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South Carolina House of Representatives

# Legislative Update & Research Reports

**Robert J. Sheheen, Speaker of the House**

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House Week in Review

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With three legislative weeks left in the 1989 session, the House has spent the past two weeks plowing through the calendar. A number of major bills have been passed and sent to the Senate. Some have been ratified and are before the Governor for his signature. A good number are on the calendar for consideration or have been given that crucial second reading.

Ratified Bills

A number of notable bills have been ratified and sent to the governor for his signature. Among these are: S.328, a joint resolution ratifying the 25th Amendment to the U.S. Constitution; S.4, the S.C. Fair Housing Law; H.3398, the Dissolution of Co-ops bill, and H.3472, which further amends the law dealing with grave destruction.

Also enrolled for ratification was H.3414, legislation that creates a Continuum of Care for Emotionally Disturbed Children. A significant piece of environmental legislation, H.3353, the Scenic Rivers Act, also was enrolled for ratification, as was H.3693, the Bootleg and Counterfeit Tape bill. And for all those citizens interested in cleaner highways, H.3062, a bill that adds further requirements for vehicles hauling leaky materials, has been enrolled for ratification.

Sent to the Senate

A number of House bills were given third reading in the past two weeks and are now before the Senate for consideration. These include H.3358, the bill that would set up the "zero-based" budget review process; H.3459, a bill that revises last year's Fee in Lieu of Taxes legislation that has been successful in attracting economic development, and H.3792, legislation that would change enactment of a State Bond Bill from even-numbered years to odd-numbered years beginning in 1991.

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Also receiving third reading approval by the House have been H.3689, the Infants and Toddler with Handicapping Conditions Act, which would set up a state-supported intervention program for these children; H.3722, legislation that would revise the length of two-unit truck combination allowed on the state's highways and interstates, and S.414, the Pre-need Funeral Contract bill.

Two major bills receiving third reading by the House were H.3216, Health Insurance Pool legislation, and H.3609, legislation establishing a 25 year retirement program for state employees. The Health Insurance Pool bill will establish a means for people to obtain health insurance who want health insurance but have had difficulty qualifying for it.

The 25 year retirement bill would allow state employees the option of retiring after 25 years of service at 43.75 percent of their final salaries. The bill also was amended to include a one-year sabbatical provision for public school teachers who have taught for 15 years.

### Further House Action

Obscene bumper stickers -- prohibitions against, that is -- finally received third reading by the House last week. The House also amended S.281, the Anabolic Steroid bill, with its own version and returned it to the Senate. This action also was taken on H.3695, when the House amended the Senate's version of automobile insurance back to the original House-passed bill.

A conference committee was named to work out House and Senate differences over H.3388, the bill to allow commingling of the state health and dental reserve funds. Named to the conference committee were Reps. Robert McLellan, Tim Rogers and Daniel Winstead. Senate members are Sens. James Waddell, Peden McLeod and Glenn McConnell.

### The Week Ahead

This week should unofficially be "Education Week" in the House as members take up the "Target 2000" school reform legislation. The House Education and Public Works Committee is proposing to amend S.321, school flexibility legislation, to include the "Target 2000" provisions. A summary of the "Target 2000" bill is in this week's Legislative Update.

Bills Introduced

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Here is a sampling of the bills introduced in the House during the past week. Not all the bills introduced are featured here. The bills are organized by the standing committees to which they were referred.

Education and Public Works Committee

Public Assistance Drug Act (H.4004, Rep. Fant). This bill would establish the Public Assistance Drug Act, providing a means by which the public can report illegal drug activities to law enforcement. This reporting system would be confidential and anonymous. If money is recovered in connection with a drug arrest and conviction, the citizen will receive half as a reward for his report. This reward system does not apply to the families of law enforcement employees.

Drug Tests and Driver's Licenses (H.4036, Rep. Sharpe). Under this bill, all first-time applicants for driver's licenses, restricted driver's licenses, beginner's permits or non-resident driving privileges must take and pass a drug test within 30 days prior to the application. The test would be administered by a physician or the local health department. The Highway Department would provide forms to health care providers to fill out in connection with the drug test. The cost of the test must be paid by the applicant. This testing does not apply to license renewals.

Littering Violations (S.593, Sen. Lourie). This bill would amend the point system for moving vehicle violations by providing for the assessment of three points if a driver is found guilty of littering-while driving.

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**Judiciary Committee**

Skateboards Regulated (H.4037, Rep. Keyserling). This bill would allow local authorities to regulate or prohibit the use of skateboards on streets and highways under their jurisdiction.

