



South Carolina House of Representatives

Legislative Update

ROBERT W. HARRELL, Jr., Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives concurred in Senate amendments to **H.3184** and enrolled the bill for ratification. This legislation provides for **ADMINISTRATIVE LAW COURT REVISIONS** and **AUTHORIZES NEW OPEN HEART SURGERY SERVICES AT LEXINGTON MEDICAL CENTER**. The bill makes comprehensive revisions with regard to **APPEALS TO AND FROM THE ADMINISTRATIVE LAW COURT AND VARIOUS AGENCIES AND COMMISSIONS** so as to provide a uniform procedure for contested cases and appeals from administrative agencies. All hearings before an administrative law judge must be conducted exclusively in accordance with the rules of procedure promulgated by the court. The duties, functions, and responsibilities of all hearing officers of the Department of Motor Vehicles are devolved upon the Administrative Law Court effective July 1, 2006. The legislation creates within the Administrative Law Court the Division of Motor Vehicle Hearings.

H.3184 also **AUTHORIZES NEW OPEN HEART SURGERY SERVICES AT LEXINGTON MEDICAL CENTER** by establishing an exception where the Department of Health and Environmental Control's decision not to issue a certificate of need is contested. The legislation provides that in contested case proceedings involving the determination of whether a certificate of need for new open heart surgery services should be approved, a legally conclusive presumption is created in favor of approval when the applicant can demonstrate by a preponderance of evidence that there are no open heart surgery programs located in the same county as the applicant and that the applicant currently offers diagnostic cardiac catheterization services and has performed a minimum of twelve hundred diagnostic cardiac catheterization equivalents in the previous year of operation.

The House approved **S.1094** and enrolled the bill for ratification. This bill requires the State to defend members of the **RETIREMENT SYSTEM** Investment Commission and Commission officers and management employees against claims or suits based on the performance of their official duties. The bill requires the State to indemnify these persons for a loss or judgment they may incur for a claim or suit brought against them in their official and/or individual capacities. The bill extends this commitment to defend and indemnify these persons after they have left the commission if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the Commission. The bill provides that funds of the Retirement System may also be invested in real property, exchange traded funds, and American Depository Receipts. The bill conforms conflict of interest provisions with respect to the Retirement System Investment Commission, to the National Guard Retirement System. Regarding standards of conduct for fiduciaries or employees of fiduciaries, the bill provides that they shall not have any direct or indirect interest in the gains or profits of any system investment other than the indirect interest of a passive investor holding less than five percent of the outstanding equity in a publicly-traded security. The bill allows the Retirement System Investment Commission to waive these standards by contract with certain fiduciaries.

The House approved **S.1200** and enrolled the joint resolution for ratification. This legislation provides that in 2006 and 2007, the **ANNUAL FEE FOR THE AUTOMOBILE MANUFACTURER STANDARD LICENSE PLATE** issued to an automobile manufacturer for vehicles used in a benefit program for the manufacturer's employees or

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for testing, distribution, evaluation, and promotion, the registration fee for applications filed in 2007 and 2008 is seven hundred sixty-one dollars. In accounting for the revenue of this fee for applications filed in 2007 and 2008, twenty dollars is credited to the general fund of the State and the amount required to be remitted to a local government is seven hundred forty-one dollars. The provisions of Joint Resolution 116 of 2003 applicable for these license plate fees in 2003 and 2004 are extended retroactively through 2006.

The House appointed a conference committee to address differences with the Senate on **H.3402**. Under this bill, the **DEFINITION OF A LEGISLATIVE CAUCUS IS AMENDED** in provisions relating to campaign practices and in matters relating to lobbyists and lobbying.

The House amended, approved, and sent to the Senate **H.4773**. This bill revises the South Carolina statutory form for the **HEALTH CARE POWER OF ATTORNEY**. Revisions include:

- Providing further for a successor agent,
- Including a HIPAA (Health Information Portability and Accountability Act of 1996) authorization,
- Clarifying designation choices in connection with tube feeding, and
- Providing for an optional acknowledgement by a notary public.

The House approved and sent to the Senate **H.4983**. This bill amends the definition of “redevelopment plan” and “redevelopment project costs” relating to **REDEVELOPMENT PLANS FOR PURPOSES OF THE TAX INCREMENT FINANCING LAW**. The bill provides that the redevelopment plan must adhere to the goals and objectives of the respective municipality’s comprehensive plan, zoning ordinance, and development standards. The bill also requires and provides for additional findings before adoption of a redevelopment plan by a municipality or a county.

The House approved and sent to the Senate **H.4656**. This bill provides that in addition to the petition method of calling a **REFERENDUM ON ALLOWING THE POSSESSION, SALE, AND ON-PREMISES CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK OR ALLOWING THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION**, a county or municipal governing body by ordinance may also call the referendum.

The House amended, approved, and sent to the Senate **H.4768**, a bill providing conditions for **REBATES OFFERED ON THE PURCHASE OF BEER, WINE, AND ALCOHOLIC LIQUOR**. The legislation prohibits a scan-back or scan-down, which is a rebate paid to a retailer by a brewer, vintner, manufacturer, distiller, wholesaler, or importer, directly or indirectly, or through a clearinghouse for sales that are recorded by a scanner at the time the consumer purchases certain products of that brewer, vintner, manufacturer, distiller, wholesaler, or importer or to a clearinghouse for payment of the rebate. Penalties are provided for violations.

The House amended, approved, and sent to the Senate **H.4552**. This bill requires the **LABELING OF TOYS AND TABLEWARE WITH WARNINGS ABOUT EXCESSIVE LEVELS OF LEAD**. The bill provides civil penalties for violations.

The House amended, approved, and sent to the Senate **H.4692**, a bill pertaining to the **PENALTIES FOR VIOLATIONS OF CERTAIN DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL RULINGS AND ORDERS**. This bill provides that a person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the Department of Health and Environmental Control issued pursuant to Section 44-1-140 is subject to a civil penalty not to exceed \$1,000 dollars a day for each violation. The department must remit fines collected to the State Treasurer for deposit in the state general fund. There are exceptions for fines levied under Section 44-1-140(8) or any other areas regulated by the South Carolina Occupational Health and Safety Act.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The Agriculture, Natural Resources and Environmental Affairs Committee met on Tuesday, April 18.

