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South Carolina House of Representatives

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Legislative Update

The Week in the House

Background

The week of April 28 through May 1 saw the South Carolina House meet with the Senate in a joint session to hear an address by the world-famous evangelist Billy Graham, and work into the afternoon on Wednesday to debate and pass an increase in the state's gasoline tax. The additional funds will be used, according to the bill, to help finance the improvement of the state's highway system.

Address by Dr. Graham

On Wednesday the House and Senate met in joint session to hear from Dr. Billy Graham, who is in the midst of his latest crusade, right here in Columbia. The General Assembly, along with Governor Campbell, Lt. Governor Theodore and a large crowd, heard Dr. Graham speak about the need for leaders in today's world, especially political and legislative leaders.

Concurrent resolutions: congratulations and sympathy

The House acted on two concurrent resolutions during the week which ran the gamut of emotions. The first, H.3082, expressed the congratulations of the body to Fred Sheheen, the new Executive Director of the state Commission on Higher Education. The second, H.3090, was a token of the sympathy of the members of the General Assembly to the family of Mr. Alphonso Gordon, brother of Representative B.J. Gordon.

Economic Development: Councils and Authorities

H.3020 (Labor, Commerce and Industry Committee) was passed during the week. This bill deletes the July 1, 1989 expiration date for the Economic Coordinating Council, and instead puts the agency on a time frame that extends its authorization to 1991.

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The Economic Coordinating Council was created in 1986 to provide for improved planning and coordination of the state's economic development efforts. It consists of a variety of members, including the Commissioner of the Department of Agriculture, the Chairman of the Employment Security Commission, head of the State Development Board, Chairman of PRT, Chairman of State TEC system, Chairman of the State Ports Authority, and others of that ilk.

The South Carolina Resources Authority Act (H.2947, Rep. McAbee) was also approved by the House this week, and was ordered sent over to the Senate on Thursday, April 30. This bill would provide for creation of a body which would be able to handle federal funds for South Carolina projects.

Hazing

H.2121 (Rep. Nettles) is a bill relating to hazing. It makes it illegal to "intentionally or recklessly engage in acts which may cause physical harm for the purpose of initiation into any fraternity or sorority." The bill was passed earlier this session by the House and Senate, and was ratified on Thursday, April 30.

Litter

The House debated, amended and returned S.119 (Sen. Garrison) a bill providing increased penalties for litterers. When the House was finished with the legislation, it established a minimum \$100 fine for persons convicted of littering, and also imposed a minimum of five hours of litter-gathering labor. For persons who are convicted of a second offense, a minimum of twenty hours of community service would have to be added to any fine imposed by the court.

Gasoline tax

No doubt the major item discussed during the week was the proposed increase in the gasoline tax. H.2869 (the Speaker, Speaker Pro Tem and Committee chairpersons) would raise the tax by an additional five cents in order to fund improved highways in the state, including the "Strategic highway plan for improving mobility and safety." The measure has caused a considerable amount of discussion, both in the General Assembly, and in the public and press.

The major debate on the topic was on Wednesday. After the House had rejected several alternate proposals, it seemed as if the five cent increase would also be defeated. A direct vote on the measure ended up 58 to 55 against the bill. A few hours later, however, a second vote was taken and the legislation passed.

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The change in fortunes of the bill was reminiscent of the old Scottish ballad, *Johnnie Armstrong's Last Goodnight*, recently quoted by President Reagan: "I am a little wounded, but I am not slain;/I will lay me down for to bleed a while,/Then I'll rise and fight with you again."

On Thursday the gasoline tax legislation was recommended for special order by the House Rules Committee, and the House agreed to this proposal. Later that day the bill came up for third and final reading. Immediate cloture was approved by the House, meaning that debate was limited. However, discussion was briefly interrupted by ratification of acts, after which the bill received its third and final reading in the House, and was approved by a vote of 60 to 49. It was then ordered over to the Senate, no doubt for another round of fighting and bleeding.

Legislation Introduced

Children

Protective Custody (H.3068, Rep. Hayes). This bill would revise the Code section dealing with child protection agencies taking children into protective custody. The law presently requires the family court to hold a hearing on the request within ten days; this would shorten that time frame to three days. In addition, the respondents would be permitted to cross examine agency witnesses at the court hearing, but evidence and testimony would be limited to the question of whether the child would be adequately protected while in the home.

Education

Student body president on USC Board (S.574, Sen. Courson). This bill would make the president of the student body at the USC-Columbia campus an ex officio member of the Board of Trustees. This bill is similar to H.2609 (Rep. T. Rogers) but adds one provision: if the USC student body president is not a resident of South Carolina, then a designee will sit on the Board.