**Without Reference**

Appropriations Provisions (H.4005, Rep. Sheheen). This joint resolution provides that the Appropriations Act of 1988 (Act 658) will remain in effect until an Appropriations Act for fiscal 1989-90 is enacted.

Highlights of "Target 2000" School Reform Bill

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This week the House will take up the proposed "Target 2000" School Reform Legislation. This bill, dubbed by the media as "Son of EIA," is designed to enhance and build on the provisions in the 1984 Education Improvement Act.

This bill is based on the 46 recommendations from the report, "The Education Improvement Act -- Years Six Through Ten and Beyond." The report was produced by a 44-member task force, headed by Springs Industry executive Robert L. Thompson Jr. of Fort Mill. The task force spent more than a year studying the impact of the school reforms enacted in the EIA.

Many of the recommendations made in the "Target 2000" bill have received funding in the State Appropriations Bill.

Thanks to Steve Elliott, staff counsel for the House Education and Public Works Committee, who produced this summary.

SUMMARY OF H.3629:

"TARGET 2000" SCHOOL REFORM BILL

1. Early Childhood Education Program

Requires the expansion of early childhood education programs for "at risk" 4-year-olds to the remaining five school districts without a program. State-funded early childhood education is a half-day program provided to students whose parents allow their children's participation and who have predicted significant readiness deficiencies.

2. Parent Education Programs

Requires the State Board of Education to review and select or adapt a program which provides parents support as teachers of their preschool children. After a program is selected or adapted by the State Board, the program is to be implemented in all school districts over five years. Districts may institute a program of the district's own design or selection if the program meets standards for initial approval established by the State Board of Education and thereafter meets evaluation standards.

Under the bill, parent education programs are designed to educate parents about child development and the learning process. The program would be provided for parents who have children ages birth through 3 years of age who are at risk of school failure.

3. Remedial/Compensatory Education

Requires the General Assembly to fund the remedial and compensatory education program through priority 6 by at least the 1990-1991 school year. Presently, only a portion of the students in priority 6 -- which includes students in grades 7 through 10 who scored below Basic Skills Assessment Program standards but above the 25th percentile -- are funded for remedial education.

4. Dropout Prevention and Recovery (District Programs)

Requires the phase-in of dropout prevention and retrieval programs in each school district over five years. During the first two years of implementation, components will be tested for their effectiveness in retaining and recovering dropouts. The State Board of Education is required to establish standards for evaluating district dropout and prevention and retrieval programs, which include reduction of the district's dropout rate or maintenance of a low rate.

If a district's program fails to meet the evaluation standards, the district board of trustees must submit a corrective action plan to the State Board of Education. Failure to implement the corrective action plan within six months is indicated in the district's accreditation classification.

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### 5. Dropout Prevention (Driver's License)

Requires a person under the age of 18 to have completed high school, have a GED, or be enrolled in school or college to obtain a South Carolina driver's license. If the person under 18 years of age drops out of school after obtaining a driver's license, the person's school must notify the Highway Department, which must suspend the person's license until the person's 18th birthday or until he is re-enrolled in school for a minimum of 30 school days, unless a personal or family hardship exists.

### 6. College Public Service Activities to Encourage High School Graduation

Requires the Commission on Higher Education to adapt the higher education appropriations formula to entice public colleges and universities to establish public service programs presenting higher education as a viable and realistic objective and method of improving young students' opportunities in life, and emphasizing that to obtain these opportunities, students must first graduate from high school.

### 7. Higher Order Thinking Skills and Creativity

Emphasizes the teaching and learning of higher order thinking, problem solving and creativity by requiring evaluations of teachers for instruction of higher order thinking, pre-service and in-service training of teachers in higher order thinking, selection and development of textbooks and supplemental materials developing higher order thinking skills, testing students for achievement in higher order thinking as a means of driving instruction, and improved arts education.

### 8. School Flexibility and Innovation

Under one program, allows schools flexibility from state laws and regulations (DMP, BSAP, and Remedial/Compensatory Program) if schools meet criteria related to accreditation and student achievement in basic skills and in compensatory programs. Continuation of flexibility is contingent upon a school's students meeting prescribed standards of achievement.



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Under another program, awards grants to schools on a competitive basis and in accordance with criteria to be established by the State Board of Education for schools to implement innovative and comprehensive approaches for improving student development, performance, and attendance. Awards may be made for planning and for implementation over a three year period.

An award for implementation may be made after the first three years if a specified standard is met at least once during the initial three years.

