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South Carolina House of Representatives

Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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No. 11

CONTENTS

Legislation Introduced.....	2
Cigarette Taxes Across the Nation.....	8
Index, <i>Legislative Update</i> Numbers 1 - 10.....	11

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Legislative Update

Legislation Introduced

Aging

Changes in Human Affairs Law (S.379, Sen. Lourie). This bill makes changes in various sections of the state Human Affairs Law, dealing with mandatory retirement age. Such mandatory retirement requirements have been rendered obsolete by federal action.

Children

False reports of child abuse (H.2664, Rep. Aydlette). This measure would make it illegal to turn in known false reports of mistreatment of children. Specifically, it forbids persons making false reports of ill-treatment of children (20-7-60 of the Code), cruelty to children (20-7-70), or lewd acts committed or attempted on children under fourteen (16-15-140).

Punishment for making such false reports would be a fine of not less than \$10,000 or imprisonment for not more than two years. In addition, if the false reports were made during a custody dispute, then "the person making the false charges must lose custody of the child."

Statewide adoption exchange (H.2685, Rep. Evatt). This bill would authorize the Department of Social Services to set up a statewide adoption exchange to serve all the authorized, licensed child-placement agencies in the state. The exchange would share information—including photographs—relating to adoption procedures.

Economic Development

Less developed counties—tax credits for jobs (H.2666, Rep. Baker). This bill proposes adjustments in the tax credits which are available to business for creating jobs in South Carolina's less developed areas.

First, it redefines "less developed" areas as those counties having less than 25,000 in population as determined by the latest census figures. (A list of counties with 25,000 or less can be found below.)

Second, it increases the tax credit for permanent jobs created, raising it from \$500 per job to \$1,000. The provision remains that the employer can take this credit for five years, starting one year after the job is created--that is, a credit for years two through six of the job.

Third, when an employer creates more than 50 jobs in areas not designated as less developed, a tax credit of \$300 can be claimed, using the same five-year period.

How many counties are under 25,000?

According to the most recent issue of the *South Carolina Statistical Abstract* the following counties in the state have populations of 25,000 or less as of July 1, 1984.

<u>County</u>	<u>Population</u>	<u>County</u>	<u>Population</u>
Abbeville	22,900	Fairfield	20,800
Allendale	10,900	Hampton	18,800
Bamberg	18,100	Jasper	14,400
Barnwell	20,200	Lee	18,600
Calhoun	11,600	McCormick	7,300
Edgefield	17,800	Saluda	16,900

Education

Home instruction (H.2663, Rep. Haskins). This bill sets forth the provisions which would apply to parents who wish to teach their children at home. These would be:

First, the parent would be required to have a high school diploma or GED. If a tutor was hired, the tutor would have to have a BA or BS degree.

Second, the parent would submit to the local school superintendent a "declaration of intent" to use home study. This would include the names and ages of all children to be taught, the address where the instruction would be done, which 12-month period is to be considered the school year, and a statement of intent to comply with the requirements of this part of the Code.

Third, the home program must provide a basic education for students--that is, instruction in reading, language arts, mathematics, social studies, and science. Other instruction is optional.

Fourth, the parents would have to provide 180 days of instruction during each 12-month period, at a minimum of four and one-half hours per day (less for certain physically-handicapped children).

Fifth, proper records would have to be maintained: a plan book or other written record of the subjects taught and the activities accomplished; a portfolio of samples of the child's work; a record of the evaluation of the child's academic progress.

Sixth, children taught at home would be subject to certain standardized tests to determine their progress.

Finally, the Department of Education is not permitted to promulgate regulations under this section, but may provide "simple reporting forms" to be used by parents. The bill proposes the changes to go into effect on July 1, 1987.

Environment

Campsites in state parks (H.2688, Rep. J.C. Johnson). This bill would allow persons in parks to keep the same campsite for more than fourteen days if--all the campsites at the park are not occupied and if no other person asks for the specific campsite in question.

Littering fines increased (S.119, Sen. Garrison). This bill would set the minimum fine for littering at \$100. It would also require that a person convicted of a second offense of littering must be sentenced to a minimum of five hours of community service.

Government Operations

Promulgation of regulations (H.2658, Rep. Aydlette). A measure that proposes amending the state constitution concerning regulations promulgated by state agencies, boards and commissions. If the amendment is adopted, then any such regulations could not go into effect until specifically approved by the General Assembly. The bill also allows the General Assembly to write a law providing for emergency regulations.

Public officials and employees as directors of corporations (H.2661, Rep. Ferguson). This bill would prohibit public officials or public employees from serving as directors of corporations, if those corporations might be subject to action by the public official, or by the public body the employee works for.

Dual office holding (H.2667, Rep. Harvin). This bill would state that any member of a "lawfully and regularly organized fire department" is not considered to be a dual office holder as defined by the state constitution.

H.2497, also introduced by Rep. Harvin, proposed easier the dual office holder restrictions for members of volunteer fire departments.

Workers' Compensation cases and legislators (H.2672, Rep. Limehouse). Members of the General Assembly would not be permitted to represent any person engaged in proceedings dealing with the Workers' Compensation Fund.

Whistleblower protection (H.2687, Rep. Kirsh). This bill states it would encourage state employees to report on activities which are violations of state or federal law, rule, or regulation; characterized by mismanagement or inefficiency; a gross waste of funds; related to an abuse of authority; or which pose a substantial and specific danger to the public health and safety.

If a public employee reports on these activities, then an employer may not "discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment" because of the report. (An exception is made if the employee knows or has reason to believe that the report is false.)

Computers and jury lists (S.179, Sen. Shealy). The computer age entered the court system when 14-7-140 of the Code was adopted, allowing the use of computers for drawing and summoning jurors. The section allowed the computer to be used to summon jurors for the court or common pleas or general sessions. S.179 would expand that to allow computers to be used for grand jury selection as well.

Health

Blood donations forbidden (H.2659, Rep. Fair). Under this bill, practicing homosexuals and illegal intravenous drug users would be forbidden to donate blood. Those who gave up their practices could not give blood until after ten years had passed. The violation of this law would be a felony, carrying a fine of \$10,000 and a minimum of one year in prison. No part of this punishment could be suspended, and no parole would be allowed.

Chiropractic Hospitals (H.2669, Rep. Davenport). This legislation would permit certain facilities offering chiropractic services and treatment to label themselves "chiropractic hospitals" if certain conditions are met. Specifically, the centers would have to offer inpatient treatment for at least 24 continuous hours to patients who needed that treatment or services.

Long term care insurance act (H.2673, Rep. P. Harris). The purpose of this bill is "to promote the availability of long term health insurance policies," and to "establish standards for long term care insurance." In order to accomplish these ends, the bill proposes certain definitions and conditions that long term care insurance (coverage for at least 23 consecutive months) must meet.

The bill would require that the insurance not be cancelled or nonrenewed because of "age, or the deterioration of the mental or physical health of the insured individual," or have a clause "establishing a new period in the event existing coverage is converted to or replaced by a new or other form within the same company" (except for voluntary increases in benefits).

The measure would also set limits on pre-existing conditions for denial or termination of policies: six months for persons over 65, 24 months for persons under 65 years.

Finally, the legislation allows policies to be returned for refunds within certain time periods, and requires that outlines of coverage (describing benefits, coverage, exclusions and so forth) be provided to the policy holder.

Individual and group long term care policies would be covered by the measure.

Highways and Byways

Height of vehicles (S.347, Sen. Setzler). Currently, state law forbids any vehicles higher than 13 feet, 6 inches. This measure would amend that to allow vehicles up to 14 feet if they are automobile transporters or transporters of prefabricated buildings. The bill also makes such vehicles specifically liable for any damage they may cause.

Drivers' license for those under 21 (H.2668, Rep. Aydlette). This bill would have the Highway Department issue drivers' license of a different color to persons under 21 years. The license would expire when the person turned 21, and they would then receive a regular license. One obvious advantage to this: ease of checking a person's age when he or she goes to buy alcoholic beverages.

Labor, Commerce and Industry

Utility rate increases under bond (H.2681, Rep. Rudnick). This bill would alter the present utility rate increase situation which allows utilities the opportunity to put rate increases into effect before the PSC approves them. Now they can do that by posting a bond to cover payments by customers if the rate increase is denied. This bill would not allow that practice.

Utilities--excess generating capacity (H.2682, Rep. Rudnick). A measure that would prevent utilities from passing on costs of constructing generating facilities to customers in some cases. The bill would take effect when the PSC determines that a utility has

built a facility to generate electricity which has an excess capacity. In such a case, the portion of the cost of building and operating the facility that corresponds to the excess capacity could not be included in figuring the utility's base rate for charging customers.

Maternity situations (H.2686, Rep. Rudnick). This bill would provide that Employment Security Benefits in 41-35-15 may not be "denied or abridged in whole or part" because a person uses up all paid leave (sick, annual or otherwise) because of maternity.