Environment and Natural Resources

Disabled veterans and state parks (S.71, Sen. Peeler). Currently, persons classified as permanently and totally disabled are allowed to use South Carolina state parks without charge, providing they show a certificate issued by their county veterans'

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affairs office. This bill would allow them to show an ID card from the office instead of the certificate.

Highways, Railways and Waterways

Highway safety (H.2954, Rep. Wilkins). This is a comprehensive bill which brings together a number of different items relating to highway safety, traffic laws and regulations, and motor vehicle operations. Some of the provisions of this bill—such as requiring headlights to be on when windshield wipers are operating, or the prohibition against tinting of auto windows—have been the subject of separate, individual bills.

Driver's license

The measure would raise the age limit from 15 to 15 1/2 for a person to apply for a beginner's permit; it would also allow a person with a restricted license to have an exemption to permit travel to and from work. Proof of the working hours would have to be provided to the Highway Department.

Persons who are convicted, or plead guilty or nolo contendere to offenses which result in the loss of a license would lose the license immediately. They would surrender it to the clerk of court and—unless they went directly to jail—would receive a temporary certificate allowing them to operate their motor vehicle for 24 hours.

The bill also stiffens the fines and penalties for operating a motor vehicle without a license, or while a license has been suspended or revoked.

Driver's license compact

The bill would have South Carolina enter into a driver's license compact with other states, in order to share information about driving violations, coordinate their laws and administration of motor vehicle operation, and provide reciprocal recognition of licenses issued by states who are members of the compact.

Driving under the influence

The measure increases the penalties for persons convicted of driving under the influence. It also makes changes in testing suspected drivers for alcohol or drugs, including revision of the procedures that allow suspension of a license for a person who refuses to submit to testing.

Trucks and their contents

Trucks and other vehicles carrying rock, gravel, stone or other contents would have to be securely loaded so the material could not

"blow, leak, sift or drop" out onto the highway. This provision would not apply to transportation of seed cotton, poultry, livestock, silage or feed grain used for poultry or livestock.

Windshield wipers and headlights

An often discussed question receives what might be its definitive answer in this bill. When "windshield wipers are in use, or when inclement weather or environmental factors reduce the ability to discern persons and vehicles on the street or highway at a distance of five hundred feet," then motor vehicles "shall display lighted lamps and illuminating devices, excluding parking lights...."

Tinted glass

No further tinting of motor vehicle glass, if the tinting does not apply to the standards of the National Highway Traffic Safety Administration, or if the tinting reduces light transmittance to less than 70%.

Punishments increased

For a number of violations of the traffic and highway laws, fines and penalties are increased to more contemporary standards.

Caboose law (H.3067, Rep. Davenport). This measure would require a caboose as the last car on freight trains operating in South Carolina. There would have to be at least one crew member in the caboose and the car would have to have a two-way radio to communicate with the rest of the train.

The caboose would not be required on trains operating inside rail yards, on Class III interstate rails, or freights less than 2,000 feet in length, unless they were carrying hazardous materials. Railroads could be fined \$500 for each violation of these provisions.

Foreign substances on highways (S.139, Sen. Setzler). A bill to provide penalties for "depositing foreign substances on highways" when the result is physical injury or death. For injury, a person could be fined not less than \$2,000, or given not less than three years in prison, or both. For death caused by these foreign objects on the roads, the person who put them there would be punished according to 16-3-20 of the Code. That is the section which deals with punishment for murder, including the separate sentencing proceedings which take into account aggravating and mitigating circumstances.

Foreign substances include such things as glass bottles, glass, nails and tacks, wire, cans, and so forth.

Boating under the influence (S.161, Sen. Garrison). This legislation would establish the offense of boating under the influence of alcohol or drugs, provide for chemical and blood tests

of suspected persons (including implied consent for those tests on the part of boat or watercraft operators) and set penalties. First offense could bring a fine between \$50 to \$200 or thirty days; second and subsequent offenses a fine of \$1,000 and/or one year. The second offense would have to occur within five years of the initial violation.

Insurance

"Insurance freedom of choice act" (H.3085, Rep. Limehouse). This measure would prohibit insurance companies from establishing exclusive or semi-exclusive contracts for goods or services with organizations whose membership is not open to all businesses or professions "qualified to furnish the goods or services" in South Carolina.

