



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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MAJOR ISSUES FROM THE 2008 LEGISLATIVE SESSION

This document summarizes many of the key issues considered by the General Assembly this year. Please note that some of these issues are addressed in more than one bill. In those instances, we have highlighted bills which have made the most progress towards passage.

This document will be revised and expanded weekly as the status of major bills changes. This report highlights legislative activity through Thursday, May 29, 2008. It is a guide to, not a substitute for, the full text of the legislation summarized. Bill summaries in this document are prepared by 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.

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APPROPRIATIONS

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The General Assembly approved H.4800, the Fiscal Year 2008-2009 General Appropriations Bill, and H.4801, a joint resolution providing for Capitol Reserve Fund appropriations. Highlights of the proposed state government budget include:

- Full funding of the Education Finance Act with \$94.5 million, for a base student cost of \$2,578.
- \$20.8 million is included for school bus operations.
- \$3.3 million is included for textbooks.
- The Public School Child Development Education Pilot Program is funded with \$15.7 million.
- \$12 million is included for summer schools.
- Full funding of the LIFE, HOPE, and Palmetto Fellows Scholarship programs.
- \$3 million is appropriated to the Center for Accelerated Technology, which works with businesses locating in South Carolina and technical colleges in order to provide training for workers.
- \$2.5 million is provided for the Hydrogen Grants program at the South Carolina Research Authority.
- \$4.5 million for the LightRail broadband, high-speed optical research network at the state's research universities.
- The Department of Parks, Recreation, and Tourism receives \$10 million for destination specific tourism advertising grants.
- A 1% State employee pay increase is provided with \$19.9 million.
- State Health Insurance Plan increases are funded from projected 2008 surpluses within the plan so as to provide for no premium increases or reductions in benefits.
- \$2.9 million is appropriated for the Home and Community Based Services Program which provides services for senior citizens such as Meals on Wheels.
- \$39.5 million is appropriated to the Department of Health and Human Services for Medicaid Maintenance of Effort.
- \$13 million is appropriated to the Department of Health and Human Services for Institutes for Mental Health Transition.
- \$4.5 million is included for the Pervasive Developmental Disorder Waiver within the Department of Disabilities and Special Needs for the Early Intensive Behavior Intervention Treatment program that serves children diagnosed with such developmental disorders as Autism and Asperger's Syndrome.

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- \$2.4 million is appropriated to the Department of Health and Environmental Control for the AIDS Drug Assistance Program to eliminate completely the waiting list for treatment.
- \$2.4 million is provided for the purchase of vaccines for under-insured children.
- \$2 million is appropriated to the Department of Health and Environmental Control for the Best Chance Network early detection breast and cervical cancer screenings.
- \$1 million is included for the Critical Needs Nursing Initiative.
- \$9 million is provided for the Child Support Enforcement System.
- \$3.9 million is appropriated for public defenders at the Commission on Indigent Defense.
- The Department of Corrections receives funding for the operation of the Leath Correctional Institution and additional lock-up units.

STATUS: Having passed the House of Representatives and the Senate, H.4800 (R.293) and H.4801 (R.294) were ratified on May 22, 2008. Portions of the legislation were vetoed by the Governor on May 28. The House addressed some of these vetoes prior to adjourning for the week on May 29.

BUSINESS/ECONOMIC DEVELOPMENT

BROADBAND SERVICE COMMISSION

The General Assembly approved **H.4735**, a joint resolution that creates the South Carolina Educational Broadband Service Commission for the purpose of obtaining and evaluating proposals from commercial entities for the leasing of the excess spectrum capacity licensed to the South Carolina Educational Television Network that will become available following the federally required conversion to digital broadcast. The commission is composed of seven members all of whom must be from the private sector and have a background of substantial duration and expertise in business. The President Pro Tempore of the Senate, the Speaker of the House of Representatives, the chairman of the Senate Finance Committee, the chairman of the House Ways and Means Committee, the chairman of the State Regulation of Public Utilities Review Committee, the vice chairman of the State Regulation of Public Utilities Review Committee, and the Governor each appoints one member of the commission. The legislation establishes the competitive process that is to be used by the commission. After evaluation, the commission is to present the proposals and its recommendations to the Joint Bond Review Committee. If the Joint Bond Review Committee determines that a proposal should be approved it is presented to the Budget and Control Board for review and

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approval. The commission is exempt from the Consolidated Procurement Code. The commission shall terminate six months after all agreements resulting from an approved proposal are finally executed or no later than June 30, 2010. Upon termination of the commission, the Budget and Control Board assumes responsibility for the management and administration of all agreements resulting from an approved proposal.

STATUS: Having passed the House of Representatives and the Senate, H.4735 was ratified on May 22, 2008 (R.291).

MOTION PICTURE INCENTIVES

The House of Representatives approved and sent to the Senate H.4815, the “South Carolina Motion Picture Incentive Act of 2008.” The legislation revises and updates tax incentives for motion picture productions in this State by adding and modernizing definitions, eliminating the rebate of state and local sales taxes provided under former law, providing for the carry forward of rebate funds to avoid multiple applications, clarifying the wage incentive and resident hiring bonus, increasing the number of days state property may be used without fee from seven to ten days, and providing additional requirements for film credits for this State. The legislation allows for a rebate to a production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of qualified production activities. The rebate is an amount up to twenty percent of the total aggregate South Carolina payroll. Up to an additional ten percent rebate may be paid for all South Carolina residents who are paid a minimum of eighteen dollars an hour. The total aggregate payroll does not include the portion of the salary of an employee whose salary is greater than one million dollars for each qualified production activity. The legislation provides that an additional one percent of the general fund portion of admissions tax collected by this State for the previous year must be allocated to the South Carolina Film Commission for the development and funding of a trainee wage reimbursement program, apprenticeship programs, and other qualified production activity training programs for South Carolina residents. The legislation transfers the South Carolina Film Commission from the Department of Commerce and establishes it as a separate division of the Department of Parks, Recreation and Tourism.

STATUS: H.4815 passed the House of Representatives on April 25, 2008, and was sent to the Senate. On May 29, the Senate amended the bill and gave it second reading approval. On May 22, the House returned S.1171 to the Senate amended to include the motion picture incentives provisions. On May 29, the Senate amended House amendments and returned S.1171 to the House.

RESEARCH CENTERS OF ECONOMIC EXCELLENCE PROGRAM EXTENSION

The General Assembly approved S.1252, a bill authorizing the continuation of the Research Centers of Economic Excellence program that utilizes South Carolina Education Lottery funds for the creation of endowed professorships at the State’s research universities to anchor centers conducting scientific research with business applications. The legislation allows for the continuation of the program by eliminating the

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2010 expiration date that is currently imposed upon the Centers of Excellence Matching Endowment. The legislation also eliminates the current \$200,000,000 monetary cap and provides instead that the endowment must be funded by appropriations from the South Carolina Education Lottery Account in an amount equal to thirty million dollars annually, except that endowment appropriations may not be funded until all state-supported scholarships are fully funded and only if eighty percent of the total state appropriations have been awarded by the review board as of June thirtieth of the previous fiscal year.

The legislation expands the membership the Research Centers of Excellence Review Board from nine to eleven by adding an appointee of the chairman of the Senate Finance Committee and an appointee of the chairman of the House Ways and Means Committee. The legislation also revises the reporting requirements for review board so as to provide that their annual report be issued to the General Assembly as well as to the State Budget and Control Board. This annual report must include, but not be limited to, a complete accounting for total state appropriations to the endowment and total proposals awarded up to the previous fiscal year. The legislation establishes the minimum criteria for the full review process that must be conducted before an endowed chair proposal is awarded.

The legislation allows interest earning to be used at the review board's discretion for additional state awards. The legislation revises matching fund provisions by replacing requirements for private funds with requirements for nonstate funds, thereby allowing such sources as federal funds to be counted for matching purposes. Matching fund provisions are also revised to allow for the acceptance of cash equivalent and in-kind donations from nonstate sources. The review board may, at its discretion, permit the senior research universities to utilize a portion of the nonstate matching funds of any single award to pay for initial operating costs including, but not limited to, infrastructure improvement, purchase of equipment, and payment of salaries for junior faculty, researchers, technicians, and other support staff directly associated with the establishment of the professorship's research efforts and the creation of the center of economic excellence which the professorship serves. The portion established by the review board must apply equally to all of the senior research universities' centers of economic excellence and endowed professorships. The full amount of every state award, with the exception of programmatic support proposals, must be placed into and remain in the endowment.

The legislation provides that eligible research universities are strongly encouraged to partner with other South Carolina colleges and universities to develop proposals that will enhance the economic competitiveness of our State, and to enhance science and engineering through collaborations in related disciplines.

STATUS: Having passed the Senate and the House of Representatives, S.1252 was enrolled for ratification on May 29, 2008.

RESIDENTIAL IMPROVEMENT DISTRICT ACT

The House amended, approved, and sent to the Senate H.4745, a bill enacting the "South Carolina Residential Improvement District Act", to provide a new option for financing infrastructure and other improvements necessitated by new residential

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developments. In instances where a new residential development is proposed, the legislation provides a mechanism for local governments to accept a plan from the owners of the tracts of undeveloped land regarding what sorts of infrastructure and other improvements would be required to accommodate the new growth and additional demands of the proposed residential development. When an improvement plan has been adopted, the legislation authorizes the governing body of a county or municipality to create an improvement district and impose upon the landowners in that district an assessment to fund improvements such as roads, sidewalks, parks, recreational facilities, storm water drainage projects, utilities, and school facilities. A county or municipality is authorized to issue revenue bonds against the revenue from the new assessments. The owner/developer of the real property in a residential improvement district must disclose to a prospective purchaser of residential real property in the improvement district that the property will be subject to an assessment under this legislation and the annual amount and duration of the assessments. If a proposed improvement pertains to a school, such as new construction or additions to existing construction, then the improvement must be approved by the local school board prior to the creation of the district.

STATUS: H.4745 passed the House of Representatives on April 10, 2008, and was sent to the Senate. The Senate has amended the legislation and gave the bill second reading approval on May 28.

RURAL INFRASTRUCTURE ACT

The House of Representatives approved and sent to the Senate H.3666, the “South Carolina Rural Infrastructure Act.” The legislation establishes the South Carolina Rural Infrastructure Authority and provides for its governance, powers, and duties. The authority is charged with assisting municipalities, counties, special purpose and public service districts, and public works commissions in constructing and improving rural infrastructure by providing loans and other financial assistance such as grants, credit enhancement, capital or debt reserves for bonds or debt instrument financing, interest rate subsidies, provision of letters of credit and credit instruments, and provision of bond or other debt financing instrument security. For these purposes, the authority administers a newly created South Carolina Rural Infrastructure Fund which is authorized to receive state appropriations, federal funds, contributions, donations, loan repayments, and other available funds.

The authority may provide loans and other financial assistance to an eligible entity to pay for all or part of the eligible cost of a qualified project. Before providing a loan or other financial assistance to a qualified borrower, the authority must obtain the review and approval of the Joint Bond Review Committee. The term of the loan or other financial assistance must not exceed the useful life of the project. The authority may require the eligible entity to enter into a financing agreement in connection with its loan obligation or other financial assistance.

Following the close of each state fiscal year, the authority shall submit an annual report of its activities to the Governor and to the General Assembly. An independent certified public accountant shall perform an audit of the books and accounts of the authority at least once in each state fiscal year.

STATUS: On May 17, 2007, the House of Representatives approved H.3666 and sent the bill to the Senate where it has been referred to the Finance Committee.

CONSUMER PROTECTION/SAFETY

DEFERRED PRESENTMENT TRANSACTIONS

The Senate approved and sent to the House of Representatives S.398, a bill imposing new restrictions on those licensed to perform deferred presentment transactions, commonly referred to as payday lending. The legislation allows a customer to pay any outstanding deferred presentment transaction by means of an extended payment plan in substantially equal installments over a period of sixty days at no additional cost. A customer may prepay an extended payment plan in full at any time without penalty.

Under the legislation, a licensee may not enter into a deferred presentment transaction with a person: (1) who has an outstanding deferred presentment transaction with any licensee; (2) who has entered into an extended payment plan agreement which has not been paid in full or terminated; or (3) sooner than the seventh day after the date upon which the person last closed out a deferred presentment transaction with any licensee.

The legislation provides that the total amount advanced by all licensees to any customer for deferred presentment or deposit may not exceed either twenty-five percent of the customer's gross income during the term of the loan or five hundred dollars, whichever is less. A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by that customer.

The legislation requires the Consumer Finance Division of the Board of Financial Institutions to implement a common database with real-time access through an internet connection that deferred presentment providers must consult prior to entering into transactions to ensure that they comply with the legislation's requirements and limitations. The legislation establishes reporting requirements for the information maintained on the central database and provides for an annual report to the General Assembly on loans made in South Carolina.

The legislation provides that a licensee and a customer may not enter into an electronic funds transfer agreement to make automatic debited loan payments for any portion of a deferred presentment agreement.

The legislation also increases licensure fees.

STATUS: S.398 passed the Senate on February 20, 2008, and was sent to the House of Representatives where it has been referred to the Labor, Commerce and Industry Committee. On May 23, the Senate returned H.4058 to the House amended to include deferred presentment provisions. On May 27, H.4058 was referred to the House Labor, Commerce and Industry Committee.

"FINANCIAL IDENTITY FRAUD AND IDENTITY THEFT PROTECTION ACT"

The General Assembly approved legislation creating the "Consumer Identity Theft Protection Act." Highlights of the legislation include the following.

Consumer Provisions

The legislation requires address verification for credit card applications. Additionally, the legislation removes language that required an issuer of a credit card to get parental consent prior to issuing a card to a person under the age of 21.

A consumer may place a freeze on his credit information. A consumer reporting agency cannot charge a fee for invoking a freeze, removing a freeze, temporarily lifting a freeze, or reinstating a freeze. Placing a freeze on a consumer's report does not prevent someone from being able to get information concerning criminal records; fraud prevention or detection; personal loss history; or employment, tenant, or individual background screening.

The legislation changes the definition of "personal identifying information" to make South Carolina's definition the same as the definition used by the majority of other states.

Law Enforcement Provisions

Local law enforcement must report an identity theft, if contacted by a suspected victim.

The State Law Enforcement Division is required to maintain an identity theft database.

Business Provisions

The legislation prohibits a person from posting, printing, transmitting, selling, or exchanging a social security number or a portion that consists of six digits or more unless there is written authorization, there is a legitimate business or government purpose that provides a benefit, or for other specifically permitted reasons.

Businesses are restricted from printing the last five digits of a credit card number or the card expiration date on a receipt.

Businesses and state agencies that own or license computerized personal identifying information are required to disclose a breach of the security system should one be suspected.

A person conducting business in this State may notify consumers of a security breach by email or by telephone if those are the person's primary means of communication.

When a business disposes of a business record that contains personal identifying information, the business shall modify, by shredding, erasing, or other means, the personal identifying information to make it unreadable or undecipherable.

Judicial Remedies

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A victim may petition a circuit court for a judicial determination of innocence and an expungement of record.

It is unlawful for a person to obtain another's identity by rummaging through their personal, household, or commercial garbage.

Consumer Reporting Agencies

A consumer reporting agency must give notice to each creditor who uses a consumer report if the agency becomes aware that an application to a card issuer to open a new seller or lender credit account bears an address for the consumer that is different from the address in its file of the consumer.

A consumer reporting agency must remove all false information from a credit report, if the agency receives notice from the consumer to do so. If an agency violates this section, it is liable for three times the actual damages or \$5,000, whichever is greater. If the agency negligently violates this section, it is liable for actual damages or \$3,000 for each incident, whichever is greater.

STATUS: The General Assembly approved S.453 (R.202), and the Governor signed the legislation into law on April 2, 2008 (Act No. 190).