Law and Justice

Drugs near schools (H.2676, Rep. Wilkins). This legislation would alter the punishment given to persons convicted of selling, distributing or dealing in drugs within one-half mile of a school. For persons convicted of committing the offense while they were under 21 years, the punishment would be a fine up to \$10,000, a term up to 10 years, or both. For persons convicted of committing the crime when they were over 21, the punishment would be the same in terms of fines and prison, but there could be no suspension of the sentence, and no probation granted by the trial judge.

Damage to property (H.2679, Rep. Hawkins). This bill would provide for a lien being placed on the property of a person convicted of a crime which destroys or damages the property of another person. Once a person was found guilty of a crime which involved such damage, he or she would be obligated to repay the property owner for the loss. A lien would be placed on the criminal's property to cover the amount of that loss; unlike other liens, there would be no time limit on it.

Fireworks (H.2683, Rep. Fair). This legislation proposes restrictions on the use of fireworks. Exploding them would be forbidden in areas zoned for single family residences (whether county or municipality) or in areas considered dangerous by the State Forestry Commission—for example, wooded areas threatened with fire because of drought conditions.

Notaries Public certifying falsely (H.2689, Rep. Kirsh). This bill would provide penalties and punishment for notaries public who falsely certify the "affirming or swearing of any person to any instrument, affidavit, or writing." The penalty would be a fine up to \$200 or 30 days; in addition, the notary public would lose his or her commission.

Cigarette Taxes Across the Nation

Background

As part of the General Appropriation bill a proposal has been made to increase the tax on cigarettes in South Carolina. Supporters of this say it could raise as much as \$12.8 million in additional revenues for the state. Opponents say that it could send a discouraging signal to the tobacco industry in South Carolina—a mainstay for many farmers.

Recently, the Iowa House Ways and Means Committee voted to up the cigarette tax in that state, raising it by 10 cents a pack. If the rest of the Iowa Legislature agrees with the raise, that state will have the highest tax (36 cents per pack) in the nation. Estimates of new revenues for Iowa are \$26 million by next year. (According to a report in the February 16 issue of *From the State Capitals*.)

Taxes on cigarettes

All fifty states impose some sales or excise tax on tobacco products. According to the latest edition of the *Book of the States*, cigarette taxes across the nation range from 2 cents per pack in North Carolina to 28 cents per pack in Maine.

The amount of revenues brought in by these taxes depends upon factors such as the level of the tax, and the number of persons buying the products—which in turn is affected by the state's population. Both Connecticut and Massachusetts set their tobacco sales tax at 26¢, for example, but Connecticut brings in \$90,399 in revenues, while Massachusetts earns \$177,086.

States raising taxes

Six states have raised their tax on cigarettes since 1985, all of them upping the cost by 8 cents. The final tax, of course, varied among the states, depending upon the existing tax. For example, one state, Alaska, doubled its taxes, raising them from 8.0 cents to 16.0 cents per pack. In total tax per pack, however, Maine's increase was the greatest, going from 20.0 cents per pack to 28.0 cents.

The other states increasing cigarette taxes during this period were: Oregon, 19.0 to 27.0 cents per pack; Iowa, 18.0 to 26.0 cents per pack; Kansas, 16.0 to 24.0 cents per pack; and Illinois, 12.0 to 20.0 cents per pack.

Cigarette Tax Per Pack

State	Amount (cents)	1985 Revenue (000's of \$) *
Maine	28.0	29,158
Oregon	27.0	58,693
Iowa	26.0	59,060
Connecticut	26.0	90,399
Massachusetts	26.0	177,086
New Jersey	25.0	216,626
Wisconsin	25.0	129,384
Kansas	24.0	44,878
Rhode Island	23.4	29,065
Minnesota	23.0	85,011
South Dakota	23.0	10,466
Washington	23.0	97,256
Arkansas	21.0	62,682
Florida	21.0	286,299
Michigan	21.0	126,251
New York	21.0	434,762
Texas	20.5	373,951
Illinois	20.0	166,678
Mississippi	18.0	36,599
Nebraska	18.0	28,781
North Dakota	18.0	12,389
Oklahoma	18.0	75,043
Pennsylvania	18.0	239,201
New Hampshire	17.0	33,013
Vermont	17.0	13,041
West Virginia	17.0	35,085
Alabama	16.5	71,110

* From the latest edition of the *Book of the States*, published by the Council of State Governments. This figure includes all tobacco products, not just cigarette revenues, and is included as a rough estimate of state incomes from this particular tax.

Legislative Update, March 24, 1987

State	Amount (cents)	1985 Revenue (000's of \$)
Louisiana	16.0	87,299
Montana	16.0	13,635
Alaska	16.0	5,211
Arizona	15.0	49,524
Colorado	15.0	52,271
Nevada	15.0	20,233
Delaware	14.0	12,251
Ohio	14.0	184,548
Tennessee	13.05 *	80,808
Maryland	13.0	66,930
Missouri	13.0	82,339
Georgia	12.0	88,068
New Mexico	12.0	14,598
Utah	12.0	13,182
Indiana	10.5	76,784
California	10.0	260,655
Idaho	9.1	10,205
Wyoming	8.0	4,850
South Carolina	7.0	29,842
Kentucky	3.1	18,748
Virginia	2.5	17,003
North Carolina	2.0	16,635
Hawaii 40 % wholesale price		19,717

* The Tennessee figure might appear a bit odd, but it seems that the .05 cent is set aside for administration of the tax.

Index
Legislative Update Volume 4, Numbers 1-10

Subject	Number	Date	Page
ABC--inspections (H.2386)	6	2/17	3
AIDS--test before marriage (H.2599)	9	3/10	7
Accidents--remaining on scene (H.2624)	10	3/17	9
Acts--mailing list (H.2345)	5	2/10	4
Acts (H.2345)	7	2/24	12
Acupuncture--regulations (H.2218)	4	2/3	8
Adoption--investigation of parents (H.2648)	10	3/17	4
Adultery--alimony in divorce cases (H.2654)	10	3/17	5
Aging--bingo license fee for programs (H.2031)	1	1/13	4
Aging--increase in retirement base (H.2041)	1	1/13	5
Aging--increased homestead exemption (H.2026)	1	1/13	4
Aging--marriage license fee for programs (H.2032)	1	1/13	4
Aging--retirement of firefighters (H.2078)	2	1/20	2
Agriculture--North Carolina farm task force	3	1/27	16
Agriculture--drop in SC farm income	4	2/3	10
Agriculture--sales tax on electricity (H.2406)	6	2/17	3
Aid to subdivisions--report requirements (H.2264)	4	2/3	4
Airboats--regulated (H.2071)	8	3/3	3
Airboats (H.2071)	7	2/24	10
Airboats (H.2071)	1	1/13	7
Aircraft--and intoxication (H.2050)	7	2/24	13
Aircraft (H.2050)	1	1/13	11
Aircraft--stolen, damage, liability (H.2556)	8	3/3	9
Alcohol--DUI levels (H.2086)	2	1/20	6
Alcohol--and aircraft operation (H.2050)	7	2/24	13
Alcohol--blood level (H.2557)	8	3/3	9
Alcohol--inspection by ABC (H.2386)	6	2/17	3
Alcohol--minors as agents of ABC (H.2044)	1	1/13	13
Alcohol--minors in liquor stores (H.2127)	3	1/27	3
Alcohol--(H.2127)	7	2/24	9
Alcohol--possession by minors (H.2296)	4	2/3	7
Alcohol--(H.2296)	7	2/24	9
Alcohol--regulations on bar locations (H.2052)	1	1/13	10
Aliens--ownership of SC property (H.2313)	4	2/3	5
Aliens--(H.2313)	7	2/24	12
Amusement games--taxes (H.2153)	7	2/24	11
Animals--cruelty (H.2021)	1	1/13	12
Annexation--by elections (H.2634)	10	3/17	5
Annexation--by petition (H.2635)	10	3/17	6
Appropriation bill--in Ways and Means Committee	8	3/3	2
Appropriation bill--introduced (H.2590)	10	3/17	3
Appropriation bill--(H.2590)	10	3/17	5
Appropriations bill--Ways and Means Version	10	3/17	10