H.4021, relating to **CATCH LIMITS FOR FLOUNDER**, received a favorable report from the full committee. The bill reduces the catch limit of flounder from twenty to fifteen. The bill also increases the size limit for flounder from twelve to fourteen inches total length.

The committee gave a favorable with amendment report to **S.680**, relating to **MOTOR FUEL DISPENSED AT UNATTENDED SERVICE STATIONS**. This bill provides that motor fuel may be dispensed at an unattended service station, if the dispensing device has an automatic shut-off valve that is activated when the sale of the motor fuel reaches sixty-five dollars. The bill provides that unattended service stations dispensing motor fuel shall comply with all the requirements of the latest version of the International Fire Code adopted in South Carolina. All pumps used to dispense motor fuel in accordance must be inspected and permitted by the Department of Agriculture in the same manner as pumps at attended service stations.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee reported favorable with amendment on **H.4481**, a bill relating to the **DEPARTMENT OF TRANSPORTATION'S MANAGEMENT OF VEGETATION ALONG INTERSTATE HIGHWAY MEDIANS**. As reported by the committee, this bill provides that the Department of Transportation may conduct at its discretion a vegetation management project on the medians, roadsides, and interchanges along the interstate highway system.

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The committee reported favorable with amendment on **H.4707**, a bill cited as the “**FINANCIAL LITERACY TRUST ACT.**” As reported by the committee, this bill establishes the South Carolina Financial Literacy Initiative (the Initiative), a program created to improve financial literacy by providing public and private funds for teachers and schools to provide financial literacy education for students in grades K-12. The Initiative’s goals would be to provide these students with tools they will need in the real world to manage their finances; to increase comprehensive services so students have reduced risk for financial failure after high school; and to promote high quality programs that provide instruction on pertinent financial literacy issues as described in the bill. The bill establishes and provides for a Board of Trustees (the Board) to oversee the Initiative through the awarding of grants to school districts. The Board would be chaired by the State Superintendent of Education who would serve as an *ex officio* voting board member. The Superintendent would appoint the initial eight voting members, who would represent areas of financial literacy instruction. Subsequent appointments would be made by the Superintendent from a slate presented by sitting board members.

Among other functions, the Board is authorized by the bill to develop a long-range initiative for improving the financial literacy of these students; to provide oversight on implementing the Initiative at the state and district levels; to establish criteria and procedures for awarding grants from the Financial Literacy Trust; to create an annual revision of district needs assessments and identify assets from other funding sources; to assess and develop recommendations for improving financial literacy programs and funding and other programs and funding sources to carry out the Initiative; to establish results-oriented measures and objectives and assess whether services provided are meeting the goals and achieving the results established for the Initiative; to receive gifts, bequests, and devisees for deposit in the Financial Literacy Trust; and to report annually to the General Assembly on activities and progress.

The bill establishes and provides for the Office of South Carolina Financial Literacy (the Office) within the Department of Education. Among other functions, the Office would inform the Board on best practices, strategies, programs, and financing mechanisms; assist and recommend regarding grant proposals and improvement in meeting goals; recommend to the Board the applicants meeting grant criteria; submit an annual report to the Board; provide for continuous data collection and contract for performance audits as provided in the bill.

The bill outlines requirements, processes, and procedures for awarding grants to school districts to address the financial literacy needs of K-12 students. The bill includes requirements for internal evaluation policies and procedures as well as requirements for evaluation at the state and local levels by an independent evaluator.

The committee reported favorable with amendment on **S.1004**, a bill which, as introduced, provided for a **STATEWIDE ASSESSMENT PROGRAM**. As reported by the committee, this bill **CREATES THE SOUTH CAROLINA CHILD DEVELOPMENT EDUCATION TWO-YEAR PILOT PROGRAM**, to be available for the 2006-07 and 2007-08 school year on a voluntary basis.

The program would be first made available to eligible children from eight trial districts in Abbeville County School District et. al. vs. South Carolina (Allendale, Dillon 2, Florence 4, Hampton 2, Jasper, Lee, Marion 7, and Orangeburg 3), but would be expanded to the remaining trial districts with any remaining funds. Annually, any unexpended funds from

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the prior year would be carried forward and used by the First Steps to Readiness Board and the State Department of Education to provide funds to school districts and private providers for services to children zero to three years of age in the trial districts.

The bill provides that each child residing in the pilot districts, who will have attained the age of four years on or before September 1 of the school year, and who meets the specified at-risk criteria, is eligible for enrollment in the two-year pilot program for one year. Parents of eligible children may enroll the child in a school-year four-year-old kindergarten program delivered by an approved public or private provider. Parents are required to comply with attendance policies and failure to do so may result in the child's removal from the program. No tuition or fees are charged solely for enrolling in or attending the program.

The bill includes requirements for program providers, including a requirement that they be approved, registered, or licensed by the Department of Social Services. If enrollment exceeds available space, providers are required to give first priority to children with the lowest scores on an approved pre-kindergarten readiness assessment .

The bill requires the Education Oversight Committee (EOC), in consultation with the State Department of Education and the Office of First Steps to School Readiness, to develop a list of approved curricula; develop a list of approved pre-kindergarten readiness assessments; establish criteria for new classroom equipping grants; establish criteria for parenting education which providers must offer; and establish a list of early childhood fields that may be used to meet the lead teacher qualifications.

The bill includes requirements for program providers with respect to the educational program/curriculum they must offer, including educational requirements for teachers; teacher-student ratio requirements; requirements for instructional hours per day and instructional days per year; parental involvement requirements; and professional development requirements.

Public and private providers would be eligible for transportation funds at a reimbursement rate established in the bill. The bill requires the General Assembly to provide funds for the 2006-2007 school year of three thousand seventy-seven dollars per child, in addition to the reimbursement for transportation. The cost per child would be increased by the same rate of inflation as that determined for the Education Finance Act. The bill also provides that with funds appropriated by the General Assembly, the South Carolina Department of Social Services will approve grants for public providers and the Office of First Steps to School Readiness for private providers, of up to ten thousand dollars per class for the equipping of new classrooms.

