Introduction ................................................................. 1
Spending and Taxes ......................................................... 2
Silly Bills ................................................................. 5
Economic Development ................................................. 7
Education ............................................................... 9
Restructuring and Reform ............................................. 10
Ethics and Transparency .............................................. 12
Civil Liberties ............................................................ 14
Regulation ............................................................. 17
Health Care ............................................................. 19
SCPC Staff and Board of Directors ............................... 21
State lawmakers come to Columbia for six months or more every year, they introduce bills and vote them up or down, and go home. But who assesses the job they’ve done? Where can a citizen go to find out whether and in what ways they’ve advanced or impeded the cause of freedom?

The answer is in front of you: the Policy Council’s annual Best and Worst of the General Assembly.

As in years past, we’ve highlighted what we think are the year’s most important and/or controversial bills, and picked a representative sampling of legislation in several categories: spending and taxes, economic development, education, restructuring and reform, ethics and transparency, and regulation. We’ve included last year’s most popular category – silly or otherwise time-wasting bills – and included a section on bills related to the federal health care overhaul. On the back page you’ll find the “Worst of the Worst” – a handy guide to the year’s most egregious legislative misadventures!

Unfortunately, this year saw no major advances for liberty and a few significant setbacks for it. True, the General Assembly did pass bills (now laws) requiring greater online transparency at the Department of Transportation and putting the governor and lieutenant governor on the same ticket. But lawmakers passed nothing that would limit spending or provide serious tax relief, nothing to bring transformative reform to public education, nothing to strengthen ethics laws, and nothing that would push back the regulatory burden on the private sector. In fact, the vast majority of bills designed to protect taxpayers’ interests never even got out of committee – bills, for example, that would require transparency in the corporate welfare incentives process, cap government spending, bring down the state’s high sales tax, limit arbitrary fee increases, and lift unfair regulatory burdens.

Meanwhile, the bills that received the most attention and debate – a bill creating a cabinet-level Department of Administration (failed), another allegedly reforming the retirement system (passed), and another aimed at encouraging school choice (failed) – were so weakened as to be almost meaningless.

All in all – and especially when you consider the record-spending state budget – it wasn’t a good year for the cause of freedom in South Carolina. In the pages that follow, we’ve catalogued the failure of our elected officials to promote freedom. But we don’t aim merely to criticize: Indeed, it’s our hope this year’s Best and Worst will be used by you, the citizen, to hold elected leaders accountable, and by reform-minded lawmakers who want to promote freedom more aggressively in 2013.
Spending and Taxes

Cutting Taxes without Cutting Spending

H.4676

Status: Given first reading, expired in Ways and Means Committee.

This bill begins a two-year reduction in commercial property taxes, lowering them from their current rate of six percent down to five percent by 2013. The political subdivisions and school districts that receive funding from property taxes will be reimbursed for their loss of revenue by the Trust Fund for Tax Relief. While a tax decrease is almost always a good thing, it’s best to accompany tax cuts with commensurate spending cuts. Not only does this bill not do that – it actually, in effect, raises spending by making the state responsible for revenue losses as a result of the tax cut.

Capping Spending (Partially)

H.4478

Status: Given first reading, expired in Ways and Means Committee.

This bill would cap the general fund at a rate of six percent, or population growth plus inflation. The governor would be required by law to include an Office of State Budget certification saying that the law conforms to these standards. The General Assembly could suspend the spending limit in the case of an emergency. All the other money would go into an Income Tax Rebate Fund, which can be used only to replenish the General Reserve Fund or pay for natural disaster relief. Any funds remaining after that would be given back to taxpayers as income tax relief.

While this cap may be a good idea, a spending cap is just one tool among many. Ultimately what’s needed to hold lawmakers accountable for their spending decisions is more than a statutory or even a constitutional cap: what’s needed are engaged citizens – whether or not a spending cap is in place.

DoT Spending Transparency

S.1007

Status: Passed House and Senate. Signed by the governor.

This bill requires the Department of Transportation to maintain a detailed, searchable online transaction register of all funds expended each month. The register must include certain items such as the transaction amount, a detailed description of expenditures, and all reimbursements for expenses or other compensation paid to employees. Given the department’s largely incomprehensible funding scheme – and especially its recent massive shortfall – a greater level of transparency is a welcome accomplishment.