FIRE SPRINKLER SYSTEM TAX CREDITS AND INCENTIVES

The House of Representatives and the Senate have approved different versions of H.4470, a bill establishing tax credits and incentives for fire sprinkler system installation and improvement in commercial and residential structures that complies with the standards of the National Fire Protection Association. This bill provides a state income tax credit for the purchase, installation, or improvement of a fire sprinkler system equal to eighty percent of the costs of purchase, installation, and retrofitting of the system, not to exceed fifty thousand dollars. The legislation exempts fire sprinkler systems from the state sales tax. The legislation revises provisions for the depreciation allowed in the valuation of manufacturing property for purposes of the property tax, so as to allow a twenty percent annual depreciation for the addition or upgrade of a fire sprinkler. This cost may be completely depreciated. The legislation allows an exemption from county property taxes for five years for the first fifty thousand dollars of the cost of adding to and upgrades of fire sprinkler systems. The legislation limits charges imposed by municipal and special service district water systems for separate lines for fire sprinkler systems to actual costs. The State Fire Marshal is assigned additional authority relating to fire sprinkler systems.

STATUS: H.4470 passed the House of Representatives on February 15, 2008, and was sent to the Senate. On May 30, the Senate returned the bill to the House with amendments.

GROUP CHILDCARE HOMES

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This legislation requires the owner or operator of a group childcare home and family childcare home in South Carolina who does not carry liability insurance to notify each enrolled child's parent or guardian of that fact no later than January 1, 2009. The owner or operator must obtain signed statements from each enrolled child's parent or guardian, indicating notice was received regarding the lack of liability insurance. The childcare facility must maintain a file of the signed statements for the period of time the child is enrolled. The parent or guardian of any new child enrolled after June 30, 2008, must receive this information and sign a statement at the time of enrollment. If a childcare facility has liability insurance that lapses or is cancelled the owner or operator must notify and obtain signed statements from the parents of the enrolled child no later than thirty days after the liability insurance lapses or is canceled.

The legislation also includes based background check along with the State and Federal fingerprints review and a Central Registry check for childcare facility employees.

A childcare facility may provisionally employ or provide provisionally caregiver services after a favorable name and date of birth based background check, along with an executed sworn statement that he or she has not been convicted of perpetrated abuse or neglect upon a child. A person provisionally employed must be under supervision of a non-provisionally employed person at all times when providing direct care to children. The provisional status must be repealed if the requests for the State Law Enforcement Division fingerprint review, the Federal Bureau of Investigation fingerprint review and the Central Registry check are not submitted by the end of the next business day after the person was employed. The results of the fingerprint-based background checks are valid and reviews are not required to be repeated unless a person is not employed or does not provide caregiver services for one year or longer. As a result, for provisional employment, the State Law Enforcement Division must complete the Central Registry check within two business days after receipt of the request. If an operator or a childcare violates the provisional requirements, for a first offense, the facility may not employ a person provisionally for the succeeding twelve months. For second and subsequent offense, the facility may not employ a person provisionally for twenty-four months. The penalty applies to any facility that may employ the director of the facility during the period of suspension.

An owner or operator of a childcare center or group childcare home, must notify and obtain signed statements from parents or guardians of each child enrolled that the facility may provisionally employ a person when an unexpected staff vacancy occurs.

STATUS: Having been approved by the House of Representatives and the Senate, S.311 was ratified on May 29, 2008 (R.299).

MISREPRESENTATION OF THE IDENTITY OF FOOD OR A FOOD PRODUCT AS A SOUTH CAROLINA PRODUCT

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Under this legislation, it is an unfair trade practice to knowingly and willfully misrepresent food or a food product if the food or food product purports to be or is represented to be a product of South Carolina but is the product of another state, country, or territory. This provision is not intended to conflict with the enforcement of criminal penalties or other provisions of law relating to the misrepresentation or adulteration of food or food products.

STATUS: Having been approved by the House of Representatives and Senate, H.3028 was ratified on May 29, 2008 (R.319).

MORTGAGE LENDING

The Senate approved and sent to the House of Representatives **S.1090**, the “South Carolina Mortgage Lending Act,” which establishes new regulatory provisions for those who make loans primarily secured by mortgages or deeds of trust on residential real property. The legislation requires licensure for mortgage lenders and their affiliated loan officers. The legislation establishes licensure requirements, including criminal and financial background checks, professional training, and testing. As a condition of license renewal, a licensee must complete at least eight hours of continuing professional education annually for the purpose of enhancing professional competence and responsibility.

Each licensee is required to maintain a mortgage log that, at a minimum, identifies the borrower, including his credit score, the property, the loan terms, the loan officer, the appraiser, the closing agent, the broker, and the lender. This mortgage log data and other required information must be submitted in an annual report to the Department of Consumer Affairs to assist the administrator in identifying possible discriminatory mortgage lending patterns.

New conditions are established for mortgage lenders, limited loan officers and managing principals employed by mortgage lenders. The legislation includes a list of activities specifically prohibited as misleading or fraudulent lending practices. Civil penalties are authorized for certain violations.

The legislation establishes the criminal offense of residential mortgage fraud. The felony offense is punishable by imprisonment for not less than one year nor more than ten years, and/or a fine of not more than five thousand dollars. If a violation involves a pattern of residential mortgage fraud, it is punishable by imprisonment for

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not less than three years nor more than twenty years, and/or a fine of not more than one hundred thousand dollars.

STATUS: S.1090 passed the Senate on April 29, 2008, and was sent to the House of Representatives where it has been referred to the Labor, Commerce and Industry Committee.

“REDUCED CIGARETTE IGNITION PROPENSITY STANDARDS AND FIREFIGHTER PROTECTION ACT”

The General Assembly approved H.4900, the “Reduced Cigarette Ignition Propensity Standards and Firefighter Protection Act”, which requires cigarettes to be manufactured so that they will extinguish themselves if left unattended, thereby reducing the risk they pose as potential fire hazards. The legislation provides that, in order to be sold in this State, cigarettes must undergo laboratory testing for ignition propensity, receive certification that they meet this legislation’s fire safety performance standards, and marked to show that they comply with these reduced ignition propensity standards. Manufacturers are required to pay a certification fee for each cigarette brand style to the State Fire Marshal to defray the costs of the legislation’s processing, testing, enforcement, and oversight activities. The fee is initially set at two hundred fifty dollars, but the State Fire Marshal is authorized to adjust the fee annually to ensure that actual costs are defrayed. Manufacturer are required to maintain copies of the reports of tests conducted on cigarettes for a period of three years, and must make copies of these reports available to the State Fire Marshal and the Attorney General upon written request. Civil penalties are established for noncompliant cigarette sales, false certifications, failure to meet reporting requirements, and other violations of the legislation. Cigarettes that have been sold or offered for sale that do not comply with the performance standards are subject to forfeiture and destruction. The Attorney General, the Department of Revenue, the State Fire Marshal, and other law enforcement personnel are provided authority to examine the books, papers, invoices, and other records related to cigarette sales in order to enforce the provisions of the legislation.

STATUS: Having passed the House of Representatives and the Senate, H.4900 was ratified on May 29, 2008 (R.333).

“TELEVISION PROGRAMMING PROTECTION ACT”

The General Assembly approved S.598, the “Television Programming Protection Act.” This legislation requires a cable or video service provider that uses digital transmission technology to deliver its programming to block completely all video and audio on any channel that a subscriber has not purchased at no charge to the subscriber. A cable or video service provider that uses analog transmission technology to deliver its programming must notify its subscribers that it will, upon request, carry out such blocking at no charge to the subscriber. Within five days of receiving a subscriber’s request, the analog service provider must block all video and audio on any channel that the subscriber has not purchased. The time frames do not apply if compliance is not possible due to circumstances beyond the service provider’s control. The legislation provides that a cable or video service provider that intends to deliver channels to its

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subscribers on a promotional basis is required to give its subscribers advanced notice and inform them that, upon request, all video and audio on such channels can be completely blocked. Unless a subscriber makes such a request, a service provider may, on a promotional basis, deliver one or more channels not purchased by a subscriber. The legislation also establishes a protocol for rectifying instances where blocked channels are transmitted due to equipment failure.

STATUS: Having passed the General Assembly, S.598 (R.197) became law without the Governor's signature on February 28, 2008 (Act No. 182).

UNAUTHORIZED USE OF A BANK NAME

The General Assembly approved and the Governor signed into law S.964, legislation prohibiting the unauthorized use of a bank name. The legislation prohibits the use of the name or logo of a bank in any advertisements for financial products or services without the bank's written consent. A violator is subject to a fine of not less than five hundred dollars and not more than one thousand dollars for each unauthorized use of a name or logo. Under the legislation, a bank may file an action to enjoin the unauthorized use of its name or logo. A court of competent jurisdiction may grant an injunction to restrain the wrongful use and may require the defendants to pay to the bank all profits derived from, and all damages suffered by, reason of the wrongful use of the name or logo, including costs and reasonable attorney's fees.

STATUS: Having passed the General Assembly, S.964 (R.191) was signed into law by the Governor on February 19, 2008 (Act No. 181).

CRIMINAL JUSTICE/COURTS

CRIMINAL DOMESTIC VIOLENCE CONVICTIONS IN OTHER STATES

This legislation provides that certain criminal domestic violence convictions in other states are to be considered when determining a previous conviction for purposes of enhancing the penalty.

STATUS: Having been approved by the House of Representatives and Senate, H.3058 was ratified on May 29, 2008 (R.320).

CRIMINAL DOMESTIC VIOLENCE REVISIONS

Trespass on the Grounds or Structure of a Domestic Violence Shelter or the Domestic Violence Shelter's Administrative Offices

This legislation provides that it is unlawful for a person who has been charged with or convicted of a violation of criminal domestic violence or criminal domestic violence of a high and aggravated nature or who is subject to an order of protection, or who is subject

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to a restraining order to enter or remain upon the grounds or structure of a domestic violence shelter in which the person's household member resides or the domestic violence shelter's administrative offices.

The domestic violence shelter must post signs at conspicuous places on the grounds of the domestic violence shelter and the domestic violence shelter's administrative offices which, at a minimum, read substantially as follows: 'NO TRESPASSING VIOLATORS WILL BE SUBJECT TO CRIMINAL PENALTIES'.

This provision does not apply if the person has legitimate business or any authorization, license, or invitation to enter or remain upon the grounds or structure of the domestic violence shelter or the domestic violence shelter's administrative offices.

A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than \$3,000 dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than \$5,000 dollars or imprisoned for not more than five years, or both.

Restraining orders and orders of protection must notify a person about this provision. Also, a defendant at a bond hearing must receive written notification about this provision; the court shall provide the person with opportunity to sign the notice evidencing the person's acknowledgement of having received and read the notice.

Warrantless Arrest or Search

Relating to a warrantless arrest or search when a person is believed to have committed a criminal domestic violence offense, this legislation clarifies that a warrantless arrest or search may be undertaken by law enforcement when there is probable cause to believe a violation has occurred.

STATUS: Having been approved by the House of Representatives and Senate, H.5001 was ordered enrolled for ratification on May 29, 2008.

**CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE
REVISIONS (PROHIBITING SCHOOL EMPLOYEE/STUDENT
RELATIONS)**

As passed by the House of Representatives, this legislation provides that criminal sexual conduct in the third degree includes situations where a person affiliated with a public or private secondary school in an official capacity but is not a student enrolled in the public or private secondary school and the victim is a person under the age of 19 who is currently enrolled in a public or private secondary school at which the actor works or has supervisory authority and aggravated force or aggravated coercion was not used to accomplish the sexual battery. An exception is provided for a person affiliated with a public or private secondary school who is lawfully married to the student enrolled in the school at the time of the act. The legislation further provides that a person who commits criminal sexual conduct in the third degree is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

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The Senate amended the legislation to provide a definition section. Under the Senate's amendment if a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is 16 or 17 years of age and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years. If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is 18 years of age or older and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 dollars or imprisoned for 30 days, or both.

The Senate also amended the legislation so as to provide that a person is guilty of sexual conduct between minors if the person is 17 or 18 years of age and engages in consensual sexual intercourse, cunnilingus, fellatio, or anal intercourse with a younger person who is at least 14 years of age but less than 16 years of age. A person convicted of a violation of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than \$500 dollars or imprisoned for not more than 30 days. A person convicted of a violation of this section is not subject to the provisions pertaining to the Sex Offender Registry.

STATUS: H.3715 passed the House of Representatives on January 31, 2008. The bill received second reading in the Senate on May 28, 2008.

DRIVING UNDER THE INFLUENCE REVISIONS

The General Assembly approved legislation that revises South Carolina's driving under the influence laws.

Penalties

The legislation enhances penalties for the offenses of driving under the influence (DUI) and driving with an unlawful alcohol concentration (DWUAC). Under the legislation, for DUI or DWUAC when a person's blood alcohol concentration is 0.08%-0.09%: a first offense is subject to a fine of \$400 or imprisonment for 48 hours-30 days; a second offense is subject to a fine of \$2,100-\$5,100 dollars and imprisonment for five days-one year; a third offense is subject to a fine of \$3,800-\$6,300 dollars and imprisonment for 60 days-three years; and, a fourth or subsequent offense is subject to imprisonment for 1-5 years. For DWUAC when the blood alcohol concentration is 0.10%-0.15%: a first offense is subject to a fine of \$500 dollars or imprisonment for 72 hours-30 days; a second offense is subject to a fine of \$2,500-\$5,500 dollars and imprisonment for 30 days- two years; a third offense is subject to a fine of \$5,000-\$7,500 dollars and imprisonment for 90 days-four years; and, a fourth or subsequent offense is subject to imprisonment for two-six years. For DWUAC when the blood alcohol concentration is 0.16% or greater: a first offense is subject to a fine of \$1,000 dollars or imprisonment for 30-90 days; a second offense is subject to a fine of \$3,500-\$6,500 dollars and imprisonment for 90 days-three years; a third offense is subject to a fine of \$7,500-\$10,000 dollars and imprisonment for 6 months-five years; and, a fourth or subsequent offense is subject to imprisonment for three-seven years.

The legislation establishes provisions under which individuals convicted of DUI or DWUAC offenses are required to complete successfully a drug and alcohol treatment plan.

If convicted of DUI or DWUAC, an individual must pay \$25 dollars to cover the cost of the blood alcohol concentration (BAC) test.

DWUAC is added to the list of offenses that are not eligible for pre-trial intervention (PTI).

DWUAC is added to the list of offenses eligible for charging a person with child endangerment.

Driver's License Provisions

Under the legislation, the Department of Motor Vehicles (DMV) must suspend the driver's license of a person who is convicted of a felony DUI for the period of incarceration plus three years when great bodily injury occurs and five years when a death occurs.

If a person under the age of 21 refuses to submit to a BAC test, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit for a period of 6 months for a first offense, and one year for any subsequent offense.

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If a person under the age of 21 submits to a BAC test and the result indicates a BAC of 0.02% or more, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit to the person for a period of three months for a first offense, and six months for any subsequent offense.

If a person 21 or older refuses to submit to a BAC test, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit to the person for a period of six months for a first offense, nine months for a second offense, 12 months for a third offense, and 15 months for a fourth or subsequent offense.

If a person 21 or older submits to a BAC test and the result indicates a BAC of 0.15% or more, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit to the person for a period of one month for a first offense, two months for a second offense, three months for a third offense, and four months for a fourth or subsequent offense.

Law Enforcement Provisions

The legislation provides that a law enforcement officer is only required to advise a person being investigated for DUI or DWUAC of the person's Miranda rights at the time of arrest.

Under the legislation, the refusal to take a field sobriety test by a person being investigated for DUI or DWUAC does not constitute disobeying a law enforcement command.

The legislation provides that BAC test may not be administered on a person being investigated DUI or DWUAC unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy and verbally informed of the person's rights regarding the BAC test.

