically, the bill relates to liability for damages, injury, or loss caused by prescribed fire. The bill provides that gross negligence rather than negligence must be proven before a property owner or lessee or his or her agent or employee conducting a prescribed burn is liable for damages, injury, or loss.

H.3817 DISPLAYING TEN COMMANDMENTS ON STATE PROPERTY

House Judiciary Committee

This bill provides that an object containing the words of the Ten Commandments may be displayed on real property owned by the State along with other documents of historical significance that have formed and influenced the United States legal or governmental system.

H.3831 ALTERNATIVE POLLING PLACES IN CASE OF AN EMERGENCY

Rep. Talley

In an emergency situation, this bill allows an elector to vote in a location or at a polling place not within the precinct where the elector is registered to vote. The bill outlines conditions when an alternate polling place may be designated.

H.3834 HEARING OFFICERS OF THE DEPARTMENT OF MOTOR VEHICLES

Rep. Thompson

This bill provides that the duties, functions, and responsibilities of all hearing officers of the Department of Motor Vehicles are devolved upon the Administrative Law Court effective July 1, 2005. The bill also provides that these hearing officers and their direct support staff, together with the appropriations relating to these employees, are transferred to the Administrative Law Court on July 1, 2005.

H.3838 CASTING A BALLOT DURING A PERIOD BEGINNING 10 DAYS BEFORE A GENERAL ELECTION Rep. J.R. Smith

The bill authorizes a qualified elector to cast a ballot during a period beginning 10 days before a general election without qualification.

LABOR, COMMERCE AND INDUSTRY

S.458 ANNUITIES Sen. Thomas

This bill provides for minimum nonforfeiture amounts for individual deferred annuities. The bill revises provisions for the calculation of minimum nonforfeiture amounts of contracts issued after June 30, 2007, so as to change the time of applicability on these contracts. The bill revises temporary provisions relating to minimum values of any paid-up annuity, cash surrender, or death benefits available under certain annuities, so as to change the date of applicability from 2005 to 2007 to these contracts and provide that contracts entered into after the effective date of this act and before July 1, 2007,

may apply, at the insurer's option, the minimum values as provided in this act on certain annuities on a contract-form-by-contract-form basis.

H.3801 "WORKER'S RIGHT TO KNOW ACT" Rep. Tripp

This bill enacts the "Worker's Right To Know Act", to provide members of labor organizations employed by public agencies with information concerning membership in labor organizations through comprehensive disclosure of labor organization finances. The legislation provides for the protection of a worker's freedom of speech, assembly, and other rights.

H.3819 DISABLED LAW ENFORCEMENT OFFICER PARTICIPATION IN STATE HEALTH/DENTAL INSURANCE Rep. Scott

This bill provides that a law enforcement officer employed by an entity whose employees are eligible for state insurance plans who is permanently disabled in the line of duty and whose employment is terminated as a result of the disability is eligible for state health and dental insurance plans and state-paid premiums.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3832 "LEWIS BLACKMAN HOSPITAL PATIENT SAFETY ACT" Rep. J.R. Smith

This bill enacts the Lewis Blackman Hospital Patient Safety Act. The bill requires all hospital clinical staff and trainees to wear badges containing certain identifying information. The bill requires certain information to be provided by hospitals to patients prior to or on admission concerning the patient's hospital care, including: (1) the general role of medical students, interns, and resident physicians in patient care, (2) that the patient's attending physician is the doctor in charge of the patient's care, (3) that the patient's attending physician may change, and (4) whether any resident physician or medical students may be participating in the patient's care, including surgery. The bill requires nurses to place a call for or to assist a patient in calling their attending physicians. The bill also requires hospitals to provide a mechanism that is available at all times whereby patients can receive assistance for resolution of urgent patient care concerns. The provisions of this bill do not create a civil cause of action.

H.3833 AMENDMENTS TO THE ATOMIC ENERGY AND RADIATION CONTROL ACT (TANNING) Rep. White

This bill relates to the regulation of ionizing and nonionizing radiation and the licensure and regulation of users of such radiation under the Atomic Energy and Radiation Control Act. The bill deletes references to nonionizing radiation. As used in the Atomic Energy and Radiation Control Act, the term 'nonionizing radiation' means only ultraviolet radiation used for the purpose of tanning the human body, and shall include ultraviolet radiation with wavelengths in air between two hundred and four hundred nanometers.

WAYS AND MEANS

H.3799 STATE AGENCIES' IMPLEMENTATION OF SOUTH CAROLINA

ENTERPRISE INFORMATION SYSTEM Rep. Cooper

This joint resolution authorizes and provides for state agencies to establish a special account for the purpose of funding nonrecurring implementation expenses of the South Carolina Enterprise Information System *(SCEIS). (*The SCEIS is a single enterprise information system to be used by state agencies, commissions, and boards that process their respective financial and payroll information through the Comptroller General's legacy applications today. The principal objectives are to reduce administrative costs; improve accuracy, timeliness and security of financial transactions and information; and improve services provided to South Carolina citizens and businesses.)