The bill requires the Education Oversight Committee to evaluate the pilot program and report to the General Assembly, as provided in the bill, by January 1, 2008.

The committee reported favorable with amendment on **H.4932**, a bill relating to a **FULL-DAY, FOUR-YEAR-OLD PREKINDERGARTEN PROGRAM FOR AT-RISK CHILDREN**. As reported by the committee, this bill is identical to the committee's amended version of **S.1004**, which is summarized above.

JUDICIARY

The Judiciary Committee met on Tuesday, April 18.

H.4681 received a favorable with amendment report. This bill deletes the provision that prevents a local government from regulating the use, sale, transportation, or public brandishment of **FIREARMS** during the times of a demonstrated potential for insurrection, invasions, riots, or natural disasters.

H.4808, relating to the **ISOLATION AND QUARANTINE OF INDIVIDUALS**, received a favorable with amendment report. This bill revises definitions used in the Emergency Health Powers Act. The bill amends the definition of "qualifying health condition" to include an illness or health condition caused by a natural disaster. The bill amends the definition of the term "trial court" to provide if that court is unable to function because of the isolation, quarantine, or public health emergency, the trial court is a circuit court designated by the Chief Justice upon petition and proper showing by the Department of Health and Environmental Control (DHEC).

Relating to isolation and quarantine of individuals and penalties for noncompliance, **H.4808** establishes a maximum penalty of a fine of one thousand dollars or thirty days in prison, or both.

H.4808 provides that an employer may not fire, demote or otherwise discriminate against an employee subject to isolation or quarantine orders; however, an employer may require an employee subject to isolation or quarantine to use annual or sick leave to comply with such an order.

Relating to isolation and quarantine procedures, **H.4808** provides that before the declaration of a public health emergency isolation and quarantine orders issued must be undertaken in accordance with the Emergency Health Powers Act.

Relating to appointment and use of in-state and out-of-state health personnel in a state of public health emergency, **H.4808** provides that any in-state or out-of-state health care provider appointed by DHEC is immune from civil liability for damages resulting from medical care or treatment so long as the actions taken in rendering the care or treatment meet applicable standards of care and do not constitute gross negligence, recklessness, willfulness or wantonness. This provision applies whether or not the health care provider receives financial gain from the State for its volunteer services, and even if the health care provider receives compensation benefits from the health care provider's employer. Immunity from civil liability is also provided for any emergency medical examiner or coroner so long as their actions taken in rendering services meet applicable standards of care and do not constitute gross negligence, recklessness, willfulness or wantonness.

H.4456, which creates the "**SOUTH CAROLINA CRIMESTOPPERS ACT**," received a favorable with amendment report from the Judiciary Committee. Provisions of the legislation include:

- The bill establishes the South Carolina Crimestoppers Council as a nonprofit organization and outlines the duties of the council.

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- A court may order a defendant to repay to a Crimestoppers Organization or to the Crimestoppers Council a reward issued by either entity. The bill outlines certain factors to be considered when determining whether the defendant must repay the award or part of the reward.
- The bill provides for the reimbursement of monies paid by a Crimestoppers Organization or the Crimestoppers Council for information that results in the arrest of an individual where monies are confiscated and forfeited pursuant to an arrest.
- The bill also provides for the maintenance and disbursement of funds reimbursed.
- The bill includes provisions for the admissibility of certain evidence, protected information, and protected identities in a court proceeding.
- The bill provides immunity from civil liability for certain persons who communicate with, act on privileged communication, or are officers or employees of a Crimestoppers Organization or the Crimestoppers Council.
- A public body may not disclose a privileged communication, protected information, or a protected identity except under certain conditions.

The full committee recommitted **H.4322** to the Criminal Laws Subcommittee. This bill pertains to the offense of **FAILURE TO STOP A MOTOR VEHICLE WHEN SIGNALLED TO STOP BY A LAW ENFORCEMENT OFFICER**.

H.4847 received a favorable with amendment report from the full committee. Relating to **SELLING TICKETS TO AN ATHLETIC CONTEST, SPORTING, ENTERTAINMENT, OR AMUSEMENT EVENT FOR MORE THAN THE PRESCRIBED AMOUNT**, this bill provides an exception for the sale or offer for sale of a ticket when authorized by the operator of the venue where the event is to be held and the operator states their resale policy in writing. If the operator of the venue authorizes the resale of tickets, the operator may impose a service charge of no more than twenty percent of the resale price plus reimbursement for taxes remitted in connection with the resale. The operator also may charge a delivery fee, if delivery services are provided. A ten-thousand dollar civil fine is applicable for each violation. The entity is also subject to the payment of treble damages, attorneys' fees, and costs associated with an action by a person who purchases a fraudulent ticket.

The Judiciary Committee gave a favorable report to **H.4382**. This bill abolishes the **COUNTY ADVISORY BOARDS OF SOCIAL SERVICES** and repeals various statutes relating to the rights, duties, and responsibilities of these advisory boards.

H.4383, relating to **INTERAGENCY SHARING OF JUVENILE RECORDS AND FINGERPRINTS FOR CERTAIN FIFTEEN YEAR OLDS**, received a favorable report. Currently, certain entities and agencies share juvenile records. This bill includes the Department of Social Services among those agencies with whom juvenile records may be shared. The bill also authorizes law enforcement agencies to fingerprint a child

fifteen years of age or older living in a family childcare home to determine the child's criminal history.

The committee adjourned debate on S.998, which relates to **CHILDREN IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES**.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on April 18 and gave a favorable report on H.4089, a bill **REQUIRING HOME BUILDERS TO CARRY WORKERS' COMPENSATION INSURANCE ON ALL EMPLOYEES WORKING AT BUILDING SITES**. The legislation provides that sole proprietors, partners, officers of corporations, and their employees, regardless of the number and/or amount of their annual payroll, that practice or offer to practice residential building, residential specialty contracting, or related home building services, are not eligible for the exemptions from the requirement to carry workers' compensation insurance, unless their job responsibility does not require them specifically to visit or perform work on a residential building site.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee met on Tuesday, April 18.