STATUS: The General Assembly approved H.3496 (R.234), and the Governor signed the legislation into law on April 15, 2008 (Act No. 201).

"FINANCIAL IDENTITY FRAUD AND IDENTITY THEFT PROTECTION ACT"

See summary under Consumer Protection/Safety

INHALED ALCOHOL PROHIBITION

As passed by the Senate, this bill makes it unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess an alcohol without liquid device. 'Alcohol without liquid device' means a device, machine, apparatus, or appliance that is designed or marketed for the purpose of mixing alcohol with pure or diluted oxygen, or another gas, to produce an alcoholic vapor that an individual can inhale or snort. Penalties are provided for violations. The bill does include exceptions.

The House of Representatives amended the bill to include additional provisions relating to happy hours and tasting of alcoholic liquors. Subsequently, the Senate amended the House amendments, but no changes were made to the inhaled alcohol provisions.

STATUS: S.96 passed the Senate on February 13, 2007. The House of Representatives returned the bill to the Senate with amendments on May 27, 2008. The Senate returned S.96 to the House with further amendments on May 28, 2008.

NEW GANG PREVENTION STUDY COMMITTEE

The General Assembly approved a joint resolution to create a new gang prevention study committee to continue the work of the initial Gang Prevention Study Committee to assess and combat the ongoing gang problem by bringing together State agencies to coordinate gang reduction plans and make further recommendations addressing gang-related activity in South Carolina.

STATUS: The General Assembly approved H.4630 (R.201), and the Governor signed the legislation on February 27, 2008.

RESTRICTIONS ON WHERE A SEX OFFENDER MAY RESIDE

As passed by the House of Representatives, this legislation provides that it is unlawful for sex offenders who have been convicted of certain offenses to reside within 1,000 feet of a school, daycare center, children's recreational facility, park, or public playground. If a person is in violation of this provision, a local law enforcement officer must notify the person of his violation and the person must be given 30 days to vacate his residence. If the person fails to vacate his residence within that time period, the legislation includes criminal penalties. There are graduated penalties for subsequent violations. The legislation also provides that local school districts must make certain information available to parents and guardians regarding any sex offenders that reside within 1,000 feet of a school bus stop. The legislation includes grandfather provisions. Local governments may not enact an ordinance that contains penalties that exceed or are less lenient than the penalties contained in this legislation.

The Senate amended the legislation to further provide exceptions as well as made changes to the definitions. The Senate also amended the legislation so as to revise the penalties for a first offense of failing to register as a sex offender.

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STATUS: H.3094 passed the House of Representatives on March 13, 2008. The legislation was amended by the Senate on May 29, 2008, and is still pending on the Senate calendar.

SCHOOL RESOURCE OFFICERS MAY ISSUE COURTESY SUMMONS FOR MISDEMEANOR OFFENSES

See summary under Education

“SOUTH CAROLINA PROTECTION FROM VIOLENCE AGAINST WOMEN AND CHILDREN” (DNA SAMPLES FOR INCLUSION IN THE STATE DNA DATABASE)

As passed by the Senate, this legislation provides that a person must provide a DNA sample, either saliva or tissue sample, following a lawful custodial arrest or a direct indictment for a felony offense; an offense that is punishable by a sentence of five years or more; or eavesdropping, peeping, or stalking. The sample must be included in the State DNA Database. The legislation outlines procedures whereby law enforcement may take the sample. The State Law Enforcement Agency must coordinate with other law enforcement agencies to prevent duplications of DNA samples. If the charges pending against the person who has been arrested have been nolle prossed or dismissed or reduced below the requirement for inclusion in the State DNA Database, then the person may request that his DNA record be expunged from the State DNA Database. The solicitor must notify the person in writing of the person's right to have his record expunged and the procedure for expungement. The cost of collecting and processing a DNA sample must be paid by the general fund of the State. A fee of \$250 dollars must be assessed at the time of sentencing against persons convicted or, pleading guilty or no contest to, or forfeiting bond for the crime for which they were arrested.

STATUS: S.890 passed the Senate on January 23, 2008. The bill received a favorable with amendment recommendation from the House Judiciary Committee on May 14, 2008. The bill is pending on the House calendar, and debate was adjourned on the bill until Thursday, May 29, 2008.

SOUTH CAROLINA SENTENCING REFORM COMMISSION

As passed by the House of Representatives, this joint resolution creates a twelve-member commission to review, study and recommend legislation for sentencing guidelines, the parole system, and alternative sentencing procedures for non-violent offenders. The commission must make its report and findings no later than June 1, 2009. The joint resolution includes provisions for the appointment of members to the commission.

The Senate's version of the legislation provides for only nine members on the commission, and it does not include three appointees by the Governor.

STATUS: S.144 passed the Senate on February 8, 2007. The House of Representatives amended and returned the legislation to the Senate on March 28, 2008. The Senate amended and returned the legislation back to the House on April 1, 2008. The House non-concurred in the Senate's amendment on April 9, 2008. A conference committee has been appointed for the bodies to work out their differences.

"TRAFFIC EDUCATION PROGRAM ACT"

The legislation authorizes each circuit solicitor to establish as part of the Pretrial Intervention Program a traffic education program for persons who commit traffic-related offenses that are punishable only by a fine and loss of four points or less and that have not resulted in death or serious bodily injury to another person. A person may be considered for a traffic education program only if he has no prior traffic-related offenses on his record, and a person may not participate in a traffic education program more than once. The program must include both a community service and an educational component. When a person successfully completes a traffic education program, the governmental agency administering the program shall effect a noncriminal disposition of the traffic-related offense, and there must be no record maintained of the traffic-related offense except by the appropriate traffic education program in order to ensure that a person does not benefit from a traffic education program more than once. If a person violates the conditions of a traffic education program or receives a subsequent traffic violation during the six months following the issuance of the ticket for which he has entered the traffic education program, he must be terminated from the program and the traffic-related offense must be reinstated. The legislation establishes program participation fees and provides for how these fees are to be distributed.

STATUS: The General Assembly approved H.3572 (R.186), and the Governor signed the legislation into law on February 4, 2008 (Act No. 176).

UNLAWFUL PURCHASE OF COPPER AND OTHER NONFERROUS METALS

Definition of Nonferrous Metals

The term 'nonferrous metals' means metals not containing significant quantities of iron or steel, including copper wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, and stainless steel beer kegs or containers.

These provisions do not apply to the purchase or sale of aluminum cans.

Unlawful Purchase of Nonferrous Metals

This legislation outlines additional information that purchasers of nonferrous metals are required to keep regarding sellers.

It is unlawful to purchase nonferrous metals in any amount from a person who is not a holder of a retail license or an authorized wholesaler unless the purchaser is a secondary metals recycler and obtains and can verify the address of the seller. A secondary metals recycler shall maintain a record containing the date of the purchase, name and address of the seller, a photocopy of the seller's identification, the license plate of the seller's motor vehicle, the seller's photograph, weight or length, and size or other description of the nonferrous metals purchased, amount paid for it, and a signed statement from the seller stating that he is the rightful owner or is entitled to sell the nonferrous metals being sold. These records must be maintained for two years from the date of the purchase. Further, a secondary metals recycler may only purchase nonferrous metals for cash consideration from a fixed location.

Law Enforcement May Issue a Hold Notice

The legislation includes provisions allowing for law enforcement to issue a hold notice to a secondary metals recycler when law enforcement has reasonable cause to believe that any item of nonferrous metal in possession of a secondary metals recycler has been stolen.

Local Government Preemption

This legislation preempts local ordinances and regulations governing the purchase or sale of nonferrous metals in any amount, except to the extent that such ordinances pertain to zoning or business license fees. This legislation does not preempt the ability of a political subdivision of the State to enact ordinances or regulations pertaining to zoning or business license fees. Political subdivisions of the State may not enact ordinances or regulations more restrictive than those contained in this legislation.

Unlawful Injury to Real Property for the Purpose of Obtaining Nonferrous Metals

It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount. Criminal penalties are provided for

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violations. The penalties are graduated depending upon the dollar amount of the property damage. Also, a person who violates the provisions and the violation results in the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than 30 years.

Civil Protections for Landowners

A public or private landowner or a possessor of land is not civilly liable to a person who is injured during the theft or attempted theft, by the person or a third party, of nonferrous metals in any amount.

A public or private landowner or a possessor of land is not civilly liable for a person's injuries caused by a dangerous condition created as a result of the theft or attempted theft of nonferrous metals in any amount, of the landowner or the possessor when the landowner or possessor did not know and could not have reasonably known of the dangerous condition.

STATUS: Having been approved by the House of Representatives and Senate, H.4930 was ratified on May 29, 2008 (R.335).

EDUCATION

CHARTER SCHOOLS REVISIONS

Charters for Ten Years

This legislation provides that a charter must be approved or renewed for a period of ten school years. A charter school may terminate its contract with a sponsor before the ten-year term of contract if all parties under the contract with the charter school agree to the dissolution.

Revised Appeal Procedures

This legislation provides that an applicant may appeal the decision to the Administrative Law Court. Likewise, local school boards of trustees may appeal decisions to approve applications made by the South Carolina Public Charter School District to the Administrative Law Court. A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court. Previously, such appeals were made to the State Board of Education.

Admission Decisions

A charter school may give enrollment priority to a sibling of a pupil already enrolled or previously enrolled, children of a charter school employee, and children of the charter committee, if such priority enrollment does not constitute more than twenty percent of the enrollment of the charter school.

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STATUS: Having been approved by the General Assembly, H.4980 (R.280) was signed into law by the Governor on May 21, 2008.

**CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE
REVISIONS (PROHIBITING SCHOOL EMPLOYEE/STUDENT
RELATIONS)**

See summary under Criminal Justice/Courts

EDUCATION ACCOUNTABILITY ACT REVISIONS

Highlights of the legislation include the following.

End-of-Year Accountability Assessments (grades 3-8)

This legislation eliminates the Palmetto Achievement Challenge Test (PACT). The name of the new test is not specified. To facilitate the reporting of strand level information and the reporting of student scores prior to the beginning of the next school year, multiple choice items must be administered as close to the end of the school year as possible and the writing assessment must be administered earlier in the school year. Reports from the new test include strand information. The new test will be first administered in 2009. The legislation also codifies language providing that a student's score on an end-of-year assessment may not be the sole criterion for placing the student on academic probation, retaining him in his current grade, or requiring him to attend summer school.

Subjects Tested for Accountability

The subject areas tested for accountability have not changed with this legislation. Subjects tested for accountability are English/language arts, mathematics, science and social studies.

Formative Assessments

"Formative assessment" means assessments used within the school year to analyze general strengths and weaknesses in learning and instruction, to understand the performance of students individually and across categories, to adapt instruction to meet students' needs, and to consider placement and planning for the next grade level. Data and performance from the formative assessments must not be used in the calculation of school or district ratings.

Under the legislation, the State Board of Education shall create a statewide adoption list of formative assessments for grades one through nine aligned with the state content standards in English/language arts and mathematics that satisfies professional measurement standards in accordance with criteria jointly determined by the Education Oversight Committee and the State Department of Education. The currently required first and second grade reading assessment is eliminated.

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For use beginning with the 2009-2010 school year, subject to appropriations by the General Assembly for the assessments, local districts must be allocated resources to select and administer formative assessments from the statewide adoption list to use to improve student performance in accordance with district improvement plans.

Assessment Data

Currently, there is no codified deadline for student assessment results to be provided. Beginning with the 2010 Assessment Administration, this legislation provides that assessment results on individual students and schools are due by August 1.

Academic Plans

The legislation eliminates provisions for individual student academic plans, parent conferences, and district level reviews for students in grades three through eight lacking the skills to perform at current grade level.

Student Performance Levels

Currently, student performance levels are not codified, but under current practice there are four levels: advanced, proficient, basic, and below basic. This legislation provides for three student performance levels: Exemplary (demonstrated exemplary performance in meeting grade level standard), Met (met grade level standard), and Not Met (did not meet grade level standard). For purposes of reporting as required by federal statute, proficiency includes students performing at Met or Exemplary.

School/District Performance Levels

The legislation revises the existing performance levels of excellent, good, average, below average, and unsatisfactory. Under the legislation, the performance levels are excellent, good, average, below average and school/district at-risk. Also, graduation rates must be used as an additional accountability measure for high schools and school districts.

State and Federal Level Accountability Reporting Levels

Current practice provides for separate levels for state and federal accountability reporting. This legislation provides for the same levels for state and federal accountability reporting.

Annual School and District Report Cards

This legislation directs the Education Oversight Committee, working with the State Board of Education, to establish a comprehensive annual report card and an executive summary of the report card. The comprehensive report card must be in a reader-friendly format, using graphics whenever possible, be published on the state, district, and school website, and upon request, printed by the school districts. This legislation provides that annual report cards must meet federal report card requirements. This legislation further

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provides that district report cards will include the state's National Assessment of Educational Progress (NAEP) scores as well as scores of the nation. NAEP is the only nationally representative and continuing assessment of what America's students know and can do in various subject areas.

Performance Awards

Currently, there are two performance awards: Palmetto Gold and Palmetto Silver. In addition to these two awards, this legislation provides for a closing the achievement gap award for schools making substantial progress in closing the achievement gap between disaggregated groups.

Technical Assistance

The legislation codifies flexibility currently provided through several budget provisos.

Principal's Narrative Report

Currently, there is no codified date for the report. This legislation provides that the report will be written after the principal reviews the school's performance on the statewide assessments. Under this legislation, the district superintendent or appropriate body for a local charter school must review the narrative.

District and School Performance

Currently, district and school performance are referred to as absolute and improvement. Under this legislation, district and school performance are referred to as absolute and growth.

Cyclical Review of the Accountability System

Beginning in 2013, the Education Oversight Committee (EOC), working with the State Board of Education and a broad-based group of stakeholders selected by the EOC, shall conduct a comprehensive cyclical review of the accountability system at least every five years and provide the General Assembly with a report of findings and recommendations.

STATUS: Having been approved by the House of Representatives and Senate, H.4662 was ratified on May 29, 2008 (R.330).

**QUALIFICATIONS FOR ATTENDANCE AT PUBLIC SCHOOLS
WHEN CHILD'S PARENT(S) OR LEGAL GUARDIAN(S) IS IN THE
MILITARY**

See summary under Military

"SOUTH CAROLINA FARM TO SCHOOL PROGRAM ACT"

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The House approved and sent to the Senate **H.4833** the “South Carolina Farm to School Program Act” which creates a program that will foster a direct relationship between South Carolina farms and schools to provide schools with fresh and minimally processed foods for student consumption. This will help children develop healthy eating habits, and to improve South Carolina farmers’ incomes and direct access to markets. As a result, the Department of Agriculture shall employ a director to administer and monitor the programs and activities of the program. Some of the duties will include identifying and promoting critical components of individual farm to school programs and advising agencies on needed actions and strategies; seeking grants from private donations and other funding sources; and providing leadership at the state level to encourage school districts to develop and improve school nutrition plans using locally grown farm fresh products. In addition the Department must establish a web site for the program.

STATUS: H.4833 passed the House of Representatives on April 24, 2008. The legislation received favorable with amendment report from the Senate Education Committee on May 29, 2008.

SCHOOL RESOURCE OFFICERS MAY ISSUE COURTESY SUMMONS FOR MISDEMEANOR OFFENSES

In all circumstances in which a school resource officer arrests a student for a misdemeanor offense, the officer may issue a courtesy summons to appear to a student involved in the particular incident in connection with a school activity or school-sponsored event. Notwithstanding another provision of law, a student

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arrested for a misdemeanor offense by a school resource officer must have a bond hearing in magistrate court within 24 hours of his arrest.

STATUS: Having been approved by the House of Representatives and Senate, S.1221 was ratified on May 29, 2008 (R.314).