H.3803 SOUTH CAROLINA PRESCRIPTION MONITORING ACT Rep. Edge

This bill authorizes and provides for the Department of Health and Environmental Control, Bureau of Drug Control, to establish and maintain a program to monitor prescribing and dispensing of certain controlled substances (and other drugs identified by Drug Control) that demonstrate a potential for abuse, by professionals licensed to prescribe or dispense these substances in South Carolina. The bill includes patient confidentiality provisions and also provides penalties for drug dispensers and others who violate the provisions of the bill.

H.3804 ALCOHOLIC BEVERAGES Rep. Kirsh

This bill includes numerous provisions regarding beer and wine and alcoholic liquor sales, including but not limited to: a requirement that beer and wine or alcoholic liquor wholesalers must notify the Department of Revenue in writing, as provided in the bill, when relocating their business to another location; a requirement that a beer and wine wholesale licensee or permittee must be a legal resident of the United States and living in South Carolina for thirty days before the date of application for a permit, and a misstatement or concealment of fact on an application for a license or permit is grounds for denial of the application and revocation of a license or permit; a revision of the current provision which prohibits issuing, renewing, or transferring an alcohol license or permit until it is determined that the applicant does not owe State or Federal government delinquent taxes, by making this provision apply only to delinquent State taxes; a revision of the definition of non-alcoholic beverages, raising from five percent to fourteen percent, the maximum percentage of alcohol by weight for beers, ales, porter, and other similar malt or fermented beverages; a revision of certain provisions regarding conditions for applicants, applying these conditions only to retail permits and not to wholesale permit applicants; a revision of certain provisions regarding protest of the issuance or renewal of a permit by applying these provisions only to retail beer and wine permits; a revision of provisions regarding nonalcoholic beverages by providing that wine with a percentage of alcohol in excess of sixteen percent may be sold only in a licensed liquor store or a site permitted for on-premises consumption of alcoholic liquor; repeal of a provisions requiring price displays of alcoholic beverages; and a revision of provisions regarding contested case hearings after exhaustion of administrative remedies, providing for a default if the protest is not timely filed.

H.3806 MOTOR FUELS Rep. Kirsh

Relating to user fees on motor fuels, this bill substitutes the word "tax" for "user fee," and the phrase "taxable fuel" for "motor fuel subject to the user fee." The bill also amends a provision regarding the rebuttable presumption that fuel removed from a terminal in this State, or imported or delivered into the end user's storage tank, is to be used in this State. The bill provides that this applies to gasoline to be used or consumed in this

State, and to all other taxable motor fuel to be used or consumed on the State's highways in producing or generating power for propelling motor vehicles.

H.3807 UNDELIVERABLE TAX REFUND CHECKS Rep. Kirsh

This bill provides that a tax refund check that is returned to the Department of Revenue (DOR) for an unknown, undeliverable, or insufficient address is unclaimed property pursuant to the Uniform Unclaimed Property Act. The bill provides that tax refund checks are presumed abandoned if unclaimed for a period of three months from the date the check was issued by DOR.

S.80 GOVERNMENT RESTRUCTURING Sen. McConnell

This very comprehensive bill makes numerous revisions to the structure of State government including, but not limited to:

1. New or Revised Cabinet Agencies:

Department of Administration, effective July 1, 2006

This new department would consist of the following:

- (a) the Division of General Services of the Budget and Control Board, except for the real property programs; and
- (b) the Office of Energy of the Budget and Control Board; and
- (c) a new Office of State Inspector General. The Office of State Inspector General would:
 - (1) be appointed by the Governor with the advice and consent of the Senate for a term to be coterminous with that of the Governor;
 - (2) be required to have an accounting or business degree and a level of auditing experience;
 - (3) initiate, supervise, and coordinate investigations, recommend policies, and carry out other activities designed to deter, detect, prevent, and eradicate fraud, waste, misconduct, and abuse in the programs, operations, and contracting of all executive agencies.

Department of Behavioral Health Services, effective July 1, 2006

This new department would consist of the following existing departments or agencies:

- (a) Department of Alcohol and Other Drug Abuse Services;
- (b) the Continuum of Care (Governor's Office); and
- (c) Department of Mental Health.

Department of Health and Human Services, effective January 1, 2006

- (a) DHHS would be renamed the Department of Health Oversight and Finance.
- (b) The department would administer the Web-Based Client Management System, developed by the Office of Research and Statistics in conjunction with DHHS.

2. Changes in existing agencies:

Babynet, effective July 1, 2006

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- (a) This program to benefit infant and toddlers is currently at DHEC.
- (b) This program would be transferred to the Department of Disabilities and Special Needs.