The full committee adjourned debate on S.103, the "**SOUTH CAROLINA DIETETICS LICENSURE ACT.**"

H.4723 received a favorable with amendment report from the full committee. This bill establishes the **DIVISION ON AFFORDABLE HOUSING WITHIN THE OFFICE OF THE LIEUTENANT GOVERNOR**. This division shall be supported by an Advisory Commission on Affordable Housing, which shall be comprised of individuals from a variety of disciplines who are trained and knowledgeable in affordable housing needs. The mission of this division and advisory commission is to:

- identify and establish strategies to address the need for low income affordable housing,
- develop a statewide strategy to educate South Carolinians on the issues related to affordable housing,
- develop a reporting system and collect statistical data related to affordable housing issues in South Carolina, and
- assess current housing programs and gather information on best practice models for the advisory commission's consideration.

The advisory commission may utilize both private and public funding in addition to funds appropriated by the General Assembly. The division director will be required to file a quarterly report of the division's and advisory commission's activities and recommendations to the Governor and both houses of the General Assembly on a quarterly basis.

WAYS AND MEANS

The Ways and Means Committee reported out a number of bills this week:

- The committee reported favorable on **H.4800**. This bill **ALLOWS THE TARGETED TAX CREDIT, THE INCOME TAX CREDIT FOR ESTABLISHING OR ADDING TO A CORPORATE HEADQUARTERS, AND THE TAX CREDIT ALLOWED A CORPORATION FOR CONSTRUCTION OR IMPROVEMENT OF AN INFRASTRUCTURE PROJECT TO BE CLAIMED AGAINST THE BANK TAX.**
- The committee reported favorable with amendment on **H.4366**. As reported by the committee, this bill **REQUIRES THE GENERAL ASSEMBLY TO APPROPRIATE UP TO THREE MILLION DOLLARS A YEAR TO OFFER GRANTS OF NOT MORE THAN THIRTY THOUSAND DOLLARS TO ELIGIBLE VOLUNTEER AND COMBINATION FIRE DEPARTMENTS.** Volunteer fire departments and combination fire departments with a staffing level that is at least eighty-five percent volunteer are eligible to receive these grants. The funds would be used, as provided in the bill, to protect local communities and regional areas from fire, hazardous materials, and terrorism, and to provide for the safety of the volunteer firefighters. The bill requires and provides for the South Carolina State Firefighters' Association to administer the grants in conjunction with a peer review panel.
- The committee reported favorable with amendment on **H.4662**. As reported by the committee, this bill **REDUCES AUTHORIZED FUNDING FOR SEVERAL CLEMSON PROJECTS PREVIOUSLY AUTHORIZED IN A STATE CAPITAL IMPROVEMENT BOND ACT AND ESTABLISHES A NEW PROJECT, THE RHODES ENGINEERING RESEARCH CENTER ADDITION, WITH FUNDING OF \$8,052.193.**
- The committee reported favorable with amendment on **H.4840**, the **“INDUSTRY PARTNERS ACT.”** As reported by the committee, this bill establishes within each of the three South Carolina Research Innovation Centers (SCRIC) a target program reflecting the basic research currently undertaken at each center and serving as the focal point of the State’s applied research and development in each of the program areas of excellence: Clemson-automotive technology; Medical University of South Carolina-health science technology; and the University of South Carolina-fuel cell and hydrogen technology.

The bill authorizes the South Carolina Research Authority (SCRA) and SCRIC to implement and manage specified programs in collaboration with the public and private sectors. Targeted programs of excellence are authorized to undertake initiatives including but not limited to incubation, collaborations, financing, and marketing.

The bill establishes the “Industry Partnership Fund” at the SCRA (and/or an affiliate) for funding and financing programs. The bill allows taxpayers to claim as a credit against state income tax 100% of an amount contributed to the Industry Partnership Fund, up to a maximum credit of two million dollars, not to

exceed an aggregate credit of six million dollars for all taxpayers in its first fiscal year of existence.

The bill revises the SCRA Board by adding as an *ex-officio* member the Director of Savannah River National Laboratory, and by providing that the executive committee has all powers and authority of the board of trustees.

The bill also amend the duties of the SCRIC by adding that it may provide financing to qualified companies.

- The committee reported favorable with amendment on **H.4966**, a bill which **AMENDS THE “SOUTH CAROLINA MOTION PICTURE INCENTIVE ACT.”** In addition to technical and “clean-up” amendments, the committee amended the bill to **INCREASE FROM 15% TO 30% THE AMOUNT THAT MAY BE REBATED TO A MOTION PICTURE PRODUCTION COMPANY IN SOUTH CAROLINA IF THE COMPANY HAS A MINIMUM IN-STATE EXPENDITURE IN THE AGGREGATE OF AT LEAST ONE MILLION DOLLARS.**
- The committee reported favorable on **H.5001**, a bill relating to **TRIDENT TECHNICAL COLLEGE**. In order to promote and enhance South Carolina’s economic development through the location and development of the film industries and high-technology businesses and industries, this bill provides for a “Main Campus” and a separate “Enterprise Campus” at Trident Technical College. The bill establishes and provides for the Trident Technical College Enterprise Campus Authority and empowers it to provide for the management, development, and operation of the enterprise campus.
- The committee reported favorable on **H.4951**, a bill relating to the **TARGETED JOBS TAX CREDIT**. This bill provides that in a county which is at least one thousand miles in size and which has had an unemployment rate greater than the state average for the past ten years, and an average *per capita* income lower than the average state *per capita* income for the past ten years, and which is not eligible for any of the special county classifications, the targeted jobs tax credit allowed is two tiers higher than the credit for which the county otherwise would qualify.
- The committee reported favorable on **H.4882**, a bill relating to the **SOUTH CAROLINA STATE HOSPITAL PROPERTY**. This bill provides that South Carolina State Hospital property under the control of or assigned to the Department of Mental Health by the department that is not in use may be sold or leased as provided in the bill. The bill creates a restricted account for the deposit of proceeds from such sale or lease and provides that these funds must be used to support adult long-term care, acute care, and forensic services lost with the closure of the State Hospital. The bill prohibits the Department of Mental Health from using these funds to supplant its current level of appropriated funding and requires the Department to report quarterly to the Governor and to the General Assembly on the use of the funds.
- The committee reported favorable with amendment on **H.3034**. This joint resolution **REQUIRES THE DEPARTMENT OF COMMERCE TO STUDY THE**

VIABILITY OF ESTABLISHING AN INLAND INTERMODAL PORT IN THE VICINITY OF THE INTERSECTION OF INTERSTATE HIGHWAYS 95 AND 26 AND TO REPORT FINDINGS TO THE GENERAL ASSEMBLY IN JANUARY 2007.