STUDENT TRANSFERS AND ELIGIBILITY TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES

The House of Representatives approved legislation which provides that a high school student who is the victim of physical abuse, harassment, or stalking by a classmate during school hours or otherwise resulting in a restraining order being granted against the classmate by a court of competent jurisdiction may transfer with the consent of the student's school district to another high school within or out of the district within 30 school days of the restraining order being violated, without any loss of eligibility to participate in interscholastic activities at the school to which the student transfers.

STATUS: H.4758 passed the House of Representatives on April 30, 2008. The legislation received a favorable recommendation from the Senate Education Committee on May 29, 2008. The bill is pending on the Senate calendar.

ELECTIONS

BALLOT STANDARDS AND SPECIFICATIONS

As passed by the House of Representatives, this legislation provides that the name of each candidate shall appear no more than once on the ballot. If a candidate has been nominated by multiple parties or petitions, the legislation further provides that the name of each party or petition nominating the candidate must be listed under the candidate's name. The legislation also provides that if a nonpartisan school election is held on the same day as another election, the entity charged by law with conducting the elections shall prepare one ballot for all elections conducted on that day.

STATUS: H.4725 passed the House of Representatives on April 10, 2008. The bill is pending in the Senate Judiciary Committee.

The House of Representatives amended S.913 to include these provisions on May 28, 2008. S.913 originally passed the Senate on April 1, 2008. The House returned the bill to the Senate with amendments on May 29, 2008, and on the same day the Senate returned the bill to the House with amendments. The Senate removed these provisions from the bill.

CANDIDATE VOLUNTARY DRUG TESTING PROGRAM

As passed by the Senate, this legislation provides that any candidate for a popularly elected office or an office elected by the General Assembly may obtain a test for illegal

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drugs and submit the results when the candidate files for the office. For popularly elected offices, the results must be submitted to the authority with which the candidate files and forwarded to the State Elections Commission and published on the commission's website. For offices elected by the General Assembly, the results must be submitted to the committee screening the candidate and published on the General Assembly's website and included in any screening report on the candidate. The results published on the particular entity's website must include the candidate's full name, the office sought, whether or not he tested positive, and any drug for which he tested positive. The legislation outlines requirements that must be met in order for the results to be published; however, the commission or screening committee has the final authority to determine whether a candidate's drug test results meet the requirements for publication.

STATUS: S.1070 passed the Senate on April 16, 2008. The legislation is pending the House Judiciary Committee.

**PERSONS OFFERING FOR OR HOLDING PUBLIC OFFICE
SHOULD ADHERE TO A VOLUNTARY CODE OF ETHICS AND
PROFESSIONAL CONDUCT**

The House of Representatives adopted a resolution expressing the belief of the Members of the House of Representatives that persons offering for or holding public office should adhere to a voluntary code of ethics and professional conduct that they should follow during their term of public service.

STATUS: The House of Representatives adopted H.5137, a House Resolution, on May 28, 2008.

**MINOR CHILDREN OF A QUALIFIED ELECTOR MAY
ACCOMPANY THE QUALIFIED ELECTOR IN THE VOTING
BOOTH**

The General Assembly approved legislation that allows minor children of a qualified elector to accompany the qualified elector in the voting booth while he is casting his ballot. The qualified elector shall attest that the persons accompanying him are the minor children of the elector.

STATUS: Having been approved by the General Assembly, S.14 (R.236) was signed into law by the Governor on May 14, 2008 (Act No. 205).

ENERGY/CONSERVATION

ENERGY EFFICIENT MANUFACTURED HOMES INCENTIVES

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The Senate and the House of Representatives have approved different versions of **S.1141**, a bill establishing incentives for energy efficient manufactured homes. The legislation establishes the Energy Efficient Manufactured Homes Incentive Program to allow an individual who purchases a manufactured home that meets energy saving efficiency standards to receive a nonrefundable income tax credit equal to seven hundred fifty dollars. The credit may be claimed beginning July 1, 2009, and no later than July 1, 2019. The legislation also provides a state sales tax exemption for manufactured homes that meet the legislation's energy efficiency standards from July 1, 2009, to July 1, 2019.

STATUS: S.1141 passed the Senate on April 29, 2008, and was sent to the House of Representatives. On May 28, the House returned the bill to the Senate with amendments. On May 28, the Senate amended House amendments and returned the bill to the House.

“ENERGY INDEPENDENCE AND SUSTAINABLE HOMES ACT”

The House of Representatives approved and sent to the Senate **H.4892**, the “Energy Independence and Sustainable Homes Act”. The legislation establishes a one thousand dollar state income tax credit for a residential builder who constructs a high-performance residence in this State that meets the legislation's green building standards for maximizing energy efficiency and minimizing adverse environmental impact. The Department of Revenue is required to submit an annual report to the General Assembly detailing the number of high-performance residences, the tax credits that have been claimed, and any barriers that hinder the legislation's promotion of green building standards. The legislation also provides that a local government or homeowners association may not impose a greater requirement on a person wishing to install a solar energy heating or cooling system in a residential home than it otherwise would impose on a person wishing to install another heating, cooling, or similar mechanical system.

STATUS: H.4892 passed the House of Representatives on April 30, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

FLEET MANAGEMENT PROGRAM

This legislation seeks to improve environmental quality in this state by decreasing the discharge of pollutants. In addition the legislation outlines that a preference in purchasing state motor vehicles must be given to hybrid, plug-in hybrid, bio-diesel, hydrogen, fuel cell, or flex-fuel vehicles when the performance, quality and anticipated life-cycle costs are comparable to other available motor vehicles.

STATUS: Having passed the General Assembly, S.368 (R.230) became law without the Governor's signature (Act No. 203).

IDLING RESTRICTIONS FOR COMMERCIAL DIESEL VEHICLES

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The General Assembly approved legislation that prohibits an operator of a commercial diesel vehicle from allowing a vehicle to idle for more than ten minutes in any 60-minute period. The legislation includes numerous exceptions. The State Transport Police Division of the Department of Public Safety is responsible for enforcing these provisions. Violations are nonmoving traffic offenses punishable by a warning ticket for an offense that occurs between July 1, 2008, to July 1, 2009, or a fine of \$75 dollars for each offense that occurs after July 1, 2009. Fines may be paid directly to the Department of Public Safety, or an individual may request a hearing in magistrates court. Magistrates court has jurisdiction over all contested violations. Failure to pay fines may result in driver's license suspension. Fifty dollars of each fine must be credited to the Diesel Idling Reduction Fund, and the monies in this fund must be used to cover costs associated with the idling awareness program operated by the Department of Health and Environmental Control. The legislation supercedes and preempts any ordinance enacted by a local political subdivision purporting to regulate idling on commercial diesel vehicles.

STATUS: Having been approved by the General Assembly H.3853 (R.275) became law without the Governor's signature on May 22, 2008.

INCOME TAX CREDIT FOR SMALL HYDROPOWER SYSTEMS

The Senate and the House of Representatives have approved different versions of **S.1141**, which expands the income tax credit currently allowed for the purchase and installation of a solar energy system so that the tax credit also applies to the purchase and installation of a small hydropower system. The legislation provides criteria for small hydropower systems.

STATUS: S.1141 passed the Senate on April 29, 2008, and was sent to the House of Representatives. On May 28, the House returned the bill to the Senate with amendments. On May 28, the Senate amended House amendments and returned the bill to the House.

NET METERING REPORT

The General Assembly approved **H.3395**, a joint resolution providing for a report on net metering programs at the State's electric utilities. Net metering is a means of calculating the energy that is consumed and produced at facilities equipped with renewable energy generators such as solar panels or wind turbines. The legislation provides that the South Carolina Energy Office and the Office of Regulatory Staff, not later than January 1, 2009, shall provide a report to the General Assembly that recommends process and procedures for establishing net metering programs at all distribution electric utilities in South Carolina, including investor-owned electric utilities and the South Carolina Public Service Authority. The report must consider net metering requirements of adjacent states, and make recommendations that facilitate interstate uniformity for utilities that serve both South Carolina and a neighboring state. The report's recommendations must be consistent with requirements of the federal Energy Policy Act. The report must also consider the need to facilitate consistency with Green Power electricity purchase programs operating in South Carolina. In preparing the net metering report, the South Carolina Energy Office and the Office of Regulatory Staff shall consult with all affected electric utilities, the State Consumer Advocate, representatives of environmental interests, and the South Carolina Energy Advisory Committee.

*STATUS: Having passed the General Assembly, **H.3395** (R.247) was signed into law by the Governor on May 13, 2008.*

NEW ENERGY CONSERVATION GOALS FOR STATE AGENCIES

The House passed and sent to the Senate **H.4766**, legislation, which establishes new energy conservation goals for state agencies. For buildings in use on July 1, 2008, the legislation establishes a goal of reducing energy consumption by at least one percent annually for five consecutive years. The plan also must have a goal of ultimately reducing energy consumption by twenty percent by July 1, 2020, relative to year 2000 levels. An agency shall implement all available cost-effective energy-saving measures to pursue these goals. In determining whether an energy-saving method is cost effective, an agency should primarily consider the measure's cost effectiveness over a five-year period rather than within one fiscal year. The State Energy Office shall provide agency assistance and information needed to help meet these goals. These provisions do not apply to a building designed, constructed or rehabilitated, and maintained in compliance with the Energy Independence and Sustainable Construction Act of 2007. The legislation provides for annual status reports to the State Energy Office and requires an agency that does not attain its required annual reduction goals to include in its report a detailed justification that it implemented all available, cost-effective energy conservation methods. The legislation also requires state agencies to replace incandescent light bulbs with compact fluorescent bulbs when the incandescent bulbs need to be replaced, and if the agency determines use of a compact fluorescent bulb is more cost effective over a five-year period. A state agency may purchase incandescent bulbs if the agency verifies, in writing, that compelling circumstances require their use.

Senate's version includes the creation of the Wind Energy Production Farms Feasibility Study Committee. This committee shall review, study and make recommendations

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regarding the feasibility of windmill farms in the state including, but not limited to, whether South Carolina is a suitable site for wind production on land or in offshore areas, the economic and environment impact to the State and the cost of wind farm installation and operation in the State. The State Energy Office must provide staff for this committee. This 11-member committee shall submit a report to the General Assembly and Governor before January 1, 2010, at which time this committee is abolished.

STATUS: The House of Representatives approved H.4766 on April 30, 2008, and sent it to the Senate. The Senate returned it to the House with amendments on May 28, 2008.

OPERATION EMPOWERED

The Senate approved and sent to the House of Representatives **S.1076**. This legislation provides for the Public Service Commission Office of Regulatory Staff to create a non-profit corporation named Operation Empowered that can receive tax-deductible contributions in order to provide financial assistance to low-income households to implement energy efficiency and conservation measures. The Office of Regulatory Staff may appoint an advisory committee of persons from electric utilities, electric cooperatives, and other energy related organizations, as well as persons from poverty assistance organizations in order to provide guidance in designing programs to further the goals of the legislation.

STATUS: S.1076 passed the Senate on April 29, 2008, and was sent to the House of Representatives where it has been referred to the Ways and Means Committee.

RECYCLING FACILITY TAX CREDIT

The House of Representatives approved and sent to the Senate **H.4927**, a bill establishing an income tax credit for the electricity costs of recycling facilities. The legislation allows a refundable income tax credit to a recycling facility equal to the yearly amount expended by the recycling facility for electric service multiplied by one percent in the first year the credit is claimed, two percent in the second year, three percent in the third year, and four percent in the fourth or subsequent year. The recycling facility must maintain or increase the number of employees in South Carolina in order to qualify for the credit. The credit is allowed only when the Board

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of Economic Advisors forecasts growth in general fund revenues of at least five percent.

STATUS: H.4927 passed the House of Representatives on April 24, 2008, and was sent to the Senate where it has been referred to the Finance Committee. On May 22, the House returned S.1171 to the Senate amended to include the recycling facility tax credit. On May 29, the Senate amended House amendments and returned S.1171 to the House.

RENEWABLE ENERGY RESOURCES AND NUCLEAR ENERGY

The House approved **S.360**, relating to Renewable Energy Resources and Nuclear Energy under the “South Carolina Energy Efficiency Act”. The legislation defines the “renewable energy resources” that are encouraged under the provisions of the energy efficiency act as solar photovoltaic energy, solar thermal energy, wind power, hydroelectric, geothermal energy, tidal energy, recycling, hydrogen fuel derived from renewable resources, biomass energy, and landfill gas. The legislation also adds provisions to the act to ensure that any future energy strategy that promotes carbon-free, non-greenhouse gas emitting sources includes nuclear energy and renewable energy resources.

The Senate’s version of the legislation includes nuclear energy as renewable energy.

STATUS: The House of Representatives returned S.360 to the Senate with amendments on February 7, 2008. Subsequently, the Senate did not concur with the House amendments and a conference committee was appointed to address differences with the Senate on March 6, 2008.

SALES TAX EXEMPTION FOR ENERGY EFFICIENT APPLIANCES

The Senate and House of Representatives have approved different versions of **S.1143** which establishes a sales tax holiday for energy efficient appliances and products, such as refrigerators, dishwashers, air conditioners, windows, and fluorescent light bulbs, that are purchased for home use. This legislation provides an exemption from the state sales tax for the gross proceeds of sales of a noncommercial home or personal use appliance with a sales price of no more than two thousand five hundred dollars that meets standards for energy efficiency. The exemption applies only to sales occurring during October (National ‘Energy Efficiency Month’) until 2019. The legislation includes provisions for only allowing

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the exemption when the Board of Economic Advisors is forecasting annual revenue growth of at least five percent.

STATUS: On May 22, 2008, the House of Representatives returned S.1143 to the Senate with amendments. The Senate amended House amendments and returned the bill to the House on May 29. The House adjourned debate on Senate amendments until June 3.

WIND ENERGY PRODUCTION FARMS FEASIBILITY STUDY COMMITTEE

The House of Representatives approved and sent to the Senate H.3533, a joint resolution creating the Wind Energy Production Farms Feasibility Study Committee. This committee shall review, study, and make recommendations regarding the feasibility of windmill farms in the State including, but not limited to, whether South Carolina is a suitable site for wind production on land or in offshore areas, the economic and environmental impact to the State, and the cost of wind farm installation and operation in the State. The legislation provides for the composition of the study committee and requires it to submit its report to the General Assembly and Governor before January 1, 2009, at which time it is abolished.

STATUS: H.3533 passed the House of Representatives on May 28, 2008, and was sent to the Senate where it has been referred to the Agriculture and Natural Resources Committee. On May 28, the Senate returned H.4766 to the House amended to include provisions for the creation of the Wind Energy Production Farms Feasibility Study Committee.

FAMILY/HEALTH

“BEHAVIORAL HEALTH SERVICES ACT OF 2008”

See summary under Government

CRIMINAL RECORDS CHECKS IN THE LICENSURE OF NURSES

The House approved and sent to the Senate H.5012, legislation authorizing criminal records checks in the licensure of nurses. This legislation provides that the State Board of Nursing may require a state and national criminal records check, supported by fingerprints. The South Carolina Law Enforcement Division is authorized to retain fingerprints for certification purposes and for notification of the department regarding criminal charges. The applicant is responsible for the cost of the criminal history background check. In addition, a licensed nurse shall wear a clearly legible identification badge bearing the nurse’s official title and first or last name or both.

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STATUS: The House of Representatives passed H.5012 and sent it to the Senate on April 17, 2008. The Senate amended the legislation on May 29, 2008.

DENTAL TECHNOLOGICAL WORK

The legislation requires an out-of-state dental lab to employ a dental technician registered in South Carolina if the lab performs dental technological work prescribed by a dentist licensed in South Carolina. The legislation also requires all dental labs to provide certification of the country where the lab work was performed; a list of all materials used to make the device; and the name, address and certificate number of the person or organization authorized to make the device.

STATUS: Having been approved by the General Assembly, H.3906 (R.289) was vetoed by the Governor on May 29, 2008, and the House of Representatives sustained the veto.