Budget and Control Board, effective July 1, 2006

The Board would have the following new components:

- (a) the Chief Information Officer would be:
 - (1) appointed by the Governor with the advice and consent of the Senate;
 - (2) removable by a majority vote of the Budget and Control Board;
 - (3) responsible for developing policies and standards for the management of information technology in state government and providing management and technical assistance to certain state agencies; and
 - (4) available to assist agencies not under the CIO's authority if requested by the agency. Two groups of agencies would not be under the CIO's authority for obtaining information technology and telecommunications:
 - (i) agencies not subject to the procurement code: the General Assembly, the State Senate, the State House of Representatives, the Judicial Branch, the Legislative Council, the Office of Legislative Printing, Information and Technology Systems, the South Carolina Public Service Authority, and the South Carolina State Ports Authority.
 - (ii) agencies subject to the procurement code: Department of Transportation, the Medical University of South Carolina, Clemson University, the University of South Carolina and its regional campuses, the state's four-year public colleges and universities, the state's technical schools and colleges, the South Carolina Education Lottery Commission, and an identifiable division of a state agency that has a fiduciary responsibility to use its assets in a manner consistent with constitutionally protected trust funds.
- (b) an organizational entity, the Coordinating Council for Cultural and Information Services that would:
 - (1) not affect the agencies' existing governing bodies;
 - (2) meet at least quarterly and make a report about consolidating certain services in an effort to avoid duplication and increase efficiency and effectiveness;
 - (3) involve the following:
 - (i) Executive Director of the South Carolina Arts Commission;
 - (ii) Director of the South Carolina Department of Archives and History;

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- (iii) Director of the Confederate Relic Room and Museum;
 - (iv) President of South Carolina Educational Television;
 - (v) Director of the South Carolina State Library;
 - (vi) Director of the South Carolina State Museum;
 - (vii) State Archaeologist of the South Carolina Institute of Archaeology and Anthropology, and
 - (viii) Chairman of the Old Exchange Commission.
- (c) a State House, Legislative, and Judicial Facilities Operations Division; and
 - (d) a Grants Review Committee for awarding grants to counties and municipalities.

Department of Motor Vehicles, effective July 1, 2005

- (a) all hearing officers of the Department of Motor Vehicles would be transferred to the Administrative Law Court.
- (b) hearing officers would continue to exercise their present responsibilities and other functions and duties provided by the Chief Judge of the Administrative Law Court.

3. No changes in the elected status of constitutional officers.

H.3813 NATIONAL GUARD PENSION FUND Rep. Harrell

This bill establishes the State Budget and Control Board as trustee of the National Guard Pension Fund and provides for the administration of the pensions by the Retirement System of the State Budget and Control Board, with administrative expenses to be paid from the earnings of the National Guard Pension Fund.

S.210 LATE PAYMENT PENALTIES ON PROPERTY TAXES Sen.

Leatherman

This bill allows county treasurers sole discretion to waive penalties imposed for late payment of property taxes if the taxpayer provides clear and convincing written evidence that the taxpayer delivered the timely payment to the U.S. mail or otherwise delivered the payment. The bill also provides that the treasurer's denial of a waiver is not subject to appeal.

S.337 BUSINESS-LICENSE TAX Sen. McGill

This bill allows a county governing body to require a business registration, in lieu of any business license, throughout the entire county area and to impose an administrative fee of up to fifteen dollars.

S.399 PROPERTY TAXES Sen. Alexander

This bill makes various revisions to property tax provisions. These revisions include, but are not limited to, a provision that a boat, including its motor if separately taxed, used in interstate commerce having a tax location in this state and at least one other state is subject to property tax in this state. The bill provides for determination of the value of such a boat and includes provisions regarding physical presence of the boat in this State as a determinant for being subject to *ad valorem* taxation.

The bill also authorizes and provides for a code enforcement officer to issue an ordinance summons to a person the officer believes has failed to remit property taxes to

the appropriate taxing entity or to a person he believes has failed to comply fully with state vehicle registration laws. Such a summons shall be dismissed upon a showing of proper registration and payment of property taxes before the court hearing date.

The bill also provides that an owner-occupant of a legal residence is not disqualified from receiving the four percent assessment ratio if he has rented the residence for fewer than fifteen days in a taxable year.

H.3829 SALES TAX ON FOOD ITEMS Rep. Altman

This bill reduces at the rate of one percent a year, the five percent state sales tax on food items eligible for purchase with United States Department of Agriculture food coupons. The exemption would be complete effective July 1, 2009. The bill provides that eighty percent of the revenues from sales taxes raised by these special rates must be credited to the general fund and the remainder must be credited to the Education Improvement Act Fund.

**H.3837 PROPERTY TAX ASSESSMENT AND
ADJUSTMENTS Rep. J.R. Smith**

Regarding correction of property tax assessments and adjustments in valuation to reflect fire damage, this bill extends the valuation adjustment required for fire damage to damage caused by other catastrophes.

H.3839 ASSESSMENT AND EQUALIZATION PROGRAMS Rep. Loftis

This joint resolution requires that the Department of Revenue revise its staggered schedule of countywide real property assessment and equalization programs and establish a new schedule under which all real property is appraised and equalized in programs conducted simultaneously and implemented simultaneously statewide. The resolution also provides that an appraisal and equalization program under way or scheduled before the first statewide program year is postponed until that year.

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