- The committee reported favorable on **H.4504**. This bill amends numerous sections of the South Carolina Code so as to **DEVOLVE UPON THE DEPARTMENT OF REVENUE CERTAIN POWERS AND RESPONSIBILITIES RELATED TO THE OPERATIONS OF A COUNTY TREASURER AND COUNTY AUDITOR. THESE POWERS AND RESPONSIBILITIES ARE CURRENTLY ASSIGNED TO THE COMPTROLLER GENERAL.**
- The committee reported favorable on **H.4426**. This bill **PROVIDES THAT IF AN ENTITY WHICH IS EXEMPT FROM PROPERTY TAX AS A NONPROFIT CORPORATION FUNDED BY FEDERAL OR STATE LOANS OR AS A RELIGIOUS, CHARITABLE, ELEEMOSYNARY, EDUCATIONAL, OR LITERACY ORGANIZATION LEASES PROPERTY OWNED BY IT TO SIMILARLY PROPERTY TAX EXEMPT ENTITIES, THE LEASED PORTION OF THE PROPERTY IS EXEMPT FROM PROPERTY TAX.**
- The committee reported favorable with amendment on **H.3718**. As reported by the committee, this bill **PROVIDES AN EXEMPTION FROM AD VALOREM TAXES FOR ALL PROPERTY OF NONPROFIT HOUSING CORPORATIONS OR SOLELY-OWNED NONPROFIT INSTRUMENTALITIES OF THESE CORPORATIONS WHICH IS DEVOTED TO PROVIDING HOUSING TO LOW OR VERY LOW INCOME RESIDENTS.** This provision applies for calendar years beginning after December 31, 2005.
- The committee reported favorable on **H.4307**. This bill **INCORPORATES BY REFERENCE FOR PROPERTY TAX PURPOSES THE DEFINITION OF “PRIVATE PASSENGER MOTOR VEHICLE” USED IN THE MOTOR VEHICLE REGISTRATION AND LICENSING LAW. THE BILL INCREASES THE WEIGHT LIMIT FOR PICKUP TRUCKS FOR PURPOSES OF THIS DEFINITION, AND ALSO PROVIDES THAT THE DEFINITION IS DEEMED TO INCLUDE MOTORCYCLES.**
- The committee reported favorable on **H.4264**. This bill amends current provisions relating to **FREE TUITION FOR CHILDREN** of firemen, law enforcement officers, and governmental employees totally disabled or killed in the line of duty, **SO AS TO ALSO INCLUDE CHILDREN IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES PURSUANT TO COURT ORDER OR CHILDREN FORMERLY IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES WHO CURRENTLY ARE PARTICIPATING IN A DEPARTMENT OF SOCIAL SERVICES PROGRAM FOR CHILDREN TRANSITIONING FROM FOSTER CARE TO INDEPENDENT LIVING.**
- The committee reported favorable with amendment, majority unfavorable, on **H.3977**. As reported by the committee, this bill **ESTABLISHES AND PROVIDES FOR AN ELEVEN MEMBER LAW ENFORCEMENT TRAINING COUNCIL, TRANSFERRING TO THIS COUNCIL ALL FUNCTIONS, DUTIES,**

RESPONSIBILITIES, ACCOUNTS, AND AUTHORITY STATUTORILY EXERCISED BY THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY. It is the stated intent of the bill to maximize training opportunities for law enforcement officers and criminal justice personnel, to coordinate training, and to set standards for the law enforcement and criminal justice service.

- The committee reported favorable with amendment on **H.4661**. As reported by the committee, this joint resolution **CREATES AND PROVIDES FOR A COMMITTEE TO STUDY AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING THE STATE'S EARMARKED AND RESTRICTED ACCOUNTS.** The Speaker of the House, the President *Pro Tempore* of the Senate, the Chair of the House Ways and Means Committee, and the Chair of the Senate Finance Committee would each appoint three members, who may be from either the public or private sector. Members of the General Assembly would be allowed to serve. The committee is charged to study the restricted and earmarked accounts of state agencies and issue a report and recommendations to the General Assembly by January 9, 2007. The committee terminates on January 9, 2007, or the date it forwards its report, whichever is earlier. The committee also amended the bill so as to provide that pending the filing of the report and recommendations, certain specified Statewide Accounting and Reporting System (STARS) subfunds are exempt from the provisions of Section 7, Act 156 of 2005, which requires that the first ten percent of any surplus General Fund Revenues must be applied to fully restore all funds previously transferred and appropriated from any earmarked or restricted accounts in the Statewide Accounting and Reporting System (STARS), effective July 1, 2006.
- The committee reported favorable with amendment on **H.4938**. As reported by the committee, this bill **AUTHORIZES AND PROVIDES FOR THE ADJUTANT GENERAL TO ORGANIZE AND MAINTAIN AN ORGANIZATION KNOWN AS THE EMERGENCY AIR WING OF THE SOUTH CAROLINA STATE GUARD.** The organization would consist of volunteer pilots and flight ground crews who would provide emergency air support with airplanes owned by private citizens. Each airplane used by the Emergency Air Wing would be required to have at least one million dollars in liability insurance, and would be required to list the Adjutant General as an additional insured to ensure that in the event of any claim resulting from any training or duty activity, insurance is available to compensate for damages up to the caps provided by the South Carolina Tort Claims Act. The bill also provides that recovery of workers' compensation benefits by members of the Emergency Air Wing would be payable from the State general fund and premiums to the State Accident Fund would be paid by members of the Emergency Air Wing of the South Carolina State Guard.
- The committee reported favorable with amendment on **H.4075**. As reported by the committee, this bill provides that **A SCHOOL DISTRICT WHOSE BUDGET OF TOTAL EXPENDITURES EXCEEDS SEVENTY-FIVE MILLION DOLLARS BECAUSE OF A ONE-TIME CONSTRUCTION PROJECT IS EXEMPT FROM THE PROVISIONS OF THE CONSOLIDATED PROCUREMENT CODE.**