Any contract between an insurance company and an organization providing goods or services would have to be reviewed by the Chief Insurance Commissioner within thirty days; any contract violating the freedom of choice insured in this act would be an unfair trade practice and could lead to court actions, with damages for the injured party, court costs and attorney fees being paid by the offending parties.

Health insurance pool (S.499, Senate Banking and Insurance Committee). This measure proposes setting up the South Carolina Health Insurance Pool, composed of all companies authorized to issue health insurance in the state. The pool will be guided by a seven-member Board of Directors, selected by participating insurance companies.

The pool will provide major health insurance coverage to persons who are unable to obtain or keep such insurance from other sources. Persons who have been residents of the state for at least six months, and their newborn children would be eligible under set conditions. These would include such instances as: being unable to get insurance coverage because of health reasons; being able to get insurance only with reduced coverage; being able to get insurance only at a higher rate; or having had their health insurance involuntarily terminated.

Some people would not be eligible, such as those eligible for health care benefits from medicaid or medicare, persons who have already received \$500,000 in benefits from the pool, inmates of public institutions and persons eligible for public programs, people who are not residents of South Carolina, and persons diagnosed with AIDS.

Labor and Commerce

Failure to pay contractors and others (S.157, Sen. Williams). This bill would set a 45 day limit to determine the merits of a bill submitted by a contractor, laborer, design professional or material supplier for work done or material delivered. The contractor's bill—if valid—would have to be paid within that time, or the person owing money could be liable for reasonable attorney's fees and interest on the unpaid debt.

Made in the USA (S.717, Sen. Setzler). This measure would require advertisements of textile products to state "in a clear and conspicuous manner" where the product was processed or manufactured—in a foreign country, in the United States, or in both.

Hunters: Orange Coats or Education?

Background: safer hunting

Two measures introduced into the South Carolina General Assembly this session are aimed at making hunting safer in this state. One, H.2389 (Rep. Pearce), would require hunters to wear a distinctive orange coat while out in the fields and forests. The second, S.476 (Sen. Waddell) would require new hunters to successfully pass a hunter education program before they could receive their license. This bill has passed the Senate and is now in the House Agriculture and Natural Resources Committee. Both measures have their counterparts in other states.

Virginia Legislature says "yes," then "yes," again, then "no"

Legislation similar to the orange clothing requirement has been considered in Virginia and North Carolina; one bill is moving along, while the other has been shot down.

In Virginia, the state Senate voted 38-7 to enact legislation that would require hunters to wear either an orange colored hat or coat. As reported in *Legislative Update* number 14, however, the Virginia House of Delegates was less favorable about the proposed law. The Chairman of the Conservation and Natural Resource Committee said that protective clothing would be good, but mandatory hunter education programs would be better.

As it turns out, the Chairman has had his way (at least for now). In a flurry of parliamentary maneuvering, the House first approved the orange bill by a vote of 50 to 48, then, an hour later, recalled the measure to the floor and voted it down, 49 to 47. Meanwhile, the Natural Resource Committee has unanimously approved a bill requiring education programs for new hunters.

Blazing orange in North Carolina

In North Carolina the House has passed a measure requiring hunters of deer, bear and wild boar to wear "blaze orange" while in the field. The bill was amended in the House so that hunters shot while out of uniform would not be guilty of contributory negligence. As the bill now reads any trial involving hunting accidents would leave it up to the judge or jury to decide if a shooting victim was partially at fault for not wearing orange.

A report in *From the State Capitals*, says that debate on the measure brought up the point of people trying to avoid prosecution by claiming they were hunting small game, not bear, deer or wild boar. (There are tame boar in North Carolina?) The sponsor of the bill pointed out that conservation officers need only check the hunter's ammunition to determine what size game they were after.

Hunter education requirements

As for mandatory hunter education: South Carolina is one of eleven states that does not have such a requirement. Virginia is the most recent state to add a hunter education program, and similar legislation has been introduced in Florida and Missouri.

At present, the states without mandatory education programs for hunters are: Alabama, Florida, Indiana, Kentucky, Minnesota, Missouri, North Carolina, South Carolina, Texas, and West Virginia.

Hunting and Fishing License Sales

Speaking of hunting, where are the most hunting and fishing licenses bought in this country? In 1984, the state with the most sales of hunting and fishing licenses was—as you might expect—California: 6.1 million. Then came Pennsylvania (3.3 million), Texas (3.2 million), Wisconsin (3 million) and Michigan (2.9 million). Twenty-five states had sales over one million.