To be competitive, South Carolina should strive to have the lowest taxes, in every category, of any state in the nation. We don’t need a clever ten-point “plan” or a “comprehensive tax reform package.” What we need are lower taxes, period, so that South Carolinians can accomplish more of their own goals with their own money – expanding the overall economy in the process. Whether a bill on taxes would accomplish that goal is the sole criterion on which we based our judgment.

To see how your legislator voted on bills in Best & Worst of 2012, please visit scstatehouse.gov/votehistory.php
NARROWING SCOPE OF UNEMPLOYMENT BENEFITS  
S.1026

Status: Given first reading, expired in Senate Labor, Commerce, and Industry Committee.

This bill eliminates the availability of unemployment benefits for persons seeking only part-time work. Whether or not workers laid off from part-time jobs should be eligible for unemployment benefits is itself a debatable question. When lawmakers passed the law making part-time workers eligible, they did so in order to receive stimulus dollars – a terrible reason to pass any bill, particularly one with immediate financial obligations.

SMALL BUSINESS TAX RELIEF  
H.4996

Status: Passed House, expired in the Senate.

This bill would have lowered income tax rates on certain small businesses by a half of a percent for four years until the rate reached three percent in 2015. But while these tax cuts would be welcome, it’s unclear why the bill only applies to those businesses that write off their profits and losses on their personal income tax filings.

BONDS FOR PORTS  
S.1431

Status: Passed Senate, expired in Ways and Means Committee.

This bill would issue bonds totaling $138.5 million for the Charleston and Georgetown Ports dredging. South Carolina and Georgia are the only two governments in the nation that own and operate their own ports, and state government’s heavy involvement in our ports has produced more political controversy than profitability. Rather than continuing to put taxpayers on the hook for government-owned ports, the General Assembly should explore privatization options.

CAPITAL RESERVE FUND RESTRICTIONS  
S.1425

Status: Given first reading, expired in Senate Judiciary Committee.

This Constitutional Amendment proposal would strike “other nonrecurring purposes” from the types of appropriations the Capital Reserve fund may give. Eliminating this category would put stricter limits on what types of projects can be funded by limiting Capital Reserve Fund appropriations to one-time capital improvements, financing previous capital improvements, and paying off previously issued bond debt. While the main goal should be limiting the already vast amount of tax dollars that go to this fund, narrowing the scope of the fund is at least a step in the right direction.

FAUX SALES TAX REFORM  
H.4995

Status: Passed House, expired in Senate Finance Committee.

The proposal would end many, but not all, sales tax exemptions. Some of the most egregious special interest exemptions would remain in effect. The additional revenue collected as a result of ending the exemptions would go to reducing the overall sales tax rate. That’s a smart policy, in theory, but this bill would lower the sales tax rate by less than one percent – largely owing to the fact that so many exemptions were allowed to escape the axe.

ACTUAL SALES TAX REFORM  
H.4271

Status: Given first reading, expired in Ways and Means Committee.

Unlike H.4995, this bill would have deleted almost all sales tax exemptions and lowered the rate to 3.85 percent – leveling the field for all South Carolina businesses rather than simply lowering the burden for the favored few.
**Accountability for Local Public Funding**

Status: Given first reading, expired in the Senate Finance Committee.

This bill would require all local entities that receive state or local public funding, whether for-profit or non-profit, to submit periodic expenditure reports. These reports would include how much money was given, how much was spent, the purpose of the expenditures, and any other information required to promote transparency. Any organization receiving taxpayer funds should be accountable for how the money is spent.

**Faux Income Tax Relief**

Status: Passed House, given first reading in the Senate; expired in Finance Committee.

South Carolinians who make $14,000 or more are currently taxed at the state’s highest income tax rate: seven percent. This bill would have collapsed the state’s middle income tax brackets – four, five, and six percent – and created one rate of 3.75 percent, while maintaining the zero and seven percent bracket. The bill would have done nothing to address the high tax rate paid by most South Carolinians – making it little more than a rhetorical gesture in the name of “tax relief.”

**Funneling Money from Admission Tax**

Status: Given first reading, expired in Senate Education Committee.

This bill would funnel 15 percent of the revenue from the state admissions tax revenues to the South Carolina Arts Commission. Any time an agency relies on a particular tax for funding, there’s a good chance that tax will increase, either because the agency advocates increasing it for some reason, or in order to offset budget cuts during leaner years. This bill would add to the number of agencies reliant on appropriations from Other Funds (that is, fines and fees) and give more incentive for the legislature to increase the admissions tax later in the future.