Subject	Number	Date	Page
Automobile insurance (H.2124)	7	2/24	13
Automobile insurance—requirements (H.2043)	7	2/24	13
Automobiles—repair act (H.2311)	6	2/17	7
Aviation fuel—exempt from tax (H.2420)	6	2/17	3
Bars—location near churches (H.2052)	1	1/13	10
Beaches—no permanent bulkheads (H.2265)	4	2/3	3
Billboards—banned (H.2004)	7	2/24	10
Billboards—banned from highways (H.2004)	1	1/13	6
Billboards—banned on highways (H.2453)	7	2/24	3
Bingo fees—for recreation (H.2085)	10	3/17	3
Bingo fees—for recreation programs (H.2085)	8	3/3	4
Bingo—(H.2085)	2	1/20	5
Bingo—(H.2085)	7	2/24	10
Bingo—license fee for elderly programs (H.2031)	1	1/13	4
Bingo—local referendum (H.2235)	4	2/3	3
Birth control—and public schools (H.2095)	2	1/20	6
Black history month—research report	4	2/3	12
Blackmail—definitions extended (H.2251)	4	2/3	7
Blood tests—for food service workers (H.2489)	7	2/24	6
Blood tests—for AIDS before marriage (H.2599)	9	3/10	7
Boards and commissions—and public officials (H.2036)	1	1/13	9
Boilers—Board of Boiler Rules (H.2548)	8	3/3	12
Bombs—penalties (H.2259)	4	2/3	7
Bombs (H.2259)	7	2/24	14
Bombs—stink (S.98)	6	2/17	7
Bombs—stink and smoke (H.2366)	5	2/10	6
Bottle bill—container legislation (H.2051)	1	1/13	6
Budget—see appropriation bill			
Business corporation act—proposed S.415	10	3/17	8
Capital punishment—see death penalty			
Cemeteries—damage (H.2523)	8	3/3	6
Cemeteries—see also graveyards			
Charleston—preservation efforts	2	1/20	13
Chief Justice Ness—addresses General Assembly	8	3/3	4
Child care facilities—closing by DSS (H.2014)	1	1/13	5
Child care—provided by employer (H.2164)	3	1/27	4
Children—adoptions, investigations (H.2648)	10	3/17	4
Children—and court cases (H.2395)	6	2/17	6
Children—and pornography (H.2072)	1	1/13	13
Children—and visitation rights (H.2046)	1	1/13	5
Children—child support (H.2009)	1	1/13	5
Children (H.2009)	7	2/24	9
Children—child welfare agencies (H.2650)	10	3/17	5
Children—foster care review board (H.2487)	7	2/24	2
Children—school health services (H.2198)	3	1/27	11
Children—raising school attendance age (H.2055)	1	1/13	6
Children—task force (H.2126)	3	1/27	3

Legislative Update, March 24, 1987

Subject	Number	Date	Page
Children—tax credit for child care (H.2164)	3	1/27	7
Chop shops—outlawed (H.2015)	1	1/13	12
Chop shops—(H.2015)	7	2/24	14
Churches—bars located near them (H.2052)	1	1/13	10
Cigarettes—additional tax (H.2485)	7	2/24	6
Cigarettes—additional tax (H.2508)	7	2/24	6
Circuit judges—elected (H.2316)	4	2/3	5
Circuit judges (H.2316)	7	2/24	12
Civil actions—against coaches (H.2554)	8	3/3	13
Civil actions—punitive damages (H.2612)	9	3/10	5
Civil actions—tort cases (H.2077)	2	1/20	10
Civil actions—tort claims (H.2399)	6	2/17	6
Civil actions—tort reform, research report	1	1/13	20
Clean indoor air act—smoking regulations (H.2074)	1	1/13	7
Clemson Board—membership (H.2197)	3	1/27	6
College boards—changes (H.2192)	3	1/27	5
College of Charleston—board of trustees (H.2192)	3	1/27	5
Constitution—amend by initiative (H.2310)	4	2/3	5
Constitution—amend by initiative (H.2310)	7	2/24	12
Constitution—amended by initiative (H.2133)	3	1/27	8
Constitution—amendment on English language (H.2034)	1	1/13	5
Consumers—auto repair act (H.2311)	6	2/17	7
Consumers—credit card interest rates (H.2390)	6	2/17	8
Contraband—forfeiture (H.2408)	6	2/17	7
Contraceptives—not in public schools (H.2095)	2	1/20	6
Corrections—electronic surveillance (H.2290)	4	2/3	7
Corrections—furlough eligibility (S.465)	10	3/17	10
Corrections—emergency release eligibility (S.466)	10	3/17	10
Corrections—prison industries, research report	8	3/3	14
Corrections—separation of prisoners (H.2260)	4	2/3	7
Cosmetologists—continuing education (H.2505)	7	2/24	6
Counties—governing bodies (H.2488)	7	2/24	4
Counties—tax for services (H.2447)	7	2/24	3
County councils—single member districts (H.2488)	7	2/24	4
Court cases—involving children (H.2395)	6	2/17	6
Courts—interpreters for deaf (H.2159)	3	1/27	13
Courts—guilty but mentally ill (H.2446)	7	2/24	8
Courts—interpreters for deaf (H.2159)	7	2/24	12
Courts—permissible inferences (H.2490)	7	2/24	8
Credit card interest rates—research report	7	2/24	15
Credit cards—maximum interest rates (H.2390)	6	2/17	8
Crime—Victim's compensation fund (H.2542)	8	3/3	6
Crime—reimbursement by criminals (H.2156)	3	1/27	13
Crime—use of deadly force by resident (H.2025)	1	1/13	12
Crime—violent (H.2384)	6	2/17	6
Criminal conversation—alienation of affection (S.97)	7	2/24	8
Criminals—reimbursement (H.2156)	7	2/24	14

Legislative Update, March 24, 1987

Subject	Number	Date	Page
DHEC—and hazardous waste regulations (H.2418)	6	2/17	2
DHEC—board expanded (H.2392)	6	2/17	5
DSS—and child care facilities (H.2014)	1	1/13	5
DUI—drivers' license suspension (S.100)	8	3/3	10
DUI—penalties increased (H.2201)	3	1/27	13
DUI—(H.2201)	7	2/24	13
DUI—screening tests (S.25)	5	2/10	5
Deadly force—use by homeowners (H.2025)	7	2/24	11
Deadly force—(H.2025)	1	1/13	12
Deaf—interpreters in court (H.2159)	3	1/27	13
Deaf—(H.2159)	7	2/24	12
Deaf—(H.2159)	9	3/10	3
Death penalty—advisory jury verdict (H.2623)	10	3/17	9
Death penalty—for murder (H.2081)	2	1/20	9
Death penalty—jury vote (H.2601)	9	3/10	8
Dentistry Board—reauthorized (H.2209)	4	2/3	5
Dentistry Board—(H.2209)	7	2/24	12
Disease—blood tests for food service workers (H.2489)	7	2/24	6
Disease—tests for AIDS before marriage (H.2599)	9	3/10	7
Divorce—alimony for adulterous spouse (H.2654)	10	3/17	5
Divorce—and visitation rights of children (H.2046)	1	1/13	5
Divorce—definition of residence, residency (H.2234)	4	2/3	2
Divorce—period of separation (H.2087, H.2088)	2	1/20	3
Divorce (H.2088)	7	2/24	10
Divorce—period of separation (H.2585)	9	3/10	6
Divorce—residency definitions (H.2234)	7	2/24	10
Dogs—dangerous (H.2365)	5	2/10	5
Domestic violence—penalties (H.2579)	9	3/10	8
Dress code—H.2090, H.2092, H.2098	2	1/20	4
Dress code—revised (H.2631)	10	3/17	4
Drivers' education—optional (H.2200)	7	2/24	10
Drivers license compact—interstate (H.2130)	3	1/27	11
Drivers' License—renewal period (H.2231, H.2232)	4	2/3	6
Drivers' license—immediate loss (H.2625)	10	3/17	9
Drivers' license—interstate compact (H.2130)	7	2/24	13
Drivers' license—period to apply (H.2231)	7	2/24	13
Drivers' license—period to apply (H.2232)	7	2/24	13
Driving under the influence—alcohol level (H.2086)	2	1/20	6
Drugs—administering (H.2552)	8	3/3	13
Drugs—crack cocaine (S.102)	8	3/3	13
Drugs—equipment given to school (S.81)	7	2/24	2
Drugs—excise tax on controlled substances (H.2416)	6	2/17	4
Dual office holding—volunteer firemen (H.2497)	7	2/24	4
EIA—money transferred to building fund (H.2362)	5	2/10	2
Earphones—not to be worn while driving (H.2274)	4	2/3	6
Economic forecasts—adjustments (H.2217)	4	2/3	3
Edisto Matches Kusso (Indian tribe)	9	3/10	4
Editorial comment on Legislature (Part 1)	5	2/10	9
Editorial comment on Legislature (Part 2)	9	3/10	13
Editorials—must be signed (H.2592)	9	3/10	8