Figures show that South Carolina ranked 33rd in sales, with 724,000. Still, that was considerably better than Rhode Island (54,500) or Hawaii (21,700). Nationally, 64.5 million licenses were bought in 1984.

Highway Plans and Gasoline Taxes Around the Nation

Background

Last week the House debated and passed a bill that would add five cents per gallon to the state's gasoline tax. Money from this increased levy would be used to upgrade the state's highway system, which (supporters say) will in turn lead to improved economic conditions in the state, since modern business and industry rely so heavily upon good transportation networks.

Just another tax on the long suffering public, opponents of the bill replied. Some said a smaller tax hike would have been sufficient, others wanted no tax increase at all. Now the Senate will consider the issue.

In the meantime, much mention was made during the debate in the House over the relative efforts of states in the area of transportation—are North Carolina and Georgia opening a dangerous "window of vulnerability" as far as roads are concerned? Will upping our state's gas tax cause business to prefer lower-taxing neighbors to our north and south? How much do other states spend on their highways?

The topic of transportation—specifically, improvements in highways and the means to pay for those improvements—is not limited to South Carolina. A brief review of some efforts around the nation seems in order. The following comparative statistics, drawn from several sources, attempt to put the question of transportation and highway spending into some sort of perspective. As always, *Legislative Update* merely presents these figures, without drawing conclusions or making recommendations.

Maryland: higher tax, better roads

According to the publication *From the State Capitals*, a highway improvement drive is underway in Maryland—and has already passed through the General Assembly. There the gasoline tax would also go up five cents, which would have Maryland drivers paying 18.5 cents per gallon.

In addition, annual registration fees for motor vehicles would go up. Most car owners would find themselves paying \$30 instead of the current \$20, but owners of larger cars would go up to \$25 per year. Other money for the five-year Maryland highway program would come from federal dollars and bond sales. An additional \$1.1 billion would go to the state Transportation Department.

How much do states spend on transportation?

There are several ways to approach this question; each gives a different answer (such are the wonders of statistics). Three of the more telling comparisons, however, would be per capita state and local spending on highways; highway expenditures per \$1,000 of personal income; and highway spending as a percent of total general spending.

Alaska leads in both per capita spending and spending per \$1,000 of income. This is hardly unusual, since for a number of years Alaska has led the nation in almost every category of spending. In 1985, for example, Alaska's per capita spending on roads was \$1,056; the nearest competitor was Wyoming, at almost half that amount: \$676 per head for highways. The other big spenders were all western states with long stretches of highways: North and South Dakota and Montana.

According to the *State Policy Data Book '87* South Carolina was next to last: \$126 spent per capita on highways here. We were edged out by California, which allocated only \$124 per capita on roads. That seems a bit strange, considering that the automobile is almost a cult object in California. A comparison of expenditures in the Southeastern states is given in Table One.

Table One
Expenditures per capita on highways

<u>National Rank</u>	<u>State</u>	<u>Amount in Dollars</u>
18	West Virginia	\$ 237
20	Louisiana	229
24	Maryland	214
25	Mississippi	212
28	Alabama	203
29	Virginia	202
32	Kentucky	193
33	Georgia	191
37	Tennessee	181
45	North Carolina	150
46	Florida	148
49	South Carolina	126
	National Average	189

Spending as an amount of income

Per capita spending is a misleading statistic, say some observers. For one thing, there are more people in California than Alaska, so the same amount of money divided by a larger population results in a smaller per capita amount. (Unless polar bears are

included, some aver, there is hardly any capita in Alaska to begin with.) What matters is the relationship of government expenditures to personal income--in other words, how rich the state's population is.

If this is the criteria, the rankings at the top of the heap hardly change at all. Alaska still spends the most money on highways: \$62.93 per \$1,000 of personal income; Wyoming, Montana and the Dakotas take up the rest of the top five. South Carolina is still in the bottom division, but no lower than 42nd, spending \$12.65 per \$1,000 on roads. The Southeastern rankings are found in Table Two.

Table Two
State and local spending on highways per \$1,00 personal income

<u>National Rank</u>	<u>State</u>	<u>Amount in Dollars</u>
11	Mississippi	\$ 24.31
12	West Virginia	24.20
19	Louisiana	21.27
21	Alabama	20.43
22	Kentucky	18.78
28	Tennessee	17.53
29	Georgia	16.95
32	Virginia	15.43
35	Maryland	14.92
37	North Carolina	14.01
42	South Carolina	12.65
45	Florida	12.00
	National Average	14.91

How much is that in government money?