The committee also amended **H.4075** by adding a section enacting the **FINANCIAL ADVISORY SERVICES ACT**. This Act relates to **RENDERING ADVICE OR SERVICES TO A POLITICAL DIVISION OR SUBDIVISION OF THE STATE WITH RESPECT TO MUNICIPAL SECURITIES AND RECEIVING PUBLIC FUNDS FOR THE RENDERING OF SUCH SERVICES**. The Act provides that only a municipal securities broker or dealer may provide financial advisory services for compensation or the expectation of compensation from public funds, to any incorporated city or town, school district, county, special purpose district, public service district, or other political subdivision of the State regarding issuance of bonds, notes, or other obligations. The Act also provides that such advisory services must be provided to these political subdivisions only upon official action by the governing board of the political subdivision, as provided in the bill.

- The committee reported favorable with amendment on **S.489**. As reported by the committee, this bill **CODIFIES THAT THE CHILDREN'S TRUST FUND; A RESIDENTIAL GROUP FACILITY WHICH PROVIDES ON-SITE TEACHING FOR RESIDENTS IF THE FACILITY'S EMPLOYEES ARE CURRENTLY MEMBERS OF THE SOUTH CAROLINA RETIREMENT SYSTEM OR IF IT PROVIDES, AT NO COST, EDUCATIONAL FACILITIES ON ITS GROUNDS TO THE SCHOOL DISTRICT IN WHICH IT IS LOCATED; A FEDERALLY QUALIFIED HEALTH CENTER; COUNTY FIRST STEPS PARTNERSHIP; AND PALMETTO PRIDE MAY PARTICIPATE IN THE STATE HEALTH AND DENTAL INSURANCE PLANS.**
- The committee recommitted to subcommittee **H.4848**, a bill **CREATING AN ENDOWED PROFESSORSHIP AT SOUTH CAROLINA STATE UNIVERSITY FROM LOTTERY FUNDS.**
- The committee reported favorable with amendment on **H.3949**, a bill relating to **BINGO CARD CHARGES**. As reported by the committee, this bill reduces from sixteen and one-half cents to ten cents for each dollar of face value for each bingo card sold for AA, B, D, and E licenses. The bill also requires a charge of four cents for each dollar of face values for each bingo card sold for a C license.
- The committee reported favorable with amendment on **H.4312**, a bill relating to **TAX CREDITS ON CERTAIN MOTOR VEHICLES**. As reported by the committee, this bill provides that a taxpayer who is eligible for and claims the new federal qualified fuel cell motor vehicle credit, the new federal advanced lean burn technology motor vehicle credit, the new federal qualified hybrid motor vehicle credit, and the new federal qualified alternative fuel motor vehicle credit is allowed a state income tax credit equal to twenty percent of that federal income tax credit.
- The committee reported favorable on **H.4737**, a bill relating to **TAX CREDITS FOR LOW INCOME HOUSING**. The bill provides that federal or state income tax credits for "low income housing" (as defined in the bill) may not be considered with respect to the valuation of real property or in determining the fair market value of real property for property tax purposes. The bill also provides that for properties that have deed restrictions in effect that promote or provide for low

income housing, the income approach must be the method of valuation to be used.

- The committee reported favorable with amendment on **H.4691**, a bill relating to the **USE OF STATE ACCOMMODATIONS TAX REVENUE**. As reported by the committee, this bill provides that in counties in which less than nine hundred thousand dollars in accommodations tax or local hospitality tax is collected annually, up to 20% of the revenue in the preceding year of the local accommodations tax may be used for the operation and maintenance of certain tourist-related facilities, including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.
- The committee recommitted to subcommittee **H.4984**, a bill **RELATING TO THE ISSUANCE OF ADDITIONAL SCHOOL FACILITIES BONDS**.
- The committee reported favorable with amendment on **H.4465**, a bill **ESTABLISHING A TAX STUDY COMMISSION**. As reported by the committee, the bill replaces the Joint Committee on Taxation with the Tax Study Commission (the Commission) and provides for the membership and duties of the Commission. The bill provides that among the duties of the Commission, in addition to the duties currently required of the Joint Committee on Taxation, is the review and evaluation of tax legislation introduced or prepared for introduction in the General Assembly for the specific effects such legislation would have on the state's tax structure, and the evaluation of how proposed tax law changes relate to the adequacy, equity, and efficiency of the state's tax structure.

The bill provides that the first order of business for the Commission is to review all exemptions currently allowed in the South Carolina Sale and Use Tax Act (the Act) and make a report and recommendations of the review, as described in the bill, to the General Assembly and the Governor before January 9, 2007. The report must include specific recommendations with respect to the elimination or revision of current exemptions, and if such eliminations or revisions are recommended, the Commission must include in its report a reduced state sales and use tax rate adjusted to the nearest tenth of a percent to remain revenue neutral when applied to the increased sales and use tax base resulting from the report's approval by the General Assembly.

The bill includes a provision that if the General Assembly, by joint resolution, fails to approve or disapprove the recommendations and conforming changes to the Act by July 1, 2007, the recommendations and changes in the Act do not take effect.

The bill provides that amendments to the recommendations and proposed conforming changes in the Act may not be made by the General Assembly while under consideration for approval or disapproval except with respect to the rate of the state sales and use tax included in the report, which the General Assembly may amend only for the purpose of maintaining revenue neutrality. The General Assembly may by concurrent resolution request the Commission to withdraw its recommendations and conforming changes and resubmit them with revisions.