Legislative Update, March 24, 1987

Subject	Number	Date	Page
Education—EIA changes (S.425, S.426, S.427)	8	3/3	5
Education—EIA money to building fund (H.2362)	5	2/10	2
Education—Legislative Audit Council(H.2509)	7	2/24	4
Education—State Board and regulations (H.2129)	3	1/27	5
Education—USC Board of Trustees (H.2609)	9	3/10	6
Education—birth control in schools (H.2095)	2	1/20	6
Education—budget cuts, School for Deaf (H.2608)	9	3/10	6
Education—contraceptives in schools (H.2555)	8	3/3	5
Education—criminal record search of teachers (H.2343)	5	2/10	2
Education—driver education (H.2200)	3	1/27	6
Education (H.2200)	7	2/24	10
Education—equipment from drug raids (S.81)	7	2/24	2
Education—hazing outlawed (H.2121)	3	1/27	4
Education (H.2121)	7	2/24	10
Education—home instruction (H.2442)	6	2/17	3
Education—raise drop-out age (H.2055)	7	2/24	9
Education—school bus drivers (H.2493)	7	2/24	2
Education—school bus license plates (H.2506)	7	2/24	3
Education—school bus routes (H.2458)	7	2/24	2
Education—smoking on school grounds (H.2511)	7	2/24	3
Education—teacher qualifications (H.2502)	7	2/24	2
Elections—emergency voting (H.2587)	9	3/10	7
Elections—nicknames on ballots (H.2279)	4	2/3	4
Elections—primaries run by state (H.2013)	1	1/13	8
Elections—recall by petition (H.2058, H.2059)	1	1/13	10
Elections—rides to polls (H.2643)	10	3/17	6
Elections—straight ballot voting (H.2574)	9	3/10	7
Electronic surveillance—for probationers (H.2290)	7	2/24	14
Electronic surveillance (H.2290)	8	3/3	3
Elisha, Walter—addresses Joint Assembly	10	3/17	3
Emergency release—eligibility (S.466)	10	3/17	10
Eminent domain—code revised (H.2241)	4	2/3	4
Energy—efficiency for homes required (H.2517)	7	2/24	7
Engineers, land surveyors—boards (H.2154)	3	1/27	12
English—official language of state (H.2191)	7	2/24	10
English (H.2034)	1	1/13	5
English (H.2191)	3	1/27	5
Environment—airboat regulations (H.2071)	1	1/13	7
Environment—airboats regulated (H.2071)	7	2/24	10
Environment—billboards banned (H.2453)	7	2/24	3
Environment—billboards banned (H.2004)	7	2/24	10
Environment—container legislation (H.2051)	1	1/13	6
Environment—hazardous waste facilities (H.2291)	4	2/3	3
Environment—littering fines increased (H.2254)	4	2/3	2
Environment—littering fines increased (H.2364)	5	2/10	3
Environment—littering fines increased (H.2414)	6	2/17	2
Environment—no permanent bulkheads on beaches (H.2265)	4	2/3	3
Environment—waste treatment sites (H.2344)	5	2/10	2
Environment—waterfront erosion	2	1/20	11
Environment—wetlands protection (H.2084)	2	1/20	3

Legislative Update, March 24, 1987

Subject	Number	Date	Page
Ethics—appearance before boards (H.2582)	9	3/10	7
Excise tax—on controlled substances (H.2416)	6	2/17	4
Eyeglasses—exempt from sales tax (H.2297)	4	2/3	3
Fair housing—state law (H.2165)	3	1/27	9
Family court judges—election by voters (H.2303)	4	2/3	2
Family court judges—elected (H.2303)	7	2/24	11
Family court judges—terms, election (H.2132)	3	1/27	4
Family court judges (H.2132)	3	1/27	4
Farm income—drop in SC	4	2/3	10
Farming—North Carolina task force	3	1/27	16
Federal funds—and state treasury (H.2020)	1	1/13	9
Films—SC Commission (H.2314)	4	2/3	9
Firearms—discharge over public roads (H.2563)	8	3/3	13
Firefighters and law enforcement officers (H.2078)	2	1/20	2
Firefighters, law officers—honored (H.2526)	8	3/3	7
Fires—allowing them to spread (H.2271)	4	2/3	3
Fiscal impact—of state regulations (H.2422)	6	2/17	5
Foster Care Review Board—reviews (H.2487)	7	2/24	2
Francis Marion College—board of trustees (H.2192)	3	1/27	5
Freedom of information act—strengthened (H.2048)	1	1/13	9
Freedom of information act—strengthened (H.2139)	3	1/27	9
Freedom of information act—strengthened (H.2048)	7	2/24	11
Freeze on local property taxes (H.2029)	1	1/13	7
Fuel sales—gasoline (H.2057)	2	1/20	4
Fuel—aviation, exempt from tax (H.2420)	6	2/17	3
Furlough—eligibility (S.465)	10	3/17	10
Gambling—penalties for operating machines (H.2294)	4	2/3	7
General Assembly—addressed by Chief Justice	8	3/3	4
General Assembly—changes in session (H.2549)	8	3/3	7
General Assembly—changes in procedure (H.2550)	8	3/3	7
General Assembly—editorial comment (Part 1)	5	2/10	9
General Assembly—editorial comment (Part 2)	9	3/10	13
General Assembly—mailing list for Acts (H.2345)	7	2/24	12
General Assembly—oath of office (H.2305)	4	2/3	4
General Assembly—shorter session proposed	8	3/3	2
General Assembly—terms of House members (H.2388)	6	2/17	4
Georgia—infrastructure system, research report	6	2/17	10
Graveyards—ancient, abandoned, neglected (H.2522)	8	3/3	6
Greek Independence Day honored	9	3/10	4
Guide dogs—for handicapped (H.2359)	5	2/10	5
Guilty—but mentally ill verdict (H.2446)	7	2/24	8
Guns—in motor vehicles (H.2195)	3	1/27	12
Handicapped parking—penalties (H.2042)	1	1/13	11
Handicapped persons—registration fees (H.2276)	4	2/3	3
Handicapped—and guide dogs (H.2359)	5	2/10	5
Hazardous waste facilities—post-closure (H.2291)	4	2/3	3
Hazardous waste—DHEC regulations (H.2418)	6	2/17	2
Hazing—outlawed (H.2121)	3	1/27	4
Hazing (H.2121)	7	2/24	10

Legislative Update, March 24, 1987

Subject	Number	Date	Page
Health facility licensure--certificate of need (H.2539)	8	3/3	8
Health reports--copy to patient (H.2176)	3	1/27	9
Health--clean indoor air act (H.2074)	1	1/13	7
Health--copy of reports to patient (H.2176)	7	2/24	12
Health--government indoor clean air act (H.2160)	3	1/27	10
Health--health maintenance organizations (H.2589)	10	3/17	6
Health--medically indigent fund (H.2163)	3	1/27	7
Health--no wrongful birth suits allowed (H.2008)	1	1/13	11
Health--patient care advisory committee (H.2094)	2	1/20	6
Health--patient care advisory committee (H.2091)	7	2/24	12
Health--services for school children (H.2198)	3	1/27	11
Highway Commission--reorganize (H.2419)	6	2/17	4
Highway Department--transporting pulpwood (H.2455)	7	2/24	6
Highways--and municipal boundaries (H.2651)	10	3/17	7
Highways--and subdivision development (H.2236)	4	2/3	8
Highways--billboards banned (H.2004)	1	1/13	6
Highways--seat belts and traffic fines (H.2091)	2	1/20	6
House members--four-year terms (H.2388)	6	2/17	4
House of Representatives--length of terms	6	2/17	9
House rules--and dress code (H.2090, H.2092, H.2098)	2	1/20	4
House staff--changes	3	1/27	19
House staff--telephone numbers, offices	4	2/3	20
Hunger--Interagency council on (H.2186)	3	1/27	10
Hunting and fishing license--not required S.275	8	3/3	5
Hunting--big game license for disabled (H.2387)	6	2/17	2
Hunting--orange coats required (H.2389)	6	2/17	2
Income tax--rates (H.2128)	7	2/24	11
Income tax (H.2128)	3	1/27	6
Indian tribe--recognized	9	3/10	4
Infrastructure--Georgia system, research report	6	2/17	10
Insurance administrators--selection by states	3	1/27	14
Insurance policies--rates based on sex (H.2382)	6	2/17	8
Insurance premiums--rates (H.2306)	4	2/3	8
Insurance--Commissioner elected (H.2301)	7	2/24	14
Insurance--adjusters licensed (H.2588)	9	3/10	7
Insurance--agents in state (H.2215)	4	2/3	8
Insurance--agents in state (H.2215)	7	2/24	14
Insurance--attorneys paid by (H.2377)	5	2/10	6
Insurance--automobile (H.2124)	7	2/24	13
Insurance--automobile requirements (H.2043)	7	2/24	13
Insurance--automobile, agents (H.2124)	3	1/27	12
Insurance--changes in Commission (H.2498)	7	2/24	7
Insurance--commissioner elected (H.2141)	3	1/27	12
Insurance--election of commissioner (H.2301)	4	2/3	4
Insurance--emergency liability for attorneys (S.320)	6	2/17	8
Insurance--health insurance pool (H.2027)	2	1/20	7
Insurance--joint underwriting association (H.2016)	2	1/20	7
Insurance (H.2016)	7	2/24	14