**Funneling Money from Insurance Premium Tax**

Status: Passed House and Senate, vetoed by Governor, veto overridden by Senate and House.

Like S.1210, this bill funnels revenue from one tax, in this case the Insurance Premium Tax, to a state agency, in this case the Forestry Commission. Specifically, 2.25 percent of the revenue made through the Insurance Premium Tax, which would add up to about $15 million over four years, would go to the Commission for the purpose of firefighting and firefighting equipment replacement. Firefighting is a core function of government and should be treated as one by funding it with General Fund dollars, not portions of taxes that can rise and fall.
**Silly Bills**

**“Cities Mean Business Day”**  
*S.1207*

**Status: Passed by Senate and House.**

This bill declared Wednesday, February 15, 2012, as “Cities Mean Business Day” in order to praise the “valuable contributions South Carolina cities and towns make to our state’s economic prosperity through their relationship with local businesses.” The resolution’s statements range from the true but meaningless (“cities and towns are considered hometowns for their residents”) to the false (“cities and towns ... are economic engines of the State”). In any case, citizens expect that their elected leaders will not waste time on meaningless gestures.

**Favors for Specific Politicians**  
*S.1345*

**Status: Given first reading, expired in Senate Rules Committee.**

To quote the resolution verbatim is enough: “A Senate resolution to express the sense of the Senate that former President Pro Tempore of the Senate, Glenn McCon nell, should be allowed to retain his Senate seniority if he is reelected to the Senate.”

**Banning Novelty Lighters**  
*S.94*

**Status: Given first reading, expired in Senate Judiciary Committee.**

This bill would ban any “mechanical or electrical device typically used for lighting cigarettes, cigars, or pipes that is designed to appear to be a toy, feature a flashing light, or make musical sounds.” What’s next – toy guns? Sharp objects?

**The “20 Balloon Rule”**  
*H.3136*

**Status: Given first reading, expired in House Judiciary Committee.**

This law would impose a $250 fine on anyone who releases over 20 balloons outdoors over a period of one hour. Entities exempted from the law include, of course, government agencies or those contracted with the government – so long as it’s for “scientific or meteorological purposes.”

**Special Laws for the State House and Governor’s Mansion**  
*H.5099*

**Status: Given first reading, expired in House Judiciary Committee.**

This bill would make it illegal to partially or fully cover, or otherwise obscure from view, any state statue, monument, or building on State House or Governor’s Mansion grounds. Current laws on loitering and defacing public property are sufficient without creating new ones specifically for state politicians.
Join the fight for less government, lower taxes, free enterprise, and individual liberty and responsibility.

Visit scpolicycouncil.org to become a member of the Policy Council.

Or contact Whitney Evans at (803) 779-5022, ext 113.
ECONOMIC DEVELOPMENT

MORE TAXPAYER INCENTIVES TO BUSINESSES
S.1013

Status: Given first reading, expired in House Labor, Commerce, and Industry Committee.

This bill proposes that economic development funds used by the Department of Commerce to bring new businesses into the state be equally available to existing South Carolina businesses. Essentially, when Commerce makes a determination that a business is worthy of incentives because it would be beneficial to have a certain product or service provided in the state (this is a typical, if not universal, justification for incentives), then that money would have to be made available to businesses in South Carolina capable of expanding into that market. This bill might well cause the state to simply provide more incentives to state businesses while keeping up their current level of out-of-state business incentive spending, potentially doubling the total. The right way to support South Carolina businesses is to lower their corporate taxes and decrease the cost of compliance with state regulations, not dole out the same costly and inefficient incentive packages that we give to out-of-state companies.

SHINING LIGHT ON ECONOMIC INCENTIVES
H.4432

Status: Given first reading, expired in Ways and Means Committee.

Under this bill (similar in most respects to S.832), in order to be eligible for an incentive, any potential beneficiary would have to submit a publicly available and detailed application as well as annual reports to the Department of Revenue. The law would require any incentive to be introduced as a separate bill, subject to a public hearing, sunset after five years, and given as a forgivable loan (forgivable under the condition that the number of jobs promised are actually created). Beneficiaries who fail to deliver their job creation promises would be barred from further incentives. The bill would also require the Bureau of Economic Advisers and an independent economist to prepare a comprehensive cost-benefit analysis of any incentive, and require the Department of Revenue to publish an annual report outlining all economic development spending. The bill would bring sunlight to the notoriously secretive incentives process.