### 9. Center for the Advancement of Teaching and School Leadership

To assist a team of teachers and administrators from schools in designing and implementing meaningful change from within their schools, this provision establishes a center at a public college or university selected by the Commission on Higher Education. The program of intensive short term institutes must be provided through the center in conjunction with regional centers in other colleges and universities in the state.

### 10. Minority Teacher Recruitment

Requires the South Carolina Center for Teacher Recruitment to establish a program with the sole purpose of expanding the number of high achieving minority students entering and completing teacher education programs.

### 11. Business-Education Partnership/Business-Education Subcommittee

Places the Blue Ribbon Committee, which developed and monitored the Education Improvement Act, and its subcommittee in statutory law to cement the working relationship between the business and education communities.

### 12. School Improvement Councils

Strengthens school improvement councils, which are composed of parents, teachers, students, and other representatives of the community, charged with assisting in the preparation of an annual school improvement report and the development and monitoring of any school incentive awards.

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The councils are strengthened by requiring school administrator training programs at the Education Department's Leadership Academy to include an emphasis on the use of councils and school-based improvement; college programs leading to certification as an administrator to include training on the effective use of councils, and by facilitating training of council members.

### 13. Public School Employee Cost Savings Program

Establishes a program to make cash awards to individual school district employees for cost savings ideas, which prove to be workable and improve educational effectiveness. After two years, the program must be supported at a level determined by the General Assembly from a portion of the proven cost savings.

### 14. Partnership Between Individual Schools and Businesses

To foster beneficial relationships between individual schools and local businesses, this provision requires the State Board of Education, in consultation with the Business-Education Subcommittee, to appoint a leadership network of representatives from the private sector.

### 15. School Buildings

Provides that proceeds accruing to the state pursuant to federal law or decision of the courts, providing for or authorizing the imposition of the state sales tax upon interstate mail order sales, shall be used exclusively for school building programs.

### 16. Implementation

Provides that costs of implementing the programs are to be paid wholly from funds appropriated by the General Assembly and implementation is to take place only upon and to the extent of funding by General Assembly.

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### Summary of the Senate-Passed Auto Insurance Bill

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H.3695, the Automobile Insurance Reform Act, now awaits action by the Senate after the House again amended the bill last week with its version of auto insurance reform proposals.

Last week, the Legislative Update published a summary of the bill as passed by the House. The following is a section by section summary of the bill as amended by the Senate. Thanks to Mary Lou Price, research director of the Automobile Insurance Study Committee, for this summary.

#### Senate-Passed Auto Insurance Bill

Sec. 1 This section allows an insurer not to write comprehensive or collision coverage if the insured has one or more chargeable accidents or two or more convictions for driving violation in the past 36 months.

In addition, the section prohibits collision or comprehensive policies with deductibles of less than \$250 to be ceded to the Reinsurance Facility. Insurers may write lower deductibles but cannot cede such policies.

#### Rate Reductions

Sec. 2 The provision allows the Chief Insurance Commissioner to order insurers or rating organizations to reduce or increase rates as a result of recently passed legislation or recently rendered court decisions. It provides for public hearings, participation by the Consumer Advocate and an appeals process.

**Attorneys Fees**

Sec. 3 This section would allow the statute, which penalizes insurers for unreasonably refusing to pay valid claims, to apply in federal court as well as state courts. In addition, the section amends the limit on attorney fee to no more than one-third of the judgment. The current statute limits fees to \$2,500 or one-third of the judgment, whichever is less.

**Reinsurance Facility Governing Board**

Sec. 4 This section adds the chairmen of the House Labor, Commerce and Industry Committee and the Senate Banking and Industry Committee, or their designees, as ex-officio members of the Reinsurance Facility governing board. It also adds the Consumer Advocate and another gubernatorial consumer appointee to the board.

**Uninsured Motorist Premium**

Sec. 5 The section repeals the \$1 fee to uninsured motorist premiums. The fee now goes to the Highway Department to track uninsured motorists.

**Insurance Fraud**

Sec. 6 & 9 This section would change the crime of insurance fraud from a misdemeanor to a felony.

**Personal Injury Protection**

Sec. 7 This section repeals those sections of the law requiring mandated Personal Injury Protection.

**Mandate To Write Liability Coverage**

Sec. 8 This section of the bill would allow an insurer to refuse to write liability coverage limits higher than \$250,000/\$500,000/\$50,000 if an insured has failed the objective standards. In addition, it would prohibit new policies from being cancelled in the first 60 days for non-payment unless the reason for cancellation is a check returned for insufficient funds.

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### Anti-Theft or Safety Devices

- Sec. 10 This section would allow policies with a credit or discount for use of anti-theft or safety devices to be ceded to the Reinsurance Facility.