Subject	Number	Date	Page
Insurance—liability for attorneys (H.2019)	2	1/20	7
Insurance—minimum automobile insurance (H.2024)	7	2/24	13
Insurance—motor vehicle (H.2024)	1	1/13	10
Insurance—payment of claims (H.2410)	6	2/17	8
Insurance—payment to psychologists (H.2213)	4	2/3	6
Insurance—reorganization of law (H.2028)	2	1/20	8
Insurance—reorganization of law (S.321)	6	2/17	8
Insurance—suits against rate freezes (H.2454)	7	2/24	7
Interest rates—on credit cards, maximum (H.2390)	6	2/17	8
Joint Assembly—to hear Walter Elisha	10	3/17	3
Joint Assembly—to hear Chief Justice Ness	8	3/3	4
Judicial nominating committee (H.2082)	2	1/20	10
Judicial nominating committee—established (H.2082)	7	2/24	11
Jurors—selection (H.2053, H.2054)	1	1/13	13
Jurors—selection in other states	1	1/13	15
Just, Ernest Everett—black scientist, report	4	2/3	12
Just, Mary Cooper—research report	8	3/3	21
Juvenile crime—notification of parents (H.2580)	9	3/10	8
Juvenile crimes—reporting (H.2329)	4	2/3	8
Juveniles—criminal records (H.2413)	6	2/17	7
Land—owned by aliens (H.2313)	7	2/24	12
Lander College—board of trustees (H.2192)	3	1/27	5
Language—antiquated language changed (H.2568)	8	3/3	12
Law enforcement officer—impersonating (H.2322)	4	2/3	8
Law enforcement officers—bill of rights (H.2063)	2	1/20	8
Law enforcement officers—training (H.2143)	3	1/27	13
Law enforcement officers—retirement system (H.2292)	4	2/3	4
Law enforcement—municipal boundaries (H.2651)	10	3/17	7
Legislative Audit Council—school districts (H.2509)	7	2/24	4
License plates—changing color of stickers (H.2641)	10	3/17	7
License plates—Purple Heart recipients (H.2035)	1	1/13	11
License plates—for dealers (H.2152)	3	1/27	12
License plates (H.2152)	7	2/24	13
License plates—for Shriners (H.2373)	5	2/10	6
Littering—fines increased (H.2254)	4	2/3	2
Littering—fines increased (H.2364)	5	2/10	3
Littering—fines increased (H.2414)	6	2/17	2
Local government finance act (H.2368)	5	2/10	3
Local government finance—West Virginia	2	1/20	12
Lords Proprietors—original	1	1/13	19
Lotteries—in other states	1	1/13	18
Lotteries—revenues per capita	5	2/10	7
Magistrates—elected (H.2308)	4	2/3	4
Magistrates—elected (H.2308)	7	2/24	11
Magistrates (H.2308)	8	3/3	4
Magistrates (H.2308)	9	3/10	2
Magistrates—elected (H.2342)	7	2/24	12
Magistrates (H.2342)	5	2/10	4
Magistrates—must be lawyers (H.2394)	6	2/17	6

Legislative Update, March 24, 1987

Subject	Number	Date	Page
Marital rape—changes in law (H.2596)	9	3/10	6
Marriage license fees—for DSS programs (H.2187)	3	1/27	4
Marriage license fees (H.2187)	9	3/10	3
Marriage license fees (H.2187)	7	2/24	9
Marriage license fees--elderly programs (H.2032)	1	1/13	4
Medicaid--bed allotments (H.2212)	4	2/3	5
Medically indigent fund--change contributions (H.2163)	3	1/27	7
Minors--as agents of ABC (H.2044)	1	1/13	13
Minors--in liquor stores (H.2127)	3	1/27	3
Minors (H.2127)	7	2/24	9
Minors--possession of alcohol (H.2296)	7	2/24	9
Motor vehicle--registration requirements (H.2043)	1	1/13	11
Motor vehicles--DUI penalties increased (H.2201)	7	2/24	13
Motor vehicles--DUI screening tests (S.25)	5	2/10	5
Motor vehicles--and disabled veterans (H.2157)	3	1/27	12
Motor vehicles--and earphones (H.2274)	4	2/3	6
Motor vehicles--auto repair act (H.2311)	6	2/17	7
Motor vehicles--chop shop law (H.2015)	1	1/13	12
Motor vehicles--chop shops outlawed (H.2015)	7	2/24	14
Motor vehicles--drivers' license compact (H.2130)	7	2/24	13
Motor vehicles--drivers' license suspension, DUI	8	3/3	10
Motor vehicles--driving with cancelled license (H.2360)	5	2/10	5
Motor vehicles--driving without a license (H.2486)	7	2/24	6
Motor vehicles--handicapped parking (H.2042)	1	1/13	11
Motor vehicles--headlight use (H.2507)	7	2/24	6
Motor vehicles--headlight use (H.2547)	8	3/3	9
Motor vehicles--insurance (H.2024)	1	1/13	10
Motor vehicles--license plates (H.2641)	10	3/17	7
Motor vehicles--Shriner license plates (H.2373)	5	2/10	6
Motor vehicles--license plate for Purple Heart (H.2035)	7	2/24	13
Motor vehicles--dealer license plates (H.2152)	7	2/24	13
Motor vehicles--lights on when raining (H.2295)	4	2/3	6
Motor vehicles--loss of drivers' license (H.2625)	10	3/17	9
Motor vehicles--parking on private property (H.2513)	7	2/24	7
Motor vehicles--registration for veterans (H.2633)	10	3/17	5
Motor vehicles--remaining at accident scene (H.2624)	10	3/17	9
Motor vehicles--school bus license plates (H.2506)	7	2/24	3
Motor vehicles--speed limit higher than 55 (H.2524)	8	3/3	9
Motor vehicles--tinted automobile glass (H.2525)	8	3/3	9
Movies--SC Commission (H.2314)	4	2/3	9
Municipalities--annexation by election (H.2634)	10	3/17	5
Municipalities--annexation by petition (H.2634)	10	3/17	6
Municipalities--boundaries and roads (H.2651)	10	3/17	7
Municipalities--collection of property tax (H.2118)	7	2/24	11
Murder--punishment (H.2081)	2	1/20	9
NAACP--month in South Carolina	9	3/10	4
Nepotism--defined (H.2378)	5	2/10	4
Newspapers--editorial comment (Part 1)	5	2/10	9
Newspapers--editorial comment (Part 2)	9	3/10	13
North Carolina--farm task force	3	1/27	16

Legislative Update, March 24, 1987

Subject	Number	Date	Page
Notary Public--requirements and appointment (H.2569)	8	3/3	7
Notary public--appointment (H.2144)	3	1/27	9
Nutrition--Interagency council on (H.2186)	3	1/27	10
Ouch--see acupuncture			
Pages--dress code (H.2090, H.2092, H.2098)	2	1/20	4
Paramilitary training--outlawed (H.2495)	7	2/24	8
Pardons--guidelines (H.2533)	8	3/3	12
Paternity cases--payment (H.2528)	8	3/3	5
Patient care advisory committee (H.2094)	2	1/20	6
Patient care advisory committee--established (H.2091)	7	2/24	12
Police officers--retirement system (H.2292)	4	2/3	4
Police--bill of rights (H.2063)	2	1/20	8
Police--impersonating (H.2322)	4	2/3	8
Political conventions--location (H.2411)	6	2/17	4
Political parties--changing while in office (H.2317)	4	2/3	5
Political parties (H.2317)	7	2/24	12
Population growth--South Carolina	9	3/10	8
Population--migration into South Carolina	10	3/17	14
Pornography--and children (H.2072)	1	1/13	13
Press--editorial comment (Part 1)	5	2/10	9
Press--editorial comment (Part 2)	9	3/10	13
Primary elections--run by state (H.2013)	1	1/13	8
Prison industries--research report	8	3/3	14
Prisoners--separation (H.2260)	4	2/3	7
Probationers--electronic surveillance (H.2290)	4	2/3	7
Probationers (H.2290)	7	2/24	14
Property tax--collection by municipalities (H.2118)	3	1/27	6
Property tax--local option freeze (H.2029)	1	1/13	7
Property--owned by aliens (H.2313)	4	2/3	5
Public Service Commission--hearing locations (H.2302)	4	2/3	4
Public Service Commission--members elected (H.2309)	4	2/3	5
Public Service Commission (H.2309)	7	2/24	11
Public Service Commission--election (H.2445)	7	2/24	3
Public Service Commission--hearing sites (H.2302)	7	2/24	14
Public employees--whistle blower protection	7	2/24	3
Public meetings--citizen remarks (H.2510)	7	2/24	5
Public officials--appearing before boards (H.2036)	1	1/13	9
Pulpwood--cutting and transporting (H.2455)	7	2/24	6
Purple Heart recipients--license plates (H.2035)	1	1/13	11
Purple Heart (H.2035)	7	2/24	13
Railroad crossings--markings (H.2320)	4	2/3	6
Recall--elections (H.2058, H.2059)	1	1/13	10
Reckless endangerment--created (H.2298)	7	2/24	14
Reckless endangerment (H.2298)	4	2/3	7
Recreation--bingo fees (H.2085)	2	1/20	5
Recreation (H.2085)	7	2/24	10