The term “economic development” sounds good. Who doesn’t want our economy to develop? Too often, though, it’s more about expanding government than expanding economic opportunity. Typically it has to do with state officials handing out “incentives” — tax favors, infrastructure improvements, and outright cash in the form of “grants.” In effect, government officials are deciding which companies deserve taxpayer aid and which don’t. But government officials have neither the right nor the wisdom to make those decisions, and any economic development plan that does so should be rejected outright.
“Angel Incentives”  
H.3779  

Status: Passed [House](#), expired in the Senate.

The “angel incentives bill,” as it was known, would give tax credits to high-risk investments (up to $100,000 per investor with a cap of $5 million per year). In effect, “angel” investors wouldn’t be taking nearly so big a risk, since the South Carolina taxpayer would repay a substantial portion of any loss.

Special Favors for Hybrid Vehicle Purchasers  
H.3059  

Status: Passed [House](#) and [Senate](#). Signed into law by the governor.

This bill extends an income tax credit worth up to $2,000 for owning or leasing a hybrid vehicle for five more years until 2017. We have no objection to anyone owning a hybrid vehicle. But why should the state reward purchasers with a hefty tax credit?

Last-Minute Corporate Welfare Deal  
H.3506  

Status: In its final form, this bill passed neither the House nor the Senate, though it was ratified and signed by the governor. (In its original, unrelated form, the bill passed both [House](#) and [Senate](#).)

In the last three hours of the 2012 legislative session – as The Nerve’s Rick Brundrett [revealed](#) a few days later – lawmakers gutted an unrelated bill and filled it with taxpayer-financed goodies for three multibillion-dollar tire manufacturers. It’s hard to say which is worse about the bill: the fact that lawmakers doled out tens of millions of dollars in tax credits to three specific companies, not in an effort to bring them to the state – they were already here – but simply as a favor, courtesy of the South Carolina taxpayer; or the fact that, unable to pass the incentives deal on its merits, lawmakers stripped an unrelated bill of its content (the original legislation had to do with job development credits for professional employer organizations) and ratified a bill that hadn’t been debated or even considered by the House or Senate.

Establishing “Economic Development” as Higher Education Criteria  
S.1397  

Status: Passed [Senate](#), given first reading in House; expired in Education and Public Works Committee.

This bill would create “Accountability-Based Funding” for Public Colleges and Universities. While three of the four performance indicators – Completion, Affordability and Access, and Educational Quality – are adequate categories on which to base funding, adding an Economic Development category pushes this bill into the “Worst” category. Not only does economic development have little, if anything, to do with the mission of public institutions of higher learning; state-driven economic development schemes haven’t contributed in any verifiable way to economic growth, even as they’ve expanded government involvement in the private sector by leaps and bounds.
**Education**

**School Choice in Name Only**

**H.4894**

**Status:** Passed the **House**, expired in the **Senate**.

This year's most hotly contested school choice bill would offer modest tax deductions rather than tax credits to families. The legislation therefore wouldn't come close to helping the people for whom school choice is primarily intended – lower-income citizens trapped in failing public schools – since only those with sufficient taxable income could take advantage of the deduction. The bill also provides credits for contributions to scholarship-granting organizations that help low-income families, but the credit is only designed to encourage charitable giving and, assuming it even does that much, won't translate into any direct or immediate help for parents struggling find a better educational option for their children. H.4894 was a kindly but largely meaningless gesture, and meaningless gestures can do a lot of harm when people mistake them for real change.

**Prohibiting Illegitimate School Bonds**

**S.1010**

**Status:** Given first reading, expired in the **Senate Education Committee**.

This bill would prohibit school districts from issuing general obligation bonds for operating expenses. Ideally, schools shouldn’t have to issue bonds: they should operate under a balanced budget without putting greater financial burdens on the taxpayers. In any case, however, bonds shouldn’t be used as a stopgap measure – a practice aptly likened to paying off a credit card with a credit card, only with taxpayer dollars. S.1010 would rightly prohibit the practice.