Even spending as compared to personal income leaves something to be desired, since it tells how wealthy the state's residents may be, but not necessarily how much an effort the government is making. Just how important are highways to a state? It seems logical that the amount of state funds put into the road system would be a method to answer that question. In other words--what percentage of state spending is dedicated to the highways? (Percentage is preferred to total amount, since some states, like Alaska, have more money than they know what to do with.)

Once again, familiar western states are in the lead: South Dakota takes prime honors, spending 16.8 percent of its total state and local funds on highways. Also in the top are Wyoming, North Dakota and Montana. (Perhaps highways are so important out there because they are a way to leave. Compare Samuel Johnson's famous remark that "The fairest prospect a Scotsman ever sees is the high road that leads to London.")

The table below (imaginatively labelled Table Three) gives the highway spending as a percentage of total government spending for the Southeastern states.

Table Three:
Highway spending as percent of total state and local spending

<u>National Rank</u>	<u>State</u>	<u>Percent</u>
12	West Virginia	12.0
13	Mississippi	11.9
18	Kentucky	10.8
21	Tennessee	10.4
24	Alabama	10.3
26	Virginia	10.1
27	Louisiana	9.9
28	Georgia	9.7
32	Maryland	9.1
36	North Carolina	8.4
41	Florida	7.6
44	South Carolina	7.1
	National Average	8.1

How many roads?

Of course, it should be borne in mind that some states have more public roads and streets to be concerned with, and therefore might need to devote a greater percentage of their state expenditures to the highway program.

As usual, Alaska leads. Almost every mile of road in the frozen northland is under state control: 98.7 percent to be exact. (Alaska also has the fewest automobiles registered of all the states, in case you'd like to know.) The smallest percentage of state control is in Idaho, which has only 7.4 percent of the public thoroughfares to worry about.

South Carolina, with 64.1 percent of the roads under state control, is number seven on the national list. The Southeastern states are shown in Table Four.

Motor fuel tax burdens: how heavy a load?

Finally, a comparison can be made as to the relative amount of tax burden (also called a "tax effort") that the states impose when gasoline is taxed. If the national average is 100%, for example, then any additional taxes over the average would represent an addition effort by a state to gain revenue from motor fuel taxes; any tax rate less than the national average would show a state was making less of an effort by comparison.

Table Four
Percent of public roads and streets under state control

<u>National Rank</u>	<u>State</u>	<u>Percent</u>
5	Virginia	83.9
6	North Carolina	82.7
7	South Carolina	64.1
8	Tennessee	50.5
10	Kentucky	36.2
13	Louisiana	28.2
22	Maryland	19.6
25	Georgia	16.8
27	Mississippi	14.5
28	Alabama	13.3
35	Florida	11.6
	National Average	22.9

As might be expected, the states with the lowest motor fuel tax effort are oil producing ones: Texas has imposed a fuel tax of only half the national average, while Louisiana and Oklahoma also rank low. Highest on the list are West Virginia (169.6 percent, compared to the national average of 100 percent), Hawaii (153.6 percent), Nevada (149 percent), Washington (148.3 percent) and Wisconsin (142.1 percent). South Carolina weighs in at 122.7 percent, according to figures from the Advisory Commission on Intergovernmental Relations (ACIR).

Other motor fuel efforts by Southeastern states are displayed in Table Five.

Table Five
Motor fuel tax effort as percent of national average

<u>National Rank</u>	<u>State</u>	<u>Percent</u>
1	West Virginia	169.6
13	Maryland	129.4
16	South Carolina	122.7
17	Alabama	122.4
25	North Carolina	110.2
30	Florida	103.7
33	Virginia	103.0
36	Georgia	98.4
37	Tennessee	94.9
38	Kentucky	93.6
42	Mississippi	85.2
46	Louisiana	75.8
	National Average	100.0

Conclusion

What do all the figures mean? According to those who support the proposed gasoline tax, they could be interpreted as showing that South Carolina needs to put more effort into improving its highways. On the other hand, it could be argued that our state's present efforts—especially in terms of taxing the public—are at the limit already.

What is clear, though, is that the related questions of transportation, better roads, economic development, and how all of this is going to be paid for, is one which will occupy public attention in South Carolina for some time.

A note on statistics used

The information for the comparative figures used in this report came from the *State Policy Data Book, 1987*. This reference work is published by State Policy research, Inc., of Alexandria, Virginia. The *Data Book* says that it is "designed to be a current reference for those who work with the policies of state governments."

The *Data Book* gathers its figures from a variety of sources, including the US Census, other government agencies and offices, the ACIR, and its own research.