Legislative Update, March 24, 1987

Subject	Number	Date	Page
Registration--motor vehicles (H.2043)	1	1/13	11
Repossession (H.2034)	4	2/3	4
Retirees--increase in base (H.2041)	1	1/13	5
Retirement (H.2041)	7	2/24	9
Retirement exemptions--increase amount (H.2417)	6	2/17	2
Retirement--base increase (H.2575)	9	3/10	6
Retirement--firefighters (H.2078)	2	1/20	2
SLED--protection for officials (H.2047)	7	2/24	11
SLED (H.2047)	1	1/13	13
School bus--drivers must be 21 (H.2493)	7	2/24	2
School bus--license plates (H.2506)	7	2/24	3
School bus--routes (H.2458)	7	2/24	2
Schools--S.C. History requirements (H.2062)	1	1/13	6
Schools--raising attendance age (H.2055)	1	1/13	6
Schools--and Legislative Audit Council (H.2509)	7	2/24	4
Schools--assignment of pupils (H.2256)	4	2/3	2
Schools--smoking (H.2511)	7	2/24	3
Seat belts--and reduced traffic fines (H.2040)	1	1/13	11
Seat belts--reduced traffic fines (H.2091)	2	1/20	6
Secession--of SC from the Union (H.2421)	6	2/17	5
Shorter session proposed	8	3/3	2
Shriners--license plates (H.2373)	5	2/10	6
Smalls, Robert--black politician, research report	4	2/3	12
Smoking--clean indoor air act (H.2074)	1	1/13	7
Smoking--in schools (H.2511)	7	2/24	3
Social workers--board, registration (H.2450)	7	2/24	5
South Carolina Texas Day proclaimed (H.2570)	8	3/3	4
South Carolina history--and schools (H.2062)	1	1/13	6
South Carolina--migration into state	10	3/17	14
South Carolina--migration into state, report	9	3/10	8
Sovereign immunity--tort claims (S.266)	5	2/10	5
Speed limit--higher than 55 (H.2524)	8	3/3	9
Sportsman license--lifetime (H.2115)	3	1/27	3
State agencies--fees for services (H.2007)	1	1/13	8
State agencies (H.2007)	7	2/24	11
State agencies--fees for services (H.2630)	10	3/17	5
State agencies--no charge for services (H.2135)	3	1/27	9
State boards and commissions--terms (H.2427)	6	2/17	5
State regulations--fiscal impact (H.2422)	6	2/17	5
State symbols	4	2/3	9
Stink and smoke bombs (H.2366)	5	2/10	6
Students--assignment to schools (H.2117)	8	3/3	3
Students--raise drop-out age (H.2055)	7	2/24	9
Subdivisions--and surface water (H.2321)	4	2/3	9
Subdivisions--highways (H.2236)	4	2/3	8
Swimming pool--inspection fees in Nebraska	5	2/10	8

Subject	Number	Date	Page
Tax—additional tax on cigarettes (H.2485)	7	2/24	6
Tax—additional tax on cigarettes (H.2508)	7	2/24	6
Tax—aviation fuel exempt (H.2420)	6	2/17	3
Tax—collection of property tax (H.2118)	3	1/27	6
Tax (H.2118)	7	2/24	11
Tax—countywide taxes for services (H.2447)	7	2/24	3
Tax—credit for child care (H.2164)	3	1/27	7
Tax—credits for skilled care (H.2137)	3	1/27	7
Tax (H.2137)	7	2/24	11
Tax—delinquent property tax collections (H.2118)	8	3/3	3
Tax—excise on controlled substances (H.2416)	6	2/17	4
Tax—exemptions for personal boats (H.2145)	3	1/27	7
Tax—eyeglasses exempt from sales tax (H.2297)	4	2/3	3
Tax—income tax rates (H.2128)	7	2/24	11
Tax—local government finance act (H.2368)	5	2/10	3
Tax—on amusement games (H.2153)	3	1/27	8
Tax (H.2153)	7	2/24	11
Tax—property tax on trailers (H.2415)	6	2/17	3
Tax—revise personal income tax rates (H.2128)	3	1/27	6
Tax—sales tax on electricity, exemptions (H.2406)	6	2/17	3
Tax, property—homestead exemption (H.2026)	1	1/13	4
Tax—credits for employer child care (H.2164)	3	1/27	4
Tax—local government finance, West Virginia	2	1/20	12
Teachers—criminal record search (H.2343)	5	2/10	2
Teachers—qualifications (H.2502)	7	2/24	2
Telephone taps—hostage situation (H.2249)	4	2/3	7
Telephone taps (H.2249)	7	2/24	14
Timothy, Elizabeth—research report	8	3/3	21
Tobacco—additional cigarette tax (H.2485)	7	2/24	6
Tobacco—additional cigarette tax (H.2508)	7	2/24	6
Tort claims—against local governments (H.2114)	3	1/27	8
Tort claims—civil actions (S.266)	9	3/10	2
Tort reform—background research report	1	1/13	20
Tort reform—background research report	2	1/20	15
Tort reform—civil actions (H.2610)	10	3/17	2
Tort reform (H.2610)	9	3/10	5
Tort reform—civil actions (H.2399)	6	2/17	6
Tort reform—contributory negligence (H.2612)	9	3/10	6
Tort reform—limitations on cases (H.2077)	2	1/20	10
Traffic fines—and seat belts (H.2040)	1	1/13	11
Trailers—exempt from property tax (H.2415)	6	2/17	3
Truck registrations (H.2229)	4	2/3	2
Trucks (H.2229)	7	2/24	9
USC—Board of Trustees (H.2609)	9	3/10	6
Unemployment compensation—severance pay (H.2006)	1	1/13	14
Utility service—termination (H.2318)	4	2/3	9

Legislative Update, March 24, 1987

Veterans, disabled--and motor vehicles (H.2157)	3	1/27	12
Victim's compensation fund--assessments (H.2544)	8	3/3	6
Videos--rentals covered (H.3541)	8	3/3	12
Volunteer firemen--dual office holding (H.2497)	7	2/24	4
Waste treatment sites--changes (H.2344)	5	2/10	2
Wetlands--protection (H.2084)	2	1/20	3
Whistle blowers--protection (S.131)	7	2/24	3
Whistle blowing in California--research report	7	2/24	21
White, Josh--black musician, research report	4	2/3	12
Womens' History Month--research report	8	3/3	21
Workers' Compensation Fund--interest earnings (H.2543)	8	3/3	6
Workers' Compensation--attorneys (H.2484)	8	3/3	10
Workers' Compensation--changes proposed	8	3/3	3
Workers' Compensation--changes	9	3/10	3
Workers' Compensation--coordination (H.2483)	8	3/3	10
Workers' Compensation--hearings (H.2482)	8	3/3	10
Workers' Compensation--impairment ratings (H.2536)	8	3/3	11
Workers' Compensation--intoxication (H.2537)	8	3/3	11
Workers' Compensation--the Legislature (H.2600)	9	3/10	7
Workers' Compensation--notice of accidents (H.2535)	8	3/3	11
Workers' Compensation--term of Director (H.2484)	7	2/24	7
Wrongful birth--suits not allowed (H.2008)	1	1/13	11
Year of the Reader--adopted (S.485)	10	3/17	4

Index by Bill Number
House Bills

<u>Bill Number and Subject</u>	<u>Number</u>	<u>Date</u>	<u>Page</u>
H.2004--billboards banned	7	2/24	10
H.2004	1	1/13	6
H.2006--unemployment compensation	1	1/13	14
H.2007--state agencies not to charge for services	7	2/24	11
H.2007	1	1/13	8
H.2008--wrongful birth suits forbidden	1	1/13	11
H.2009--child support	7	2/24	9
H.2009	1	1/13	5
H.2013--primaries run by state	1	1/13	8
H.2014--child care facilities and DSS	1	1/13	5
H.2015--chop shops outlawed	7	2/24	14
H.2015	1	1/13	12
H.2016--joint insurance underwriting association	7	2/24	14
H.2016	2	1/20	7
H.2019--liability insurance for attorneys	2	1/20	7