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The bill provides that the Commission is repealed July 1, 2011, unless the General Assembly enacts legislation before that date extending the existence of the Commission. The Joint Committee on Taxation is abolished when the bill becomes effective.

- The committee reported favorable with amendment on **H.4913**. As reported by the committee, this comprehensive bill is a **DEPARTMENT OF REVENUE “CLEAN-UP BILL,”** which amends numerous sections of the Tax Code. The bill includes numerous clarification provisions, and also conforms South Carolina tax statutes with the Internal Revenue Code as amended through December 31, 2005. Additional highlights of the bill include, but are not limited to:
 - Makes consistent the treatment of heavy equipment rentals with rentals of motor vehicles; creates a three percent surcharge to be used to pay the property taxes on the heavy equipment;
 - Clarifies language passed last year relating to the income tax rate reduction;
 - Imposes a penalty on a retailer for collecting an excessive sales tax unless the retailer acted in good faith or refunds the excessive tax to the taxpayer;
 - Clarifies language passed last year related to benefits available for taxpayers using port facilities; limits the maximum to be claimed by any one taxpayer to one million dollars unless the maximum total credits allowed of eight million dollars is not met. In this case, those participating taxpayers are allowed a pro-rata distribution of remaining credits up to the maximum eight million dollars; provides that the Department of Commerce has sole discretion in determining allocation of the credits available under the port provisions;
 - Provides that the allowable credit period for a qualifying student for the tuition tax credit is suspended for active military duty if the service member enrolls in an eligible institution within twelve months of demobilization;
 - Imposes a penalty for a substantial valuation misstatement to be consistent with the penalty for substantial understatement of tax.
 - Provides that a boat, including its motor if separately taxed, used in interstate commerce having a tax site in this State and at least one other state is subject to property tax in this State, and a boat which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or for ninety days in the aggregate in a property tax year.
- The committee reported favorable with amendment on **H.4874**, cited as the **“SOUTH CAROLINA ECONOMIC DEVELOPMENT INCENTIVE ACT.”** As

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reported by the committee, this bill authorizes and provides for a manufacturing facility to claim a twenty-five percent tax credit for costs it incurs in complying with whole effluent toxicity testing. Unused credits may be carried forward for ten years.

The bill provides that purchases of natural gas made by a manufacturing property including, but not limited to, distribution and warehouse space are exempt from sales tax if natural gas prices equal or exceed \$6.50 for each decatherm.

Relating to the apportionment of income for certain businesses, the bill provides for the calculation of apportioned income using sales figures. The bill includes a bank as a taxpayer who may qualify for the jobs tax credit.

The bill amends current provisions regarding a tax credit against income tax for companies using the state's port facilities. The bill provides that a taxpayer engaged in manufacturing, warehousing, or distribution which uses port facilities in this State and which increases its port cargo volume at these facilities by at least five percent in a single calendar year over its base year port cargo volume is eligible to claim a tax credit in the amount determined by the Coordinating Council for Economic Development. The maximum amount of tax credits allowed to all qualifying taxpayers pursuant to this provision may not exceed eight million dollars per calendar year, and a taxpayer may not receive more than one million dollars for each calendar year unless the eight million dollar amount of full credit is not fully allocated.

Regarding the income tax credit for corporate headquarters, the bill includes a bank's headquarters and provides that a "company business unit" is an organizational unit of a corporation or bank and is defined by the particular product or category of products it sells. The bill allows for a reduction against the job development tax credit for taxes due and includes certain employee relocation expenses as qualifying expenses.

The bill exempts from the state sales tax construction materials used in the construction of a single manufacturing and distribution facility with a capital investment of at least one hundred million in real and personal property in the State over an eighteen month period.

Relating to qualification of an inducement lease agreement for the fee in lieu of property taxes, the bill reduces from five million to two and one-half million dollars, the minimum investment requirement, and deletes certain investments from a four percent minimum investment ratio.

Relating to qualifying for the fee in lieu of property taxes for industrial development projects, the bill deletes certain investments from a four percent minimum assessment ratio; reduces the minimum investment requirement; and reduces the minimum number of new full-time jobs which must be created at a project.

Relating to the jobs tax credit, the bill adds a provision that in a county that is at least one thousand miles in size and that has had an unemployment rate greater than the state average for the past ten years and an average *per capita* income

lower than the average *per capita* income for the past ten years, and that is not included in any county classifications specified in the bill, the credit allowed is two tiers higher than the credit for which the county otherwise would qualify.

Relating to the jobs tax credit, the bill also provides that “new job” includes an apprenticeship created by a taxpayer when the taxpayer employs an apprentice as defined in the bill.

- The committee tabled **H.4850**, a bill cited as the “**SMALL BUSINESS HEALTH INSURANCE PREMIUM ASSISTANCE ACT**” and funded with a cigarette tax increase.
- The committee also tabled **H.4888**, a bill which **PROVIDES FOR A PHASED-IN TAX ON CIGARETTES**.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

S.1200 *AUTOMOBILE MANUFACTURER STANDARD LICENSE PLATE FEE* Sen. J. Verne Smith

This joint resolution provides that for applications filed in 2007 and 2008, the registration fee is seven hundred sixty-one dollars for the standard license plate issued to an automobile manufacturer for vehicles used in a benefit program for the manufacturer’s employees or for testing, distribution, evaluation, and promotion. During these two years, twenty dollars of the fee is to be credited to the General Fund and seven-hundred forty-one dollars is to be remitted to a local government. The bill also extends retroactively through 2006 the provisions of a 2003 resolution which imposed a seven hundred sixty-six dollar annual fee for 2003 and 2004.

S.1209 *SOUTH CAROLINA AQUARIUM SPECIAL LICENSE PLATES* Sen. Campsen

This bill authorizes and provides for the issuance of South Carolina Aquarium special license plates.

H.5013 *MORATORIUM ON NEW SPECIAL LICENSE PLATES* Rep. Thompson

This joint resolution provides that for a period of two years, a member of the General Assembly may not introduce legislation, nor may the General Assembly consider legislation, that allows the Department of Motor Vehicles to issue a new special motor vehicle license plate.