### Ceding of Policies

- Sec. 11 Under this section, an insurer may cede mandated coverages of an automobile insurance policy even when non-mandated coverages are written. But non-mandated coverages may not be ceded. However, if mandated coverage is ceded, all mandated coverages must be ceded.

### Umbrella Policies

- Sec. 12 Adds language to the statute that an umbrella policy is not required to cover Uninsured Motorist and Underinsured Motorist.

### Underinsured Motor Vehicle Definition

- Sec. 13 Amends the definition of "underinsured motor vehicle" to correspond to court cases which compare "limits" to "damages."

### Cession Limits

- Sec. 14 Reduces the percentage of policies that an insurer may cede to the Reinsurance Facility from 40 percent to 35 percent.

### Optional Coverage Forms

- Sec. 16 Provides that the Highway Department<sup>z</sup> shall provide a form which new applicants for driver's licenses must have showing they have insurance.

### Motor Vehicle Report

- Sec. 17 Reduces the cost of MVR from \$4 to \$2.

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### Penalty for Driving Uninsured

Sec. 18 This section allows the Highway Department to fine persons an additional penalty of \$5 per day for periods when their automobile insurance was lapsed.

### Consumer Advocate

Sec. 19 The Consumer Advocate's discovery ability in rate hearing before the Chief Insurance Commissioner would be expanded under this section.

### Rating Organizations

Sec. 20 This section changes the law regarding the ability of insurers to use rating organizations. Under these provisions, no rating organization may file an rate increase with the commissioner for any previously approved rate or premiums charge for any private passenger auto insurance coverage. A rating organization may file the pure loss component of the rate or premium charge for any private passenger auto insurance coverage by class and territory for the approval of the commissioner, following a public hearing.

### Safety Belts

Sec. 21 This section requires all occupants of a motor vehicle to wear seat belts. The backseat use of safety belts would not be required unless the vehicle is equipped with shoulder belts as well as lap belts. Other exceptions are outlined in the bill. These provisions would be carried out through secondary enforcement with a fine no greater than \$20. Warning tickets would be given for 6 months after passage.

The section also requires all insurance companies to submit revised rates to the Chief Insurance Commissioner reflecting a decrease in premium charges of no less than 6.9 percent. The new rates must be submitted by Oct. 1.

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The section also authorizes the School Bus Transportation Study Committee to review the feasibility of putting seat belts in public school buses and on smaller vans.

### Safe Driving Discount

Sec. 22 This section requires all insurance companies to use a Safe Driver Discount of 20 percent.

### Unfair Trade Practices

Sec. 23 This section set the amount health care providers may charge for medical records. Also outlines other unfair trade practices in connection with insurance.

### Investment Income

Sec. 24 This section provides instructions and exhibits regarding how investment income must be used in determining rates.

### PIP Set-Off

Sec. 25 Under this section, if an insurance company sells no-fault insurance coverage which provides personal injury protection (PIP), medical payment coverage, or economic loss coverage, the coverage must not be assigned or subrogated and is not subject to a set-off.

### Uninsured Violation a Misdemeanor

Sec. 26 Under this section, a person who knowingly drives without insurance and causes damage or injury is guilty of a misdemeanor.

### Arson Claims

Sec. 27 This section requires an insurance company to notify the Chief Insurance Commissioner if they deny a fire claim as a result of arson.

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### **Classification Plans**

- Sec. 28        By 1990, the Chief Insurance Commissioner must promulgate by regulation a classification plan consistent with the classification plan proved for use on a country-wide basis by the rating organization with the largest number of subscribers in South Carolina. The revised plan could not include a distinction in bodily injury liability premiums or property damage liability premiums because of the type of automobile insured.

### **Phantom Driver**

- Sec. 29        This section provides that if a vehicle is damaged by an unknown person, the owner or operator may collect insurance, even though there was no physical contact. The owner or operator must have a witness who will sign an affidavit attesting to the truth of the facts.

### **Severability Section**

- Sec. 30        This is the severability section of the bill.

### **Premium Service Companies**

- Sec. 31        Premium service company agreements would no longer have to be notarized, under this section.

### **MVR Requirement for Ceded Policies**

- Sec. 32        All policies ceded to the Reinsurance Facility must be accompanied by a MVR or a renewal notice from a another insurer.

### **Reduction in Recoupment Charge**

- Sec. 33        Under this section, the recoupment charge for drivers with zero surcharge points would be reduced 25 percent.

### **Effective Date of the Act**

- Sec. 34        Effective upon signature of the Governor.