“ELIMINATION OF RACIAL AND ETHNIC DISPARITIES ACT”

The House approved and sent to the Senate H.4648, the “Elimination of Racial and Ethnic Disparities Act”. Subject to funds being appropriated for the program, this legislation directs the South Carolina Department of Health and Environmental Control (DHEC) to establish a grant program to foster coordinated, collaborative, broad-based participation by State and local governments, faith-based organizations, private-sector health care providers, voluntary health care resources, social service providers, and nontraditional partners. DHEC is to develop measurable outcomes to reduce health disparities for a set of specific diseases and conditions. The grant program is meant to supplement existing programs for reducing racial and ethnic health disparities. The legislation also outlines the grant program criteria and guidelines. Grant awards are to be made no later than February 1, 2009 and are to be funded one year and may be renewed.

STATUS: The House of Representatives approved H.4648 and sent it to the Senate on April 10, 2008, where it was referred to the Committee on Medical Affairs.

EMERGENCY MEDICAL TECHNICIAN BACKGROUND CHECKS

The House did not concur with the Senate amendments to H.4334 regarding Emergency Medical Technician (EMT) Certification. The legislation requires a person seeking Emergency Medical Technician (EMT) certification or recertification to undergo a state criminal records check and a national criminal records check. The state and national criminal records checks are not required for an EMT employed as of July 1, 2008, until the EMT applies for recertification.

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A state criminal records check will cost no more than eight dollars and is the responsibility of the EMT or EMS agency.

The Senate included legislation that deletes the notification requirement for school principal and school nurse regarding a minor having AIDS or infected with HIV, the virus that causes AIDS.

STATUS: On May 29, 2008, the House of Representatives did not concur with the Senate amendments for H.4334. The House of Representatives recalled similar legislation, S.297, from the Medical, Military, Public and Municipal Affairs Committee on May 21, 2008.

JOINT CITIZENS AND LEGISLATIVE COMMITTEE ON CHILDREN

This legislation establishes the Joint Citizens and Legislative Committee on Children to be composed of three members of the House of Representatives appointed by the Speaker of the House, three members of the Senate to be appointed by the President Pro Tempore, and three members to be appointed by the Governor. The director of the Department of Juvenile Justice, the director of the Department of Social Services, the director of the Department of Disabilities and Special Needs, the superintendent of the Department of Education, and the director of the Department of Mental Health shall serve as ex officio, nonvoting members of the committee. Members appointed by the Governor must not be employees of the State of South Carolina. Members serve at the pleasure of the appointing authority.

The committee shall study issues relating to children as the committee may undertake or as may be requested or directed by the General Assembly. The committee may contract for all necessary legal research and support services, subject to funding.

The committee shall become operative on July 1, 2008. The committee must submit an annual written report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House no later than the first of February, commencing in 2009. The report must detail the work of the committee, account for the committee's expenditures, and provide any findings and recommendations the committee develops relating to children's issues it has studied.

STATUS: Having been approved by the House of Representatives and Senate, S.1011 was ratified on May 29, 2008 (R.306).

MULTIPLE SCLEROSIS HEALTHCARE ACCESS STUDY COMMITTEE

This committee is to develop a plan for coordinated service delivery for person with multiple sclerosis. The committee is to be composed of representatives of the Department of Health and Human Services, the two medical schools, SC Hospital Association, SC Medical Association, the National Multiple Sclerosis Society, a MS nurse, and persons living with MS from different geographic

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regions of the state. The committee shall submit a written report of its findings and recommendations to the General Assembly before January 1, 2009, at which time the committee is abolished.

STATUS: Having passed the General Assembly, S.775 (R.190) became law without the Governor's signature on February 20, 2008.

PRACTICE OF MEDICINE

The House amended, approved, and sent to the Senate H.3912, legislation revising provisions of the "Physician Practice Act". The legislation provides that a physician testifying as an expert medical witness under oath in a civil, criminal, or administrative proceeding in this State is deemed to have submitted to the jurisdiction of the Board of Medical Examiners. Upon receipt of an initial complaint, the board is authorized to conduct an investigation and proceed in the same manner as provided in state law for physicians licensed in this State of any physician who offers opinion testimony or evidence in bad faith or without a reasonable basis in fact or otherwise acts unethically in conjunction with testifying as an expert in a deposition or at trial. Requirements are established for service of any notices or correspondence that must be made on the physician expert witness. The legislation provides that if a physician makes a medical error or knows about or witnesses a medical error committed by another physician that results in great bodily injury or death, the physician shall report the medical error to the board, which shall assess what action, if any, must be taken against the physician committing the medical error. The legislation establishes a procedure under which the Director of the Department of Insurance is authorized to file a complaint about a physician to the South Carolina Board of Medical Examiners if a hearing regarding improper claims practices by a health insurer or health maintenance organization results in a determination that a physician performing medical necessity review services for the insurer has willfully and knowingly denied claims with no rational basis. This legislation provides that a physician must be immediately, rather than readily, available when delegating a task to an unlicensed person who works for the physician. The legislation provides that a physician is not prohibited from practicing in actual consultation with a physician licensed in this State concerning an opinion for the South Carolina physician's consideration in managing the care or treatment of a patient in this State. The legislation revises the requirements for an applicant who graduated from medical school outside of the United States, who has met all other criteria and wishes to obtain a license to practice in this State. It requires the applicant to have been actively licensed in another state for the preceding five years and provides that the practice must have been without significant disciplinary action. The legislation also allows a physician who currently is certified by a board-approved national specialty organization that does not require an examination for recertification to become licensed in South Carolina without further examination if the physician has 150 hours of approved continuing medical education in the three years prior to application. Seventy five percent of the hours must be related to the applicant's specialty.

STATUS: The House of Representatives approved H.3912 on March 6, 2008. The bill was made a special order by the Senate on May 28, 2008.

PREREQUISITES FOR THE PERFORMANCE OF AN ABORTION

This legislation revises the prerequisites for the performance of an abortion by providing that, if an ultrasound is performed, an abortion may not be performed sooner than one hour following the completion of the ultrasound. The physician who is to perform the abortion or an allied health professional working in conjunction with the physician must inform the woman before the ultrasound procedure of her right to view the ultrasound image at her request during or after the ultrasound procedure.

STATUS: Having been approved by the General Assembly, H.3355 (R.246) was signed into law by the Governor on May 14, 2008.

GOVERNMENT

"BEHAVIORAL HEALTH SERVICES ACT OF 2008"

As passed by the House of Representatives, this legislation establishes the Department of Behavioral Health Services comprised of the Division of Alcohol and Other Drug Abuse Services and the Division of Mental Health. Among other things, the department is required to develop a State Plan for Behavioral Health Services which must include the delivery of coordinated, client-centered behavioral health services. The legislation also establishes a Department of Behavioral Health Services Advisory Committee to study the organizational structure of the department to evaluate the effectiveness, efficiency, and accountability of the department and to make recommendations for organizational and service delivery changes. This bill provides for a South Carolina Mental Health Advisory Board as well as a Division of Alcohol and Other Drug Abuse Services Advisory Board.

The House of Representatives also approved and sent to the Senate H.4899, a joint resolution creating a study committee to examine the delivery of behavioral health care services in South Carolina. The legislation received third reading in the Senate and was returned to the House with amendments on May 27, 2008. The Senate amended the legislation so as to provide that staff from the Senate and the House of Representatives shall assist the study committee and that the study committee may utilize the expertise of staff from state agencies. Under the Senate amendment, the committee shall make its report no later than February 15, 2010, at which time it is dissolved.

STATUS: H.4737 passed the House of Representatives on April 18, 2008. The legislation is pending in the Senate Committee on Medical Affairs.

CIRCUMSTANCES UPON WHICH THE STATE LAW ENFORCEMENT DIVISION MAY RELEASE ITS LIST OF CONCEALABLE WEAPONS PERMIT HOLDERS

This legislation provides that State Law Enforcement Division (SLED) may release the list of concealable weapons permit holders only if the request is made by a law

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enforcement agency to aid in an official investigation, or if the list is required to be released under a subpoena or court order. Except for when these conditions are met, a person in possession of a list of permit holders obtained from SLED must destroy the list. The legislation also provides that during the first quarter of each calendar year, SLED must publish a report of the following information regarding the previous calendar year: (1) the number of permits; (2) the number of permits that were issued; (3) the number of permit applications that were denied; (4) the number of permits that were renewed; (5) the number of permit renewals that were denied; (6) the number of permits that were suspended or revoked; and (7) the name, address, and county of a person whose permit was revoked, including the reason for the revocation. The report must include a breakdown of such information by county.

STATUS: The General Assembly approved H.3528 (R.235), and the Governor signed the legislation into law on April 16, 2008 (Act No. 202).

COST OF LIVING ADJUSTMENTS FOR STATE RETIREES

As part of H.4876, the General Assembly approved provisions for a guaranteed two percent annual cost of living adjustment (COLA) for beneficiaries within the South Carolina Retirement System and the South Carolina Police Officers Retirement System. The legislation provides that in years when the Consumer Price Index, which is used to measure inflation, increases by no more than two percent, retirees within these systems are awarded a two percent cost of living adjustment. In years when the Consumer Price Index increases by more than two percent, the legislation establishes conditions that must be met before these retirees may be awarded a

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cost of living adjustment beyond two percent up to the total percentage increase in the Consumer Price Index or four percent, whichever is less.

STATUS: Having been approved by the General Assembly, H.4876 was ratified on May 22, 2008 (R.295). On May 27, the Governor vetoed the bill.

EARMARK PROJECT DISCLOSURE REQUIREMENTS

The House of Representatives approved and sent to the Senate H.4346, a bill establishing disclosure requirements for earmark projects in appropriations bills. This bill provides that every request by a legislator for an earmark project or program included in an appropriations bill must be made in writing utilizing a designated form. The bill establishes new disclosure requirements for information concerning these earmarks including the name of the legislator making the request and a brief explanation the program or project. Under the legislation, an earmark project or program includes an appropriation or proviso for a specific program or project not originating with a written agency budget request or not included in an appropriations bill from the prior fiscal year.

STATUS: H.4346 passed the House of Representatives on May 1, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

FOUNDATIONS OF AMERICAN LAW AND GOVERNMENT DISPLAY

See summary under Heritage and Holidays

LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS

In order to determine whether laws and programs addressing subjects within the jurisdiction of a legislative committee are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated, this legislation provides that each standing committee shall review and study on a continuing basis: (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction; (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction; and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction. The legislation outlines which agencies fall under the jurisdiction of each standing committee.

Each committee must conduct oversight studies and investigations at least once every four years on all agencies within the committee's jurisdiction. Also a standing committee may by majority vote initiate a study or an investigation of an agency within its jurisdiction. An investigating committee may vest its investigative authority in a subcommittee.

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The legislation includes provisions detailing how an investigating committee may acquire evidence or information, including requiring an agency to prepare and submit a program evaluation report. The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report or to perform its own audit of the program or operations being studied or investigated by the investigating committee. All testimony given to the investigating committee must be under oath. All witnesses are entitled to counsel, and a witness shall be given the benefit of any privilege which he may have claimed in court as a party in a civil action.

The Senate made numerous amendments to the legislation. Among other things, the Senate provides that if an agency or department has no recommendations for restructuring of divisions, programs, or personnel, its report to the Governor and General Assembly must contain a statement to that effect. The legislation also includes public policy statements regarding legislative oversight of executive departments. The Senate version requires standing committees to conduct oversight studies and investigations within that standing committee's jurisdiction at least once every five years. In addition to the scheduled five-year oversight studies and investigations, a standing committee may by one-third vote of the standing committee's membership initiate an oversight study and investigation.

STATUS: These provisions have been placed in two different bills passed by the House of Representatives.

H.4538 passed the House of Representatives on April 23, 2008. The Senate amended the legislation and gave it second reading on May 28, 2008.

H.3590 passed the House of Representatives on April 23, 2008. The legislation received a majority favorable with amendment and minority unfavorable report from the Senate Judiciary Committee on May 21, 2008.

PROHIBITIONS ON THE REGULATION OF FIREARMS

This legislation provides that counties and municipalities may not enact regulations to prohibit a landowner from discharging a firearm on his property to protect family members, employees, or the general public from animals posing a direct threat or danger on a parcel of land comprised of at least 25 contiguous acres. Any ordinance regulating the discharge of firearms that does not specifically provide for an exclusion pursuant to this item is unenforceable as it pertains to an incident described in this item; otherwise, the ordinance is enforceable.

STATUS: Having been approved by the General Assembly, S.1039 (R.239) was vetoed by the Governor on May 14, 2008. The veto was overridden by the Senate on May 15, 2008; the veto was overridden by the House of Representatives on May 21, 2008.

PROPOSED CONSTITUTIONAL AMENDMENT PERTAINING TO SPECIAL PURPOSE DISTRICTS

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As passed by the House of Representatives, this joint resolution proposing to amend the State Constitution would be submitted to the voters at the next general election. This joint resolution proposes to amend the State Constitution to authorize the General Assembly, by special or local law, to abolish a special or public service district created by the General Assembly and transfer its assets and liabilities to an assuming service provider.

STATUS: H.4578 passed the House of Representatives on April 15, 2008. The bill is pending in the Senate Judiciary Committee.

RESTRICTIONS ON WHERE A SEX OFFENDER MAY RESIDE

See summary under Criminal Justice/Courts

RESTRUCTURING - PROPOSED CONSTITUTIONAL AMENDMENT

The House of Representatives amended, approved and sent to the Senate H.4620, a joint resolution proposing an amendment to the South Carolina Constitution that would revise the manner in which certain constitutional officers are selected. Under the proposal, the Secretary of State and the Superintendent of Education would no longer be selected by popular election, but would instead be appointed by the Governor with the advice and consent of the General Assembly. The proposed amendment also provides for the joint election of the offices of Governor and Lieutenant Governor, whereby an individual nominated for the office of Governor would select a running mate for the office of Lieutenant Governor to run on the same ticket. If approved, this joint resolution would be submitted to the voters at the next general election.

STATUS: H.4620 passed the House on March 6, 2008. The legislation is pending in the Senate Judiciary Committee.

"SOUTH CAROLINA PUBLIC INVOCATION ACT"

See summary under Heritage and Holidays

"SOUTH CAROLINA RESTRUCTURING ACT"

As passed by the House of Representatives, this legislation establishes the Department of Administration under the executive branch of state government. The Department of Administration is headed by a director appointed by the Governor with the advice and consent of the General Assembly.

The following offices, divisions or components of the State Budget and Control Board, Office of Governor, or other agencies are transferred to and incorporated into the Department of Administration:

- Division of General Services including Facilities Management, Business Services together with Fleet Management, and Property Services;
- Office of Human Resources;
- Office of Executive Policy and Programs, except for the State Ombudsman and Children's Services programs which are contained within this office;
- Office of Economic Opportunity;
- Developmental Disabilities Council;
- Continuum of Care;
- Children's Foster Care;
- Veterans Affairs;
- Commission on Women;
- Victims Assistance;
- Small and Minority Business;
- Procurement Services Division of the State Budget and Control Board;
- State Energy Office; and
- Division of State Chief Information Officer of the State Budget and Control Board.

The Budget and Control Board remains responsible for the operations and management of the State House, Blatt Office Building, Gressette Office Building, Supreme Court Building, Calhoun Office Building, and Capitol Complex grounds. Also whenever the Budget and Control Board maintains any responsibility related to a program administered by the Department of Administration, the board is authorized to expend revenues generated by the programs to support the board's responsibilities related to the programs.

The legislation includes a large section for conforming and miscellaneous amendments.

During the year 2015, the Legislative Audit Council shall conduct a performance review of the provisions of this legislation to determine its effectiveness and achievements. The legislation includes a sunset provision.