Legislative Update, March 24, 1987

Bill Number and Subject	Number	Date	Page
H.2020--federal funds and state treasury	1	1/13	9
H.2021--cruelty to animals	1	1/13	12
H.2024--minimum automobile insurance	7	2/24	13
H.2024	1	1/13	10
H.2025--use of deadly force by homeowners	7	2/24	11
H.2025	1	1/13	12
H.2026--increase homestead exemption	1	1/13	4
H.2027--health insurance pool	2	1/20	7
H.2028--insurance law reorganized	2	1/20	8
H.2029--local option freeze on property tax	1	1/13	7
H.2031--bingo license fee for elderly programs	1	1/13	4
H.2034--English official state language	1	1/13	5
H.2035--license plates for Purple Heart recipients	7	2/24	13
H.2035	1	1/13	11
H.2036--public officials and boards	1	1/13	9
H.2040--seat belts and reduced traffic fines	1	1/13	11
H.2041--increase in retirement base	1	1/13	5
H.2041	7	2/24	9
H.2042--handicapped parking	1	1/13	11
H.2043--motor vehicle registration	1	1/13	11
H.2044--minors as agents of ABC	1	1/13	13
H.2046--visitation rights	1	1/13	5
H.2047--SLED protection for officials	7	2/24	11
H.2047	1	1/13	13
H.2048--freedom of information act	7	2/24	11
H.2048	1	1/13	9
H.2050--flying under the influence	7	2/24	13
H.2050	1	1/13	11
H.2051--container legislation	1	1/13	6
H.2052--location of bars near churches	1	1/13	10
H.2053--juror selection	1	1/13	13
H.2054--juror selection	1	1/13	13
H.2055--raising drop-out age	7	2/24	9
H.2055	1	1/13	6
H.2057--fuel sales	2	1/20	4
H.2058--recall elections	1	1/13	10
H.2059--recall elections	1	1/13	10
H.2062--S.C. History requirements	1	1/13	6
H.2063--police officers' bill of rights	2	1/20	8
H.2071--airboat regulations	1	1/13	7
H.2071	8	3/3	3
H.2071	7	2/24	10
H.2072--children and pornography	1	1/13	13
H.2074--clean indoor air act	1	1/13	7
H.2077--tort cases, limitations	2	1/20	10
H.2078--firefighters, law enforcement officers	2	1/20	2
H.2078	2	1/20	2
H.2081--death penalty	2	1/20	9
H.2082--judicial nominating committee	7	2/24	11
H.2082	2	1/20	10

Legislative Update, March 24, 1987

Bill Number and Subject	Number	Date	Page
H.2084—wetlands protection	2	1/20	3
H.2085—bingo fees for recreation	10	3/17	3
H.2085	8	3/3	4
H.2085	7	2/24	10
H.2085	2	1/20	5
H.2086—alcohol levels for DUI	2	1/20	6
H.2087—divorce, period of separation	2	1/20	3
H.2088—divorce, period of separation	7	2/24	10
H.2088	2	1/20	3
H.2090—dress code	2	1/20	4
H.2091—seat belts, reduced traffic fines	2	1/20	6
H.2092—dress code	2	1/20	4
H.2094—patient care advisory committee	2	1/20	6
H.2094	7	2/24	12
H.2095—contraceptives in public schools	2	1/20	6
H.2098—dress code	2	1/20	4
H.2114—tort claims against local governments	3	1/27	8
H.2115—lifetime sportsman license	3	1/27	3
H.2117—assignments of students to schools	8	3/3	3
H.2118—collection of delinquent property tax	8	3/3	3
H.2118	3	1/27	6
H.2118	7	2/24	11
H.2121—hazing outlawed	7	2/24	10
H.2121	3	1/27	4
H.2124—automobile insurance	7	2/24	13
H.2124	3	1/27	12
H.2126—childrens' task force	3	1/27	3
H.2127—minors in liquor stores	7	2/24	9
H.2127	3	1/27	3
H.2128—income tax rates	7	2/24	11
H.2128	3	1/27	6
H.2129—regulations by State Board of Education	3	1/27	5
H.2130—drivers' license compact	7	2/24	13
H.2130	3	1/27	11
H.2132—election of family court judges	3	1/27	4
H.2132	3	1/27	4
H.2133—amend constitution by initiative	3	1/27	8
H.2135—state agencies not to charge for services	3	1/27	9
H.2137—tax credits for skilled care	7	2/24	11
H.2137	3	1/27	7
H.2139—Freedom of information act	3	1/27	9
H.2141—insurance commissioner elected	3	1/27	12
H.2143—training of law enforcement officers	3	1/27	13
H.2144—notary public	3	1/27	9
H.2145—tax exemptions for personal boats	3	1/27	7
H.2152—license plates for dealers	7	2/24	13
H.2152	3	1/27	12
H.2153—tax on amusement games	3	1/27	8
H.2154—Engineers, land surveyors	3	1/27	12

Legislative Update, March 24, 1987

Bill Number and Subject	Number	Date	Page
H.2156—reimbursement by criminals	7	2/24	14
H.2156	3	1/27	13
H.2157—motor vehicles and disabled veterans	3	1/27	12
H.2159—interpreters for deaf in court	9	3/10	3
H.2159	7	2/24	12
H.2159	3	1/27	13
H.2160—government indoor clean air act	3	1/27	10
H.2163—Medically indigent fund	3	1/27	7
H.2164—employer provided child care	3	1/27	4
H.2164	3	1/27	7
H.2165—fair housing law	3	1/27	9
H.2176—copy of health reports to patient	7	2/24	12
H.2176	3	1/27	9
H.2186—Interagency Council on Hunger and Nutrition	3	1/27	10
H.2187—marriage license fee, DSS programs	9	3/10	3
H.2187	7	2/24	9
H.2187	3	1/27	4
H.2191—English official state language	7	2/24	10
H.2191	3	1/27	5
H.2192—College board of trustees, changes	3	1/27	5
H.2195—guns in motor vehicles	3	1/27	12
H.2197—Clemson Board membership	3	1/27	6
H.2198—health services for school children	3	1/27	11
H.2200—drivers' education	3	1/27	6
H.2200	7	2/24	10
H.2201—DUI penalties increased	7	2/24	13
H.2201	3	1/27	13
H.2209—Dentistry Board reauthorized	7	2/24	12
H.2209	4	2/3	5
H.2212—medicaid bed allotments	4	2/3	5
H.2213—insurance payments to psychologists	4	2/3	6
H.2215—insurance agents in state	7	2/24	14
H.2215	4	2/3	8
H.2217—economic forecasts	4	2/3	3
H.2218—acupuncture regulations (H.2218)	4	2/3	8
H.2229—truck registration	7	2/24	9
H.2229	4	2/3	2
H.2231—drivers' license renewal period	4	2/3	6
H.2231	7	2/24	13
H.2232—drivers' license renewal period	4	2/3	6
H.2232	7	2/24	13
H.2234—divorce, residency	4	2/3	2
H.2234	7	2/24	10
H.2235—local referendum on bingo	4	2/3	3
H.2236—subdivision development and highways	4	2/3	8
H.2241—eminent domain procedure code	4	2/3	4
H.2249—telephone taps in hostage situations	7	2/24	14
H.2249	4	2/3	7
H.2251—blackmail definitions extended	4	2/3	7
H.2254—littering fines increased	4	2/3	2
H.2256—assignment of pupils	4	2/3	2

Legislative Update, March 24, 1987

Bill Number and Subject	Number	Date	Page
H.2259—bomb threats, penalties	4	2/3	7
H.2259	7	2/24	14
H.2264—Aid to subdivisions reporting requirements	4	2/3	4
H.2265—no permanent bulkheads	4	2/3	3
H.2271—allowing fires to spread	4	2/3	3
H.2274—motor vehicles and earphones	4	2/3	6
H.2276—handicapped persons and registration fees	4	2/3	3
H.2279—nicknames on ballots	4	2/3	4
H.2290—electronic surveillance for probationers	8	3/3	3
H.2290	7	2/24	14
H.2290	4	2/3	7
H.2291—hazardous waste facilities, post-closure	4	2/3	3
H.2292—police officers retirement system	4	2/3	4
H.2294—gambling machines, penalties	4	2/3	7
H.2295—motor vehicle lights	4	2/3	6
H.2296—possession of alcohol by minors	7	2/24	9
H.2296	4	2/3	7
H.2297—eyeglasses exempt from sales tax	4	2/3	3
H.2298—reckless endangerment	7	2/24	14
H.2298	4	2/3	7
H.2301—Insurance Commissioner elected	4	2/3	4
H.2301	7	2/24	14
H.2302—hearings of Public Service Commission	4	2/3	4
H.2302	7	2/24	14
H.2303—election of family court judges	7	2/24	11
H.2303	4	2/3	2
H.2304—repossession of motor vehicles	4	2/3	4
H.2305—General Assembly, members take oath	4	2/3	4
H.2306—insurance premium rates	4	2/3	8
H.2308—election of magistrates	8	3/3	4
H.2308	4	2/3	4
H.2308	9	3/10	2
H.2308	7	2/24	11
H.2309—election of Public Service Commission	7	2/24	11
H.2309	4	2/3	5
H.2310—amend constitution by initiative	4	2/3	5
H.2310	7	2/24	12
H.2311—automobile repair act	6	2/17	7
H.2313—alien ownership of land	7	2/24	12
H.2313	4	2/3	5
H.2314—SC Commission on Film	4	2/3	9
H.2316—circuit judges elected	7	2/24	12
H.2316	4	2/3	5
H.2317—changing political parties in office	7	2/24	12
H.2317	4	2/3	5
H.2318—termination of utility services	4	2/3	9
H.2320—railroad crossings	4	2/3	6
H.2321—subdivisions and surface water	4	2/3	9
H.2322—impersonating law enforcement officer	4	2/3	8
H.2329—reporting juvenile crimes	4	2/3	8