JUDICIARY

**S.17 PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR, DRUGS, OR NARCOTICS
Sen. Hutto**

This bill provides that a violation of Section 56-5-2930 (DUI) or section 56-5-2933 (driving with unlawful alcohol concentration) constitutes a prior offense for purposes of determining subsequent violations in accordance with Section 56-5-2940.

S.391 LEGISLATIVE SPECIAL INTEREST CAUCUS Sen. Moore

This bill provides that a 'legislative special interest caucus' means two or more legislators who seek to be affiliated based upon a special interest. A legislative special interest caucus may include, but is not limited to, a representation of sportsmen and women desiring to enhance and protect hunting, fishing, and shooting sports. Each legislative special interest caucus must register with the Clerk's Office of the Senate or House of Representatives in a manner mandated by the Clerk's Office.

Under no circumstances may a legislative special interest caucus engage in any activity that would influence the outcome of an election or ballot measure. However, it may solicit funds from the general public for the limited purpose of defraying mailing expenses, including cost of materials and postage, and for members of the legislative special interest caucus to attend regional and national conferences. Legislative special interest caucus members may attend a regional or national conference only if the conference is exclusively comprised of legislative special interest caucus counterparts and convenes for the purpose of interacting and exchanging ideas among caucus members and the conference is sponsored by a national organization with which the legislative special interest caucus is affiliated. Attendance at any conference is prohibited if the conference is sponsored by any lobbying group or extends an invitation to persons other than legislators. Under no circumstances may a legislative special interest caucus accept funds from a lobbyist. Each special interest caucus must submit a financial statement to the appropriate supervisory office by January first and July first of each year showing the total amount of funds received and total amount of funds paid out. It must also maintain the certain records, for not less than four years, which must be available to the appropriate supervisory office for inspection.

S.1154 INTERSTATE COMPACT FOR JUVENILES Sen. Fair

This bill repeals the current version of the Interstate Compact for Juveniles, and replaces it with a revised version. The compact deals with the management, monitoring, supervision and return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control to states other than where they were sentenced. Among other things, the revised version of the compact establishes an independent compact operating authority.

S.1268 VIOLENT CRIMES Sen. Hutto

This bill adds the offense of trafficking cocaine base to the list of crimes classified as violent crimes.

H.5020 CHILD OR THE CHILD'S PARENT OR GUARDIAN MAY NOT WAIVE THE CHILD'S RIGHT TO COUNSEL WHEN THE FAMILY COURT PROCEEDING MAY RESULT IN DETENTION OR CONFINEMENT OF THE CHILD Rep. Whipper

This bill provides that a child or the child's parent or guardian may not waive the child's right to counsel, when the family court proceeding may result in detention or confinement of the child. Relating to family court detention hearings and prehearing inquiries and investigations, this bill also deletes provisions allowing a child to waive the right to counsel under certain circumstances.

H.5033 INMATES Rep. Allen

This bill establishes a procedure to allow an inmate who is confined in a Department of Corrections' facility to attend the funeral service of certain individuals and visit certain individuals.

H.5034 PAWNBROKERS Rep. Loftis

Relating to definition of terms used in the regulation of pawnbrokers, this bill revises the definition of the term "pledged goods." Relating to charges on loans, this bill removes the two thousand dollar cap on the amount of money a pawnbroker may loan. Relating to administrative fines and penalties for violations, this bill provides that certain criminal penalties are discretionary rather than mandatory.

H.5035 CHARITABLE TRUSTS Rep. Sinclair

Unless required by law or by policy or regulation of the Attorney General, this bill provides that the trustee of a charitable trust is not required to file a copy of the trust instrument or reports concerning activities of the trust with the Attorney General.

LABOR, COMMERCE AND INDUSTRY

**S.807 "SOUTH CAROLINA NOTICE AND OPPORTUNITY TO CURE
NONRESIDENTIAL CONSTRUCTION DEFECTS ACT" Sen. McConnell**

This bill establishes procedures for the right to cure nonresidential construction defects before a civil action or other remedy provided by law or contract may be instituted or continued.

S.967 "ANNUITY INVESTMENTS BY REGULATIONS ACT" Sen. Martin

This bill provides standards and procedures for recommendations to consumers which result in a transaction involving annuity products to appropriately address the insurance needs and financial objectives of consumers at the time of the transaction.

**S.1128 RESIDENTIAL HEATING AND AIR CONDITIONING CONTRACTING
Sen. Land**

This bill prohibits a person from engaging in the business of residential heating and air conditioning contracting unless licensed as a residential specialty contractor and establishes other conditions for conducting business.

WAYS AND MEANS

**S.960 PROPOSED CONSTITUTIONAL AMENDMENTS RE
PROPERTY TAXATION Sen. McConnell**

This joint resolution proposes to amend the State Constitution so as to:

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- Provide that *ad valorem* taxes are to be applied uniformly to real property within a taxing jurisdiction rather than statewide;
- Require that the General Assembly establish the methods of real property assessment and the procedures for a county to select a method, with the method that is automatically adopted by each county being a method of valuation of real property based on limits to increase in taxable value, adjusted for improvements and losses, of no more than fifteen percent over a five-year period unless an assessable transfer of interest occurs, and at least one other method being the valuation of real property at fair market value, with reassessments occurring every five years;
- Provide that for purposes of calculating the limit on bonded indebtedness of political subdivisions and school districts, the assessed values of all taxable property within a political subdivision or school district shall be the greater of a) the final assessed value effective for the fiscal year beginning July 1, 2006, or b) the assessed value of the political subdivision or school district as calculated following the effective date of this amendment;
- Provide that taxation of real property must be in accordance with procedures provided by the General Assembly;
- Provide that the General Assembly, by general law and not through local legislation pertaining to a single political subdivision, shall provide for the terms and procedures to implement these provisions.

**S.1028 SOUTH CAROLINA PROPERTY TAX REASSESSMENT
REFORM ACT Sen. McConnell**

This bill is the statutory implementation for the amendments proposed to the South Carolina Constitution to allow taxable assessments of real property to occur by different methods in different counties (see **S.960**, above).

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