STATUS: H.3590 passed the House of Representatives on April 23, 2008. The legislation received a majority favorable with amendment and minority unfavorable report from the Senate Judiciary Committee on May 21, 2008.

STATE APPROPRIATIONS LIMITS

The House of Representatives approved and sent to the Senate H.3295, a bill establishing new limits on state appropriations that first apply to appropriations for fiscal

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year 2008-2009. The bill provides that, in addition to all other applicable constitutional and statutory limitations on general fund appropriations, total general fund appropriations for the fiscal year may not exceed the lesser of: (a) one hundred six percent of the adjusted base-year estimate made by the Board of Economic Advisors; or (b) the adjusted base-year estimate increased by a percentage equal to the state's growth in population and a percentage equal to any increase in the consumer price index. The adjusted base-year estimate is the recurring and nonrecurring general fund estimate made by the Board of Economic Advisors on February 15, 2007 for fiscal year 2007-2008. The Director of the Office of State Budget must certify compliance with these new limitations before the Governor may submit a proposed budget and before the annual general appropriations bill may be given third reading in the House of Representatives and Senate. Under the legislation, the General Assembly is authorized to declare a financial emergency and suspend these limitations on appropriations for any one fiscal year for a specific amount by a special vote (an affirmative recorded roll-call vote in each branch of the General Assembly by two-thirds of the members present and voting but not less than three-fifths of the total membership in each branch).

H.3295 creates the Spending Limit Reserve Fund as a separate and distinct fund in the State Treasury that is to receive all general fund revenues accumulated in a fiscal year in excess of the appropriations limits provided in this legislation. Revenues credited to the Spending Limit Reserve Fund in a fiscal year may be appropriated by the General Assembly in its regular session in the year following the close of the applicable fiscal year. The Spending Limit Reserve Fund must be used to replenish the State's General Reserve Fund should that fund fall below its required minimum balance. Such amounts do not replace or supplant other required replenishments, and, to the extent that concurrent replenishments of the General Reserve Fund exceed the amount necessary for its full funding, the General Reserve Fund is deemed to require an annual minimum balance equal to this increased amount not to exceed a total balance equal to four percent of general fund revenue in the latest completed fiscal year. After this priority is met, revenues that remain in the Spending Limit Reserve Fund may be utilized only for the following purposes: (1) temporary tax reductions; (2) infrastructure improvements including fixed transportation facilities such as highway, rail, water and air, and basic facilities, services, and installations needed for the functioning of government such as water, sewer, and public sector communications; (3) school buildings; (4) school buses; and (5) expenses incurred by the State as a result of natural or other disasters declared by the President of the United States. Funding for a capital project must be appropriated from the fund in one installment and all appropriations must be made by means of a joint resolution originating in the House of Representatives.

STATUS: H.3295 passed the House of Representatives on February 16, 2007, and was sent to the Senate where it has been referred to the Finance Committee.

STORM WATER RUNOFF FEES

The House amended, approved, and sent to the Senate **H.4337** relating to storm water runoff fees. The legislation exempts agricultural lands, forest lands and undeveloped lands from any fee imposed by a local governing body for a storm water, sediment or erosion control program.

STATUS: The House of Representatives passed H.4337 and sent it to the Senate on April 30, 2008. The Senate Committee on Agriculture and Natural Resources gave it a favorable with amendment recommendation on May 22, 2008.

HERITAGE AND HOLIDAYS

“I BELIEVE” SPECIAL LICENSE PLATES

This legislation provides that the Department of Motor Vehicles may issue 'I Believe' special motor vehicle license plates to owners of private motor vehicles registered in their names. The plate must contain the words 'I Believe' and a cross superimposed on a stained glass window.

STATUS: Having been approved by the House of Representatives and Senate, S.1329 was ratified on May 29, 2008 (R.316).

These provisions were also placed in S.1050. Having been approved by the House of Representatives and Senate, S.1050 was ordered enrolled for ratification on May 29, 2008.

FOUNDATIONS OF AMERICAN LAW AND GOVERNMENT DISPLAY

This legislation provides that each municipality, county, or other political subdivision of this State including, but not limited to, school boards are authorized to post the Foundations of American Law and Government display in a visible, public location in the public buildings of this State and its political subdivisions.

The Foundations of American Law and Government display must include:

- The Ten Commandments;
- The Magna Carta;
- The Mayflower Compact, 1620;
- The Declaration of Independence;
- 'The Star-Spangled Banner' by Francis Scott Key;
- The Bill of Rights of the United States Constitution;
- The Preamble to the South Carolina Constitution;
- The Nineteenth Amendment to the United States Constitution;
- The national motto 'In God We Trust';
- The image of Lady Justice;
- The Lord's Prayer;
- The Emancipation Proclamation, 1863; and
- Martin Luther King, Jr.'s 'I Have a Dream' speech.

All documents which are included in a Foundations of American Law and Government display must be posted on paper not less than eleven by fourteen inches in dimension

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and must be framed in identically-styled frames. One document may not be displayed more prominently than another.

The Attorney General's Office shall prepare a statement of the applicable constitutional law and shall update this statement to reflect any changes made in the law. The Attorney General's Office shall make the statement available in the most economical and convenient method, including, posting the statement on a website.

The legislation also establishes an advisory committee to make recommendations to the General Assembly and the Department of Archives and History regarding the public representations of the Foundations of American Law and Government display documents, the appropriate information to be included in the display, and recommendations concerning other documents to be added to the list for the display.

STATUS: Having been approved by the House of Representatives and Senate, H.3159 was ordered enrolled for ratification on May 29, 2008.

“JUNETEENTH CELEBRATION OF FREEDOM DAY”

The General Assembly approved and the Governor signed into law H.4731, a bill designating the nineteenth day of June each year as “Juneteenth Celebration of Freedom Day” in South Carolina as a time to commemorate and reflect upon the freedom of African Americans and their contributions to this State and nation. This day of celebration commemorates the June 19, 1865, date when Union soldiers landed at Galveston, Texas, to enforce President Lincoln's Emancipation Proclamation.

STATUS: Having passed the General Assembly, H.4731 (R.260) was signed into law by the Governor on May 14, 2008.

“SECOND AMENDMENT RECOGNITION ACT”

The House of Representatives returned S.1143 to the Senate amended to include the “Second Amendment Recognition Act.” This legislation establishes the “Second Amendment Weekend” during the Friday and Saturday following Thanksgiving Day each November. During this forty-eight hour period, the sales of handguns, rifles, and shotguns are exempted from the state sales and use tax.

STATUS: The House of Representatives returned S.1143 to the Senate with amendments on May 22, 2008. The Senate amended House amendments and returned the bill to the House on May 29. The House adjourned debate on Senate amendments until June 3.

“SOUTH CAROLINA PUBLIC INVOCATION ACT”

This legislation outlines a procedure whereby a deliberative public body, by ordinance, resolution, or written policy statement, may adopt a policy to permit a public invocation before each meeting of the public body. The policy may allow for an invocation to be offered on a voluntary basis, at the beginning of the meeting, by:

- (1) one of the public officials, elected or appointed to the deliberative public body, so long as the opportunity for invocation duty is regularly and objectively rotated among all of that deliberative public body's public officials;
- (2) a chaplain elected by the public officials of the deliberative public body; or
- (3) an invocation speaker selected on an objective and rotating basis from among a wide pool of the religious leaders serving established religious congregations in the local community in which the deliberative public body meets. To ensure objectivity in the selection, the deliberative public body on an annual basis shall compile a list of all known, established religious congregations and assemblies by reference to local telephone books or similar sources, or both, and on an annual basis shall mail an invitation addressed to the 'religious leader' of each congregation and assembly. The invitation must contain, in addition to scheduling and other general information, the following statement: 'A religious leader is free to offer an invocation according to the dictates of his own conscience, but, in order to comply with applicable constitutional law, the [name of deliberative public body issuing the invitation] requests that the public invocation opportunity not be exploited to proselytize or advance any one, or to disparage any other, faith or belief'. Each respondent who accepts the invitation to deliver an invocation at an upcoming meeting of the deliberative public body shall be scheduled to deliver an invocation on a first-come, first-served basis.

STATUS: Having been approved by the General Assembly, S.638 (R.282) was signed into law by the Governor on May 27, 2008.

THE SOUTH CAROLINA CIVIL WAR SESQUICENTENNIAL ADVISORY BOARD

This legislation creates the South Carolina Civil War Sesquicentennial Advisory Board. The purpose of the board is to: (1) promote a suitable statewide observance of the sesquicentennial of the Civil War; (2) cooperate and assist national, state, and local organizations with programs and activities suitable for the sesquicentennial observance; (3) assist in ensuring that any observance of the sesquicentennial of the Civil War is inclusive and appropriately recognizes the experiences and points of view of all people affected by the Civil War; and (4) provide assistance for the development of programs, projects, and activities on the Civil War that have lasting educational value.

STATUS: Having been approved by the House of Representatives and Senate, S.104 was ratified on May 29, 2008 (R.297).

IMMIGRATION

“SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT”

Highlights of the legislation include the following.

Harboring and Transporting Illegal Aliens

The legislation provides that it is a felony offense to transport or harbor illegal aliens with intent to further that person's illegal entry into the United States or avoiding apprehension or detection of that person's illegal status by authorities. A violation is punishable with a fine of up to \$5,000 dollars and/or imprisonment for up to five years. Specific exemptions are established for providing health care treatment and for providing shelter that is offered for strictly humanitarian purposes or in compliance with the Violence Against Women Act.

"Sanctuary Cities" Prohibited

Political subdivisions are prohibited from adopting provisions that limit or prohibit the enforcement of State laws pertaining to immigration.

Political subdivisions are prohibited from adopting provisions that limit or prohibit law enforcement or other officials from communicating to appropriate federal or state officials with regard to the immigration status of any person within this State.

Preemption Language

Political subdivisions may not enact any provisions pertaining to the employment, licensing, permitting, or otherwise doing business with a person based upon that person's authorization to work in the United States that exceeds or otherwise conflicts

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with federal law or that is in conflict with state law. An enactment found to be in conflict with federal or state law is void.

Penalties for Fraudulent Documents

The legislation provides that it is unlawful to display or possess a false, fictitious, fraudulent, or counterfeit green card or other document, such as a driver's license or social security card, for the purpose of offering proof of United States citizenship or classification by the United States as an alien lawfully admitted for temporary or permanent residence under federal immigration law. A first offense is a misdemeanor subject to a fine of no more than \$100 dollars or imprisonment for no more than 30 days. A second or subsequent offense is a felony subject to a fine of no more than \$500 dollars or imprisonment for no more than five years.

Public Sector Employment

On or after January 1, 2009, this legislation requires every public employer to register and participate in the federal work authorization program to verify the employment authorization of all new employees. 'Federal work authorization program' means the E-Verify Program maintained and operated by the United States Department of Homeland Security and the Social Security Administration, or any successor program.

A public employer may not enter into a services contract with a contractor for the physical performance of services within this State unless the contractor agrees:

(1) to register and participate in the federal work authorization program to verify the employment authorization of all new employees; and require agreement from its subcontractors, and through the subcontractors, the sub-subcontractors, to register and participate in the federal verification of the employment authorization of all new employees; or

(2) to employ only workers who:

(a) possess a valid South Carolina driver's license or identification card issued by the South Carolina Department of Motor Vehicles;

(b) are eligible to obtain a South Carolina driver's license or identification card in that they meet the requirements set forth in Section 56-1-40 through 56-1-90; or

(c) possess a valid driver's license or identification card from another state where the license requirements are at least as strict as those in South Carolina, as determined by the Executive Director of the South Carolina Department of Motor Vehicles, or his designee. The Executive Director of the South Carolina Department of Motor Vehicles, or his designee, shall publish on its website a list of states where the license requirements are at least as strict as those in South Carolina.

A public employer and contractor must not divide work or duties that would otherwise constitute a single service contract into separate contracts for the purpose of avoiding these requirements.

These provisions apply on and after January 1, 2009, with respect to contractors, subcontractors, or sub-subcontractors of 500 or more employees; on and after July 1,

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2009, with respect to contractors, subcontractors, or sub-subcontractors of 100-499; and on and after January 1, 2010, with respect to all other contractors, subcontractors or sub-subcontractors.

A public employer complies with these provisions if it obtains a written statement from the contractor certifying that the contractor will comply with the requirements and agrees to provide to the public employer any documentation required to establish either: (a) the applicability of these provisions to the contractor, subcontractor, and sub-subcontractor; or (b) the compliance these provisions by the contractor and any subcontractor or sub-subcontractor. A public employer need not audit or independently verify a contractor's compliance with these provisions.

A contractor or public employer who in good faith complies with these requirements may not be sanctioned or subjected to any civil or administrative action for employing an individual not authorized for employment in the United States.

A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

Private Sector Employment

South Carolina Employment License

All private employers in South Carolina on or after July 1, 2009 shall be imputed a South Carolina employment license, which permits a private employer to employ a person in this state. On and after July 1, 2009, a private employer may not employ a person unless his South Carolina employment license is in effect and is not suspended or revoked. A private employer's employment license shall remain in effect provided the private employer complies with these provisions. The legislation includes graduated civil penalties for violations. Only violations that take place within five years of the initial occurrence may be considered subsequent violations.

Employment Eligibility Verification

On and after July 1, 2009, all private employers of 100 or more employees who are required by federal law to complete and maintain federal employment eligibility verification forms or documents must:

- (1) register and participate in the E-Verify federal work authorization program, or its successor, to verify information of all new employees, and verify the work authorization of every new employee within five business days after employing a new employee; or
- (2) employ only workers who, at the time of employment:
 - (a) possess a valid South Carolina driver's license or identification card issued by the South Carolina Department of Motor Vehicles;
 - (b) are eligible to obtain a South Carolina driver's license or identification card in that they meet the requirements set forth in Sections 56-1-40 through 56-1-90; or

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(c) possess a valid driver's license or identification card from another state where the license requirements are at least as strict as those in South Carolina, as determined by the director. The Executive Director of the Department of Motor Vehicles, or his designee, shall determine which states have drivers license requirements that are at least as strict as those in South Carolina, and shall develop and periodically update a list of the states. The list shall be published on the Department of Labor, Licensing and Regulation's website.

These provisions apply to all private employers who employ less than 100 employees and who are required by federal law to complete and maintain federal employment eligibility verification forms or documents on and after July 1, 2010.

An employer is given five days in which to complete only the E-Verify option, and during this time the worker may be employed.

Knowingly or Intentionally Employing Unauthorized Aliens

A private employer shall not knowingly or intentionally employ an unauthorized alien. The penalty structure for knowingly and intentionally employing an illegal is as follows:

- First offense: suspension of employment license for 10-30 days
- Second offense: suspension of employment license for 30-60 days
- Third offense: revocation of employment license for five years

Investigation of Allegations of Violations

The legislation outlines procedures whereby the Department of Labor, Licensing and Regulation (LLR) may investigate allegations of violations pertaining to the South Carolina employment license or the knowing and intentional employment of unauthorized aliens. It is a separate violation each time the private employer fails to verify the immigration status of a new employee.

In assessing a civil penalty or taking any other disciplinary action for a violation of these provisions, the Director of LLR shall base his determination on any evidence or information collected during the investigation or submitted for consideration by the employer, and shall consider the following factors, if relevant:

- (1) the number of employees for whom the private employer has failed to verify their immigration status;
 - (2) the prior violations of this chapter by the private employer;
 - (3) the size of the private employer's workforce;
 - (4) any actions taken by the private employer to comply with federal immigration laws or with the provisions of this chapter;
 - (5) any actions taken by the private employer subsequent to the inspection or random audit to comply with the provisions of this chapter;
- and
- (6) the duration of the violation.

A list of all private employers who have been assessed a civil penalty, or who have had their licenses disciplined, or revoked shall be published on LLR's website.