**Open Enrollment Pilot Program**

**S.1267**

**Status:** Passed the **Senate**, expired before reaching **House**.

This bill would establish a pilot program for open enrollment to students from outside their designated school zones. The idea is to provide a measure of competition among schools, and to allow taxpayers whose kids are zoned for failing schools to find a better public option. Unfortunately, the bill makes the program virtually meaningless by imposing so many restrictions on enrollment moves. Specifically, it limits the number of students who could make transfers to almost none. A receiving school, for instance, could begin turning away students the moment the school’s enrollment hit three percent more than its highest enrollment number in the previous ten years. And out-of-district students would be phased in at an annual rate of one percent of the school’s previous year’s average daily membership. A “pilot program” should actually do the things a full-fledged program would do, just for a limited time, not limit the things the program would do to the point of insignificance.

In business, sports, and many other areas, almost everyone agrees that competition improves the final product. Yet in K-12 education, South Carolina policymakers have been slow to allow any competition into the educational sphere. Instead, our state’s chief problem in education is said to be a lack of funding. But our per-pupil funding compares favorably with the rest of the nation. The problem isn’t a lack of funding; the problem is a lack of choice and the spirit of competition generated by choice.
Restructuring and Reform

Reshuffling Agencies

H.3066

Status: Passed House and Senate. Expired in conference.

This bill would have eliminated the Budget and Control Board, true enough. But the point of government restructuring is to restore a constitutional balance of power and to concentrate accountability, not merely to rearrange state agencies in the name of “streamlining government.” H.3066 might have done the latter, but it certainly wouldn’t have done the former. The bill would have continued to allow the General Assembly to avoid responsibility for bond debt (by putting bond authority in the hands of yet another board) and mid-year budget cuts (by put leaving it to an unelected official in the event lawmakers didn’t do the job themselves). Furthermore, H.3066 would have given the legislature broad “investigative” powers over the executive branch, allowing legislators to go on witch hunts; and it would have allowed the legislature to keep the lion’s share of power over procurement (the purchasing of goods and services by government) even though procurement is an executive function. Ultimately, the bill was more about reshuffling than restructuring.

Governor and Lt. Governor on the Same Ticket

H.3152

Status: Passed House and Senate. Signed by the governor.

This joint resolution proposes a constitutional change that would require the Governor and Lieutenant Governor to be elected together, rather than individually elected as they are currently. Originally, this change would have taken effect in 2014; however, a Senate amendment pushed the date back to 2018. Under the current system, the lieutenant governor’s only actual duty is to preside over the Senate: we hardly need a constitutional officer for that. The practical result is that lieutenant governors spend most of their time (in effect) campaigning for higher office and/or opposing the governor’s agenda while being accountable for nothing. Placing the governor and lieutenant governor on the same ticket would give the lieutenant real responsibilities – ceremonial duties, for example – and would strengthen the state’s weak executive branch.

Appointing the Superintendent of Education

H.3070

Status: Passed House, expired in the Senate.

One of the ways in which South Carolina’s government is crippled is that the governor, while being elected in significant measure because of his or her...
views on education, can do little about it inasmuch as the education superintendent is a constitutional officer and so is not accountable to the state’s chief executive. This bill would make the superintendent an appointed position, thus strengthening the state’s weak executive branch and clarifying lines of accountability on issues related to public education.

**Retirement System Reform**

**H.4967**

**Status:** Passed House and Senate. Signed by the governor.

The long-overdue reform to the state’s pensions system will now be even longer overdue. True, the bill does accomplish at least two modestly good things: it phases out the costly Teacher and Employee Retention Initiative (TERI), and it prevents new retirees from counting unused annual leave in determining retirement compensation. But it also increases taxpayer contributions, doesn’t make the system solvent for another 30 years (and that’s with rosy projections), and gives authority over the retirement system to a board, the vast majority of whose (paid) members are retirees themselves – i.e., beneficiaries – virtually guaranteeing that the bill’s solvency time-frame will be soon forgotten.

**Taking Fee Power Away from the Bureaucracy**

**S.1395**

**Status:** Passed Senate, given first reading in House; expired in House Labor, Commerce, and Industry Committee.

This bill would transfer the authority to set fees imposed by professional boards, an authority that currently resides with the Department of Labor, Licensing, and Regulation, to the General Assembly. South Carolina has some of the nation’s highest regulatory fees – a distinction partly owing to the fact that state lawmakers aren’t accountable for fees; unelected regulators are. S.1395 would have made politicians, not bureaucrats, accountable to the people for fee hikes.