Legislative Update, March 24, 1987

Bill Number and Subject	Number	Date	Page
H.2342--magistrate elections	5	2/10	4
H.2343--criminal record search of teachers	5	2/10	2
H.2344--waste treatment sites	5	2/10	2
H.2345--mailing list for Acts of General Assembly	7	2/24	12
H.2345	5	2/10	4
H.2359--guide dogs for handicapped	5	2/10	5
H.2360--driving with cancelled license	5	2/10	5
H.2362--EIA money transferred to building funds	5	2/10	2
H.2364--littering fines increased	5	2/10	3
H.2365--dangerous dogs, containment	5	2/10	5
H.2366--stink and smoke bombs	5	2/10	6
H.2368--local government finance act	5	2/10	3
H.2377--attorneys paid by insurance	5	2/10	6
H.2378--nepotism	5	2/10	4
H.2382--insurance policies and sex	6	2/17	8
H.2384--violent crimes	6	2/17	6
H.2386--inspections by ABC	6	2/17	3
H.2387--big game hunting for disabled	6	2/17	2
H.2388--four-year terms for House members	6	2/17	4
H.2389--orange coats for hunting	6	2/17	2
H.2390--credit card interest rates	6	2/17	8
H.2392--DHEC board expanded	6	2/17	5
H.2394--magistrates must be lawyers	6	2/17	6
H.2395--court cases involving children	6	2/17	6
H.2399--tort reform	6	2/17	6
H.2406--sales tax on electricity, exemptions	6	2/17	3
H.2408--contraband forfeiture	6	2/17	7
H.2410--payment of insurance claims	6	2/17	8
H.2411--location of state political conventions	6	2/17	4
H.2413--juvenile criminal records	6	2/17	7
H.2414--littering fines increased	6	2/17	2
H.2415--property tax on trailers	6	2/17	3
H.2416--excise tax on controlled substances	6	2/17	4
H.2417--increase retirement exemptions	6	2/17	2
H.2418--DHEC hazardous waste regulations	6	2/17	2
H.2419--reorganize Highway Commission	6	2/17	4
H.2420--aviation fuel exempt from tax	6	2/17	3
H.2421--secession from the Union	6	2/17	5
H.2422--fiscal impact of state regulations	6	2/17	5
H.2427--limit terms on state boards, commissions	6	2/17	5
H.2442--home instruction	6	2/17	3
H.2445--election of PSC members	7	2/24	3
H.2446--guilty but mentally ill verdict	7	2/24	8
H.2447--countywide tax for services	7	2/24	3
H.2450--social worker registration	7	2/24	5
H.2453--billboards banned	7	2/24	3
H.2454--suits against insurance rate freezes	7	2/24	7
H.2455--cutting and transporting pulpwood	7	2/24	6
H.2458--school bus routes	7	2/24	2
H.2482--Workers' Compensation hearings	8	3/3	10
H.2483--Workers' Compensation coordination	8	3/3	10

Legislative Update, March 24, 1987

Bill Number and Subject	Number	Date	Page
H.2484—Workers' Compensation director, attorneys	8	3/3	10
H.2485—additional cigarette tax	7	2/24	6
H.2486—driving without a license	7	2/24	6
H.2487—foster care review board	7	2/24	2
H.2488—county councils	7	2/24	4
H.2489—blood tests for food service workers	7	2/24	6
H.2490—permissible inferences	7	2/24	8
H.2493—school bus drivers must be 21	7	2/24	2
H.2495—paramilitary training outlawed	7	2/24	8
H.2497—dual office holding and volunteer firemen	7	2/24	4
H.2498—changes in Insurance Commission	7	2/24	7
H.2502—teacher qualifications	7	2/24	2
H.2505—continuing education, cosmetologists	7	2/24	6
H.2506—school bus license plates	7	2/24	3
H.2507—headlight use	7	2/24	6
H.2508—additional cigarette tax	7	2/24	6
H.2509—Legislative Audit Councils and schools	7	2/24	4
H.2510—public meetings, citizen remarks	7	2/24	5
H.2511—smoking on school grounds	7	2/24	3
H.2513—parking on private property	7	2/24	7
H.2517—energy efficiency for homes	7	2/24	7
H.2522—ancient, abandoned and neglected graveyards	8	3/3	6
H.2523—damage to cemeteries	8	3/3	6
H.2524—55 mph speed limit	8	3/3	9
H.2525—tinted automobile glass	8	3/3	9
H.2526—honors for firefighters, law officers	8	3/3	7
H.2528—payment in paternity cases	8	3/3	5
H.2533—pardon guidelines	8	3/3	12
H.2535—Workers' Compensation notice of accidents	8	3/3	11
H.2536—Workers' Compensation, impairment ratings	8	3/3	11
H.2537—Workers' Compensation, intoxication	8	3/3	11
H.2539—health care facility licensure	8	3/3	8
H.2542—Victim's compensation fund	8	3/3	6
H.2543—Workers' Compensation Fund interest earnings	8	3/3	6
H.2544—Victim's Compensation Fund assessments	8	3/3	6
H.2547—headlight use	8	3/3	9
H.2548—Board of Boiler Rules	8	3/3	12
H.2549—procedures of General Assembly, session	8	3/3	7
H.2550—changes in session of General Assembly	8	3/3	7
H.2552—administering drugs leading to death	8	3/3	13
H.2554—civil actions against coaches	8	3/3	13
H.2555—contraceptives in schools	8	3/3	5
H.2556—stolen aircraft and damage caused	8	3/3	9
H.2557—alcohol blood level content	8	3/3	9
H.2563—discharge of firearms over public roads	8	3/3	13
H.2568—change in antiquated language	8	3/3	12
H.2569—requirements and appointments of Notary Public	8	3/3	7
H.2570—South Carolina Texas Day	8	3/3	4
H.2574—straight ballot voting	9	3/10	7

Legislative Update, March 24, 1987

H.2575--retirement base increase	9	3/10	6
H.2579--domestic violence	9	3/10	8
H.2580--juvenile crime	9	3/10	8
H.2582--appearance before boards and commissions	9	3/10	7
H.2585--period of separation for divorce	9	3/10	6
H.2587--emergency voting	9	3/10	7
H.2588--insurance adjusters	9	3/10	7
H.2589--health maintenance organizations	10	3/17	6
H.2590--Appropriation bill	10	3/17	5
H.2592--editorials must be signed	9	3/10	8
H.2596--marital rape	9	3/10	6
H.2599--test for AIDS before marriage	9	3/10	7
H.2600--Workers' Compensation, members of Legislature	9	3/10	7
H.2601--death penalty, jury vote	9	3/10	8
H.2608--budget cuts, School for Deaf	9	3/10	6
H.2609--USC Board of Trustees	9	3/10	6
H.2610--tort reform	10	3/17	2
H.2610	9	3/10	5
H.2612--contributory negligence, tort actions	9	3/10	6
H.2612	9	3/10	5
H.2623--death penalty, advisory jury verdict	10	3/17	9
H.2624--remaining at scene of accident	10	3/17	9
H.2625--immediate loss of drivers' license	10	3/17	9
H.2630--state agencies and fees for services	10	3/17	5
H.2631--dress code revised	10	3/17	4
H.2633--registration of motor vehicles	10	3/17	5
H.2634--annexation by elections	10	3/17	5
H.2635--annexation by petition	10	3/17	6
H.2641--changing sticker colors on license plates	10	3/17	7
H.2643--rides to voting polls	10	3/17	6
H.2648--investigations of adoptive parents	10	3/17	4
H.2650--child welfare agencies	10	3/17	5
H.2651--municipal boundaries	10	3/17	7
H.2654--alimony for adulterous spouse	10	3/17	5
H.3541--Video rentals	8	3/3	12

Index by Bill Number
Senate Bills

<u>Bill Number and Subject</u>	<u>Number</u>	<u>Date</u>	<u>Page</u>
S.25--DUI screening tests	5	2/10	5
S.81--equipment from drug raids to schools	7	2/24	2
S.97--alienation of affections	7	2/24	8
S.98--stink bombs	6	2/17	7
S.100--drivers' license suspension	8	3/3	10
S.102--crack cocaine	8	3/3	13

Legislative Update, March 24, 1987

<u>Bill Number and Subject</u>	<u>Number</u>	<u>Date</u>	<u>Page</u>
S.131—whistle blower protection	7	2/24	3
S.266—sovereign immunity	5	2/10	5
S.266—tort claims	9	3/10	2
S.275—hunting and fishing license exemptions	8	3/3	5
S.320—emergency liability insurance for attorneys	6	2/17	8
S.321—reorganization of insurance law	6	2/17	8
S.415—business corporation act	10	3/17	8
S.425, S.426, S.427—EIA changes	8	3/3	5
S.465—eligibility for furlough	10	3/17	10
S.466—eligibility for emergency release	10	3/17	10
S.485—Year of the Reader	10	3/17	4