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Private employers make seek review of any assessment of a civil penalty or disciplinary action with the Administrative Law Court.

LLR may develop a statewide random auditing program to inspect private employers for compliance.

State Income Taxes

The legislation caps at six hundred dollars the amount that a taxpayer is allowed to claim each year on state income taxes as a deductible business expense for wages paid to an unauthorized alien. This does not apply to an individual hired by the taxpayer prior to January 1, 2009. This deductible business expense cap does not apply to the wages of employees whose legal status is verified.

The legislation's state income tax provisions address not only direct employment situations, but also compensation paid for contract work that is reported on Form 1099. In such situations, state income tax must be withheld at the rate of seven percent of the amount of compensation if the employed individual fails to provide a taxpayer identification number or social security number.

Public Benefits

The legislation requires the verification of citizenship status in order for an individual who is at least 18 years old to be eligible to receive public benefits. Every applicant is required to execute an affidavit verifying the lawfulness of his presence in the country. In the case of an individual claiming legal alien status, the affidavit serves as temporary authorization for receiving benefits while further verification is conducted through the federal Systematic Alien Verification of Entitlement (SAVE) program. An individual who executes a fraudulent affidavit or assists others in making fraudulent claims is guilty of a felony offense and must be imprisoned for up to five years and/or fined at the discretion of the court.

Exceptions are provided to cover certain circumstances including but not limited to: as receiving disaster relief, benefits for certain emergency medical treatment, public health assistance for immunization, prenatal care, assistance for victims of domestic violence, and access to certain programs and services for the homeless such as soup kitchens, crisis counseling, and short-term shelters.

Registration of Immigration Assistance Services

The legislation establishes and provides for the enforcement of standards of ethics in the profession of immigration assistance by private individuals who are not licensed attorneys. The legislation limits what immigration assistance a nonlawyer may provide as well as restricts certain activities of these nonlawyers providing immigration assistance for compensation. Exceptions are provided for attorneys and their staff and certain not-for-profit organizations. A person performing immigration assistance services is required to obtain appropriate business licenses. The legislation requires nonattorneys to post signs and give notice in advertisements and communications clearly indicating that they are not attorneys or authorized to give legal advice or accept fees for legal advice. Civil and criminal penalties are provided.

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Restitution for Identity Fraud

The legislation provides that an individual found guilty of financial identity fraud or identity fraud involving the falsification of documents that enables an illegal alien to receive public benefits must make restitution to the agency or political subdivision that administered the benefit or entitlement program.

The legislation establishes a civil cause of action for an individual who suffers an ascertainable loss as a result of such identity fraud relating to illegal immigration. A plaintiff is entitled to treble damages.

Higher Education

The legislation provides that illegal aliens are not eligible to attend public institutions of higher learning. Illegal aliens are not eligible to receive public higher education benefit including but not limited to, scholarships, financial aid, grants or resident tuition.

Recording and Reporting Immigration Law Violations

The State Commission for Minority Affairs shall establish and maintain a 24-hour toll free telephone number and electronic website to receive, record, collect, and report allegations of violations of any laws or regulations by any non-United States citizen or immigrant, and allegations of violations of any laws or regulations against any non-United States citizen or immigrant.

The State Commission for Minority Affairs shall establish and maintain a centralized tracking database consisting of all information received through the 24-hour toll free telephone number and electronic website, and report all alleged violations to the appropriate law enforcement or other authority.

Cooperation Between State and Federal Law Enforcement

The legislation directs the chief of the South Carolina Law Enforcement Division to enter into negotiations with federal authorities in order to reach an understanding on: (1) the enforcement of federal immigration laws by State and local law enforcement; (2) the detention of illegal immigrants by State and local law enforcement officials and the costs associated with those detentions; (3) the removal of detained illegal immigrants by federal authorities or the deportation of illegal immigrants by state and local law enforcement officials; (4) relevant training for state and local law enforcement officials; and (5) further communication and cooperation between federal law enforcement and state and local law enforcement officials in the area of immigration enforcement.

Bond Consideration

The legislation allows an accused individual's illegal alien status to be used as a consideration for determining bond.

Detention of Illegal Aliens

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The legislation requires law enforcement to make a reasonable attempt to ascertain the immigration status of every person charged with a criminal offense is confined, for any period, in a local, regional, or state jail or other correctional facility. If the prisoner is an alien, verification must be made within 72 hours through a query to the Law Enforcement Support Center of the United States Department of Homeland Security or other designated office or agency. If the prisoner is determined to be an illegal alien, the United States Department of Homeland Security must be notified. An account must be kept of the daily expenses incurred for detaining an illegal aliens and an invoice must be sent to the United States Department of Homeland Security for reimbursement of those costs.

State Grand Jury

The legislation expands the jurisdiction of the State Grand Jury to include matters involving the large-scale production of false documentation for the purposes of illegal immigration or financial identity fraud.

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Firearms

The legislation provides that it is unlawful for an illegal alien to possess, purchase, offer to purchase, sell, lease, rent, barter, exchange, or transport into this State a firearm. A violation is a felony offense punishable with a fine of no more than \$10,000 dollars or imprisonment for no more than 10 years, or both.

The legislation provides that it is unlawful for an individual for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State a firearm to a person knowing that such person is not lawfully present in the United States. A violation is a misdemeanor offense punishable with a fine of no more than \$2,000 dollars or imprisonment for no more than three years, or both.

Wrongful Termination

The legislation provides a civil right of action for wrongful termination against an employer who discharges an employee authorized to work in the United States for the purposes of replacing that employee with a person the employer knows or should reasonably know is not lawfully present and authorized to work in the United States. The recovery for an individual who brings a civil suit under this provision is limited to the reinstatement of his former position, actual damages and lost wages. This cause of action cannot be brought against an employer who submits the necessary identifying information for all employees through the Systematic Alien Verification of Entitlement (SAVE) program, the E-Verify Program or a successor program used for verification of work authorization and operated by the United States Department of Homeland Security. Such a cause of action is equitable in nature and must be brought within one year from the date of the alleged violation.

STATUS: Having been approved by the House of Representatives and the Senate, H.4400 was ratified on May 29, 2008 (R.327).

INSURANCE

“HEALTH CARE ACCESSIBILITY FOR YOUNG AMERICANS ACT”

The Senate approved and sent to the House of Representatives **S.1010**, the “Health Care Accessibility for Young Americans Act,” to provide for health insurance coverage under a parent’s policy for an unmarried child under the age of twenty-five years who is primarily dependent for financial support from his parent. This legislation raises the maximum age of a child who is eligible for coverage under a parent’s individual accident and health insurance policies as a dependent by including an unmarried child under the age of twenty-five years who primarily is dependent for financial support from his parent as documented by the parent claiming the child as a dependent on his federal income tax return and who is not eligible for coverage under a group health benefits plan, group health plan, government plan, church plan, or another health benefits plan other than an individual health insurance policy.

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The legislation also requires a health insurance policy to provide certain coverage to the child of a policyholder if the child has served at least six months of active duty in the National Guard of this State, the United States armed services, or reserves upon the termination of the child's active duty status, except where the child's active duty status terminates due to a dishonorable discharge. This required coverage begins on the date of the child's honorable discharge from active duty and must extend for no more than six months if the child has served at least six months of active duty, and terminates if the child: (a) marries; (b) receives coverage under another health insurance policy; (c) returns to active duty status; (d) is dishonorably discharged from military service; or (e) attains the age of thirty years.

STATUS: S.1010 passed the Senate on April 29, 2008, and was sent to the House of Representatives where it has been referred to the Labor, Commerce and Industry Committee.

HEALTH CARE FINANCIAL RECOVERY AND PROTECTION ACT

The House of Representatives and the Senate have approved different versions of **H.3674**, the "South Carolina Health Care Financial Recovery and Protection Act." The legislation establishes prompt payment provisions requiring insurers to make timely payments to providers of health care services who submit unproblematic claims. The legislation establishes criteria for what is to be considered a clean claim free of any defect, error, or impropriety. The legislation requires payment within forty business days for a clean claim submitted on paper and payment within twenty business days for a clean claim submitted electronically. The legislation requires an insurer to provide an updated fee schedule upon written request by a physician who is a participating provider. Each physician may request from an insurer an updated fee schedule no more than two times annually.

Under the version of the bill approved by the Senate, a clearinghouse, billing service, or any other vendor that contracts with a provider to deliver health care claims to an insurer is prohibited from converting electronic claims received from the provider into paper claims for submission to the insurer. A violation constitutes an unfair trade practice.

STATUS: H.3674 passed the House of Representatives on February 29, 2008, and was sent to the Senate. On May 15, the Senate returned the bill to the House with amendments. On May 28, the House amended Senate amendments and returned the bill to the Senate.

SMALL EMPLOYER HEALTH GROUP COOPERATIVE

The General Assembly approved and the Governor signed into law **S.588**, legislation establishing requirements, powers, duties, and restrictions for a small employer health group cooperative, and enrolled the bill for ratification. The legislation enhances the authority for small employers to form cooperatives for the purpose of providing lower health insurance costs to their employees. The legislation requires the Department of Insurance and Office of Research and Statistics of the Budget and Control Board to submit to the Governor and the General Assembly by January 1, 2010, a report on the effectiveness of the health group cooperative in expanding the availability of health insurance coverage for small employers.

STATUS: Having passed the General Assembly, S.588 (R.189) was signed into law by the Governor on February 19, 2008 (Act No. 180).

MILITARY

ACTIVE MILITARY PERSONNEL EXEMPT FROM PROFESSIONAL AND OCCUPATIONAL CONTINUING EDUCATION REQUIREMENTS

The General Assembly approved **S.1115**, which provides that a person whose profession or occupation is regulated by the Department of Labor, Licensing and Regulation is exempt from completing continuing education requirements for his profession or occupation while serving on active military duty.

STATUS: Having passed the Senate and the House of Representatives, S.1115 was enrolled for ratification on May 29, 2008.

HUNTER'S EDUCATION PROGRAM EXEMPTION FOR CERTAIN MILITARY PERSONNEL

The House approved and sent to the Senate **H.4390**, legislation exempting U.S. Armed Services personnel from the Hunter's Education Program. The legislation provides that the successful completion of the Hunter's Education Program required for receiving a South Carolina Hunting License, does not apply to active or retired United States Armed Services personnel who can demonstrate to the Department of Natural Resources that they received weapons training during their military career.

STATUS: The House of Representatives passed H.4390 and sent it to the Senate on February 1, 2008. It was introduced in the Senate and referred to the Committee on Fish, Game and Forestry on February 5, 2008.

IN-STATE TUITION RETAINED AT STATE'S HIGHER EDUCATION INSTITUTIONS FOLLOWING MILITARY DEPLOYMENT OR REASSIGNMENT

The General Assembly approved **S.1115**, a bill to provide that, when armed services personnel are ordered away from the State, their dependents remain eligible to receive in-state tuition rates at the public university or college they are attending so long as they remain continuously enrolled at the institution. Under current law, this eligibility to receive in-state tuition rates extends for only one year following the military deployment or reassignment.

STATUS: Having passed the Senate and the House of Representatives, S.1115 was enrolled for ratification on May 29, 2008.

"MILITARY PARENT EQUAL PROTECTION ACT"

As passed by the Senate, this legislation outlines provisions for the modification of a custody or visitation order if one of the parents is in the military service. If a military parent is called to military service, either parent may file a notice of activation of military service and petition to modify a support order. The legislation also includes provisions for the temporary modification of support order. Except for modifying a child support obligation during military service pursuant to these provisions, a military parent's income during military service must not be used to determine the military parent's income or earning capacity. As military necessity may preclude court adjudication before mobilization, the legislation encourages the parties to negotiate mutually agreeable arrangements prior to mobilization. The legislation includes provisions for the award of attorney's fees.

The legislation further provides that a service member who is entitled to a stay in civil proceedings pursuant to the federal Service Members Civil Relief Act may elect to proceed while the service member is reasonably unavailable to appear in the geographical location in which the litigation is pursued and may seek relief and provide evidence through video-conferencing, internet camera, email, or any other reasonable electronic means. Any testimony presented must be made under oath, in a manner viewable by all parties, and in the presence of a court reporter. In matters when a party who is physically present in the State is permitted to use affidavits or seek temporary relief, the service member may submit testimony by affidavit. The court must allow a party to proceed unless an opposing party establishes a compelling reason not to proceed by clear and convincing evidence. The court must allow a party to present evidence pursuant to a method provided by this section unless an opposing party established that the method will cause a substantial injustice, deny effective cross examination, deny the right to confront the witness, or abridge any other constitutional right.

STATUS: S.808 passed the Senate on April 29, 2008. The legislation is pending in the House Judiciary Committee.

MOTORCYCLES OF DISABLED VETERANS EXEMPTED FROM PROPERTY TAX

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The House of Representatives approved and sent to the Senate **H.3592**, a bill exempting motorcycles of disabled veterans from property taxes. This bill exempts from property taxes a motorcycle owned or leased by and licensed and registered in the name of a resident veteran of war who is permanently and totally disabled or who has suffered to loss of a limb as a result of a service-connected injury. This exemption applies to the surviving spouse of a qualified disabled veteran for the lifetime or until the remarriage of the surviving spouse.

STATUS: H.3592 passed the House of Representatives on April 4, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

QUALIFICATIONS FOR ATTENDANCE AT PUBLIC SCHOOLS WHEN CHILD'S PARENT(S) OR LEGAL GUARDIAN(S) IS IN THE MILITARY

As passed by the House of Representatives, this legislation provides that a child may attend the public schools of a school district free of charge if the child resides with an adult resident of that district as a result of the child's parent(s) or legal guardian's military deployment or call to active duty more than 70 miles from their residence for a period greater than 60 days. Also, if the child's parent or legal guardian returns from such military deployment or active duty prior to the end of the school year, the child may finish the school year in the school he attends without charge, even if the child resides in another school district for the remainder of the school year due to his parent or legal guardian returning home.

STATUS: H.4320 passed the House of Representatives on April 3, 2008. The bill is received a favorable recommendation from the Senate Committee on Education on May 29, 2008. The bill is pending on the Senate calendar.

STATE VETERANS' CEMETERIES

The legislation reduces the minimum residency option for an honorable discharged veteran and his or her eligible family member for burial in a state veterans' cemetery from 20 years to 5 years. This legislation also clarifies that the veteran's eligible family member may be interred in the veterans' cemetery if he or she predeceases the veteran.

STATUS: Having been approved by the House of Representatives and Senate, H.4713 was ratified on May 29, 2008 (R.331).

VETERAN LICENSE PLATES

Bronze Star License Plates

The General Assembly approved legislation allowing the Department of Motor Vehicles to issue 'Bronze Star' special license plates to owners of private passenger carrying

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motor vehicles registered in their names who have been awarded the Bronze Star. The license plate must contain the words 'combat veteran' and an illustration of the Bronze Star.

Operation Desert Storm-Desert Shield Veterans License Plates

The General Assembly approved legislation allowing the Department of Motor Vehicles to issue 'Operation Desert Storm-Desert Shield Veteran' special motor vehicle license plates to owners of private passenger-carrying motor vehicles or light pickups registered in their names who are veterans of Operation Desert Storm-Desert Shield who served on active duty in the Persian Gulf at anytime during the period of August 2, 1990, to February 28, 1991.

Operation Enduring Freedom Veterans License Plates

The General Assembly approved legislation allowing the Department of Motor Vehicles to issue 'Operation Enduring Freedom Veteran' special motor vehicle license plates to owners of private passenger-carrying motor vehicles or light pickups registered in their names who are veterans of Operation Enduring Freedom who served on active duty fighting against terrorism at anytime following September 11, 2001, until the operation is completed.

Operation Iraqi Freedom Veterans License Plates

The General Assembly approved legislation allowing the Department of Motor Vehicles to issue 'Operation Iraqi Freedom Veteran' special motor vehicle license plates to owners of private passenger-carrying motor vehicles or light pickups registered in their names who are veterans of Operation Iraqi Freedom who served on active duty in Iraq or the Persian Gulf at anytime from March 20, 2003, until the operation is completed.

Purple Heart License Plates

The General Assembly approved legislation providing that there is no fee for a license plate issued to a recipient of the Purple Heart for use on a private passenger motor vehicle or motorcycle.

Silver Star License Plates

The General Assembly approved legislation allowing the Department of Motor Vehicles to issue 'Silver Star' special license plates to owners of private passenger carrying motor vehicles registered in their names who have been awarded the Silver Star. The license plate must contain the words 'combat veteran' and an illustration of the Silver Star.

Veteran License Plates

The General Assembly approved legislation that allows the Department of Motor Vehicles to issue veteran license plates for use on private passenger motor vehicles or motorcycles to those individuals that have been honorably discharged from service. There are criminal penalties for providing false information to obtain the plate.

STATUS: Having been approved by the House of Representatives and Senate, S.1050 was ordered enrolled for ratification on May 29, 2008.

NATURAL RESOURCES

ALLIGATOR MANAGEMENT PROGRAM

This legislation requires the Department of Natural Resources to establish an Alligator Management Program that allows for hunting and for selective removal of alligators in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department may establish an alligator hunting season. A person desiring to hunt and take alligators must apply to the department and pay a ten-dollar, nonrefundable application fee. Successful applicants must be randomly selected and must pay a one hundred dollar fee for the permit. The legislation establishes provisions under which a landowner or lessee of property on which alligators occur may apply to the department for a permit to participate in the Private Lands Alligator program. The legislation authorizes the department to designate alligator control agents who demonstrate by training and experience that they possess the skills to remove alligators. The legislation establishes penalties for violating alligator hunting provisions and for the unlawful feeding, enticing, or molesting of alligators. All revenue relating to the legislation, including fines, forfeitures, sales, and fees, must be deposited in the Wildlife Protection Fund and used by the department to support the Alligator Management Program.

STATUS: Having passed the General Assembly, S.452 (R.188) was signed into law by the Governor (Act No. 179).

DEER HUNTING PROVISIONS

The House amended, approved, and sent to the Senate H.4344, legislation revising provisions for hunting and antlered deer. The legislation eliminates a provision authorizing the Department of Natural Resources to establish deer hunting provisions in Game Zones 1 and 2 through regulations. The legislation provides that in Game Zones 1 and 2 it is unlawful to pursue deer with dogs and it is unlawful to bait for deer. The legislation specifies the weapons that may be used during special primitive weapons seasons including bow and arrow, crossbow, certain muzzle-loading shotguns and certain rifles. The legislation revises bag limits on antlered deer so as to provide limits of: (1) Game Zones 1 and 2: not more than five for all seasons combined; (2) Game Zones 3, 4, 5, and 6: no daily or season limit.

STATUS: The House of Representatives passed H.4344 and sent it to the Senate on February 5, 2008. It was introduced in the Senate and referred to the Committee on Fish, Game and Forestry on February 5, 2008.

FERTILITY CONTROL AGENT INTRODUCED INTO WILDLIFE

This legislation makes it unlawful to introduce a fertility control agent or chemical substance into any wildlife without a permit from the Department of Natural Resources. The department may issue a permit, authorizing the use of a fertility control agent or chemical in wildlife only for bonafide scientific research or management activities. The department is authorized to use fertility control agents or chemical substances on wildlife in order to protect human safety or for management, scientific or educational purposes. However, preference must be given to hunting as the primary method of controlling wildlife before a fertility control agent or chemical substance is utilized. Nothing prohibits the use pesticides for the control of commensal rodents. In addition, violation of the provisions is a misdemeanor and fines of not more than two thousand five hundred dollars or imprisonment not more than two years, or both. Magistrate court is vested with jurisdiction to hear and dispose of these cases. The Department of Natural Resources is authorized to promulgate regulations to implement and regulate the provisions of this section.

STATUS: Having passed the General Assembly, H.4952 (R.279) became law without the Governor's signature on May 22, 2008.

HUNTER'S EDUCATION PROGRAM EXEMPTION FOR CERTAIN MILITARY PERSONNEL

See summary under Military

PROPOSED CONSTITUTIONAL AMENDMENT PERTAINING TO HUNTING, TRAPPING, AND FISHING.

As passed by the House of Representatives, this joint resolution proposes to amend the State Constitution so as to provide that hunting, trapping, and fishing and the taking of wild animals, birds, and fish are a valued part of our heritage and shall be forever preserved for the people. Fish and wildlife shall be managed by laws and regulations that provide persons with the continued opportunity to take, by traditional means and methods, species traditionally pursued by hunters, anglers, and trappers. Fish and wildlife management, including taking, shall be consistent with the state's duty to protect this heritage and its duty to conserve wild animals, birds, and fish. Hunting, fishing, or trapping by sportsmen shall always be a preferred and available means of controlling all invasive or overpopulated species. Any person who is licensed to hunt, fish, or trap and who is adversely affected by a failure to comply with this provision shall have a private cause of action to enforce this provision. The right of the people to hunt, fish, trap, and harvest game shall be subject only to such regulations and restrictions as the General Assembly may prescribe by general law. This joint resolution would be submitted to the voters at the next general election.

The Senate amended the legislation so as to provide that the traditions of hunting and fishing are valuable parts of the state's heritage, important for conservation, and a protected means of managing non-threatened wildlife. The citizens of this State have the right to hunt, fish, and harvest wildlife traditionally pursued, subject to laws and regulations prescribed by the General Assembly. Nothing in this section shall be construed to abrogate any private property rights, existing state laws or regulations, or the state's sovereignty over its natural resources."

STATUS: H.3202 passed the House of Representatives on January 31, 2008. The Senate amended the legislation on May 28, 2008, and the legislation is still pending on the Senate calendar.

STORM WATER RUNOFF FEES

See summary under Government

TAXATION

CIGARETTE TAX

The General Assembly approved, but the Governor vetoed, H.3567, a bill that provides for an additional 2.5-cent surcharge on the sale of each cigarette, which amounts to an additional 50 cents collected on each pack of twenty cigarettes. The legislation provides for the revenue received from the additional surcharge as follows:

(1) Each year, five million dollars is credited to a trust fund created under the legislation for the Department of Health and Environmental Control to use in administering a statewide smoking prevention and cessation program.

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(2) Each year, one million dollars is credited to the Department of Agriculture for marking or branding programs that identify for the retail consumer agricultural crops or produce that are certified as having been grown in South Carolina.

(3) Of the remaining annual revenue:

(A) One-half is credited to the Medicaid Trust Fund created under the legislation for the Department of Health and Human Services to use to provide Medicaid services to low income families with incomes above fifty percent but no more than one hundred percent of the prevailing federal poverty level. If a balance of funds remains in the Medicaid Trust Fund once the Department of Health and Human Services has offered Medicaid services to these families, then the balance of funds may be used to set the State Children's Health Insurance Program at two hundred fifty percent of the federal poverty level or set the Aged, Blind, and Disabled Program at one hundred thirty-five percent of the federal poverty level.

(B) One-half is credited to trust funds created under the legislation for the Department of Insurance to use in administering new programs for assisting lower income residents in purchasing health insurance.

The legislation also creates the Study Committee on Healthcare Access and Affordability to review and make recommendations regarding the state's overall health status, the price of healthcare, the use of Medicare and Medicaid, the promotion of public and private healthcare partnerships, preventative care, the establishment of a high risk healthcare pool, the necessity of a reinsurance program, how to maximize coverage while controlling costs and providing quality care, and how to improve the state's overall health and healthcare affordability. The legislation provides for the study committee's composition and requires its report of findings and recommendations to be made to the General Assembly no later than January 1, 2010, at which time it is dissolved.

STATUS: Having passed the General Assembly, H.3567 was ratified on May 22, 2008 (R.288). On May 27, the Governor vetoed the bill and the House of Representatives sustained the Governor's veto.

INCOME TAX RELIEF FOR MARRIED COUPLES

The House of Representatives approved and sent to the Senate **H.4550**, a bill providing an income tax rate reduction for married taxpayers. This bill establishes a schedule for state income tax rate reductions for married taxpayers who file joint

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tax returns by annually reducing the current three percent income tax rate over the course of three years so as to ultimately set the rate at two percent.

STATUS: H.4550 passed the House of Representatives on April 9, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

REAL PROPERTY VALUATION REFORM ACT REVISIONS

The House of Representatives approved and sent to the Senate H.4942, a bill revising the South Carolina Real Property Valuation Reform Act. The legislation revises provisions relating to determining the fair market value of real property at the point of sale for purposes of the South Carolina Real Property Valuation Reform Act. The legislation provides that if a parcel of real property which has had no further improvement since the most recent countywide reassessment program was implemented undergoes an assessable transfer of interest, the implementation of the transfer value is postponed until the property tax year of implementation of the next countywide assessment program. This transfer value is the value to which the limit on increases in fair market value applies. The legislation revises provisions relating to the time an assessable transfer of interest occurs, so as to revise the penalty for failure to provide notice or failure to provide accurate notice to the assessing authority of business entity transfers. The legislation revises provisions relating to the classification and valuation of property for purposes of the property tax, so as to require the deed to property held in trust to recite the name of the beneficiary for the property to qualify as the beneficiary's legal residence and to require Social Security Numbers of applicants for the legal residence assessment ratio. The legislation revises provisions relating to continuing education requirements for assessors.

STATUS: H.4942 passed the House of Representatives on April 24, 2008, and was sent to the Senate where it was referred to the Finance Committee. On May 28, the Finance Committee gave the bill a report of favorable with amendment.

STATE SALES TAX EXEMPTION FOR GROCERIES EXTENDED TO LOCALLY IMPOSED SALES TAXES

The House of Representatives approved and sent to the Senate H.4355, a bill allowing the state sales tax exemption for groceries to be extended to locally imposed sales taxes. The legislation authorizes a county governing body by ordinance to exempt unprepared food items eligible for purchase with United States Department of Agriculture food coupons from a locally imposed sales and use tax,

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including the Local Option Sales Tax, the Capital Project Sales Tax, the Personal Property Tax Exemption Sales Tax, and the Transportation Infrastructure Sales Tax.

STATUS: H.4355 passed the House of Representatives on May 1, 2008, and was sent to the Senate. On May 29, the Senate adopted the amendment proposed by the Finance Committee and gave the bill second reading approval.

TRANSPORTATION

BICYCLE TRAFFIC PROVISIONS

Definitions for "bicycle" are revised to include devices propelled solely by pedals, operated by one or more persons, and having two or more wheels, except children's tricycles.

This legislation requires an operator of a motor vehicle to at all times maintain a safe operating distance between the motor vehicle and a bicycle.

When operating a bicycle upon a roadway, a bicyclist must exercise due care when passing a standing vehicle or one proceeding in the same direction.

The legislation revises requirements relating to bicycle lanes by providing that whenever a bicycle lane has been provided adjacent to a roadway, operators of motor vehicles may not block the bicycle lane to oncoming bicycle traffic and shall yield to a bicyclist in the bicycle lane before entering or crossing the lane. Bicyclists are required to ride in the bicycle lane except when necessary to pass another person riding a bicycle or to avoid an obstruction in the bicycle lane. However, bicyclists may ride on the roadway when there is only an adjacent recreational bicycle path available instead of a bicycle lane.

A bicyclist may ride in a lane other than the right-hand lane if only one lane is available that permits the bicyclist to continue on his intended route.

The legislation provides that it is unlawful to harass, taunt, or maliciously throw an object at or in the direction of any person on a bicycle. Violations are misdemeanors.

The legislation specifies the arm motions that a bicyclist is to employ in order to signal a change in direction or speed. A violation is punishable by a fine of \$25 dollars.

The legislation eliminates the current requirement that a bicycle be equipped with a bell or other device capable of producing an audible signal.

Except as otherwise provided, a violation of these provisions by the driver of a motor vehicle is subject to a civil fine of up to \$100 dollars unless a bicyclist is injured as a result of the violation. A person driving a motor vehicle who violates a one of these provisions and the violation is the proximate cause of a: (1) minor injury to a bicyclist must be assessed a civil fine of up to \$500 dollars; or (2) great bodily injury to a bicyclist must be assessed a civil fine of not more than \$1,000 dollars.

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STATUS: Having been approved by the House of Representatives and Senate, H.3006 was ordered enrolled for ratification on May 29, 2008.

CREATION OF A TRANSPORTATION INFRASTRUCTURE STUDY COMMITTEE

The General Assembly approved a legislation that establishes a committee to study the feasibility and benefits of the construction, operation, and maintenance of roads, streets, highways, bridges, and tunnels through the utilization of public private partnerships and ventures.

STATUS: Having been approved by the House of Representatives and the Senate, S.1182 was ratified on May 29, 2008 (R.313).

“I BELIEVE” SPECIAL LICENSE PLATES

See summary under Heritage and Holidays

IDLING RESTRICTIONS FOR COMMERCIAL DIESEL VEHICLES

See summary under Energy/Conservation

MOTOR VEHICLE SALES TAX REVENUES DEVOTED TO ROAD CONSTRUCTION AND MAINTENANCE

The House of Representatives approved and sent to the Senate H.4549, a bill providing for motor vehicle sales tax revenues to be devoted to highways, roads, and bridges. This bill provides for a phased-in transfer of motor vehicle sales, use, and casual excise tax revenues to the State Non-Federal Highway Fund to be used exclusively for highway, road, and bridge maintenance and to the State Highway Account of the Transportation Infrastructure Bank. The legislation establishes the timeline for the transfer and provides for how the transferred funds are to be divided between the State Non-Federal Highway Fund and the State Highway Account of the Transportation Infrastructure Bank. The legislation provides for a portion of the funds allocated to the State Non-Federal Aid Highway Fund to be credited and apportioned as ‘C’ funds that must be expended solely for rural road maintenance and construction. The legislation establishes a “hold harmless” provision for the Education Improvement Act (EIA) Fund under which income tax revenues are, in each fiscal year, transferred from the state’s general fund to the Education Improvement Fund in an amount sufficient to offset sales tax revenues that are redirected under this legislation.

STATUS: H.4549 passed the House of Representatives on April 10, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

RED LIGHTS

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If a driver of a motorcycle or moped, or a bicycle rider, approaches an intersection that is controlled by a traffic-control device, the driver may proceed through the intersection on a steady red light only if the driver or rider, as the case may be: (a) comes to a full and complete stop at the intersection for 120 seconds; and (b) exercises due care as provided by law, otherwise treats the traffic control device as a stop sign, and determines it is safe to proceed.

STATUS: Having been approved by the General Assembly, S.111 (R.281) was signed into law by the Governor on May 27, 2008.

"THE SOUTH CAROLINA CDL DRUG TESTING ACT"

This legislation requires all medical review officers or breath alcohol technicians hired by or under contract to certain commercial driver employers to report to the employers a verified positive drug test or positive alcohol confirmation test, a refusal to provide a specimen, or the submission of an adulterated, diluted or substituted specimen. Employers must then make report of these items to the Department of Motor Vehicles (DMV) within three business days. Employers must maintain records of these reports for three years, and these records are subject to inspection by the Department of Public Safety. Failure to make required reports is subject to a fine of up to \$500 dollars, which must be credited to the Department of Public Safety's Transport Police Division. This legislation further provides that a person is disqualified from driving a commercial motor vehicle if a report has been received by the DMV that the person has received a verified positive drug test or positive alcohol confirmation test, or refused to take a drug or alcohol test. The disqualification remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional and has successfully completed a treatment program. A person who is disqualified more than three times in a five-year period is disqualified for life.

STATUS: Having been approved by the General Assembly, S.880 (R.272) was signed into law by the Governor on May 21, 2008.

VETERAN LICENSE PLATES

See summary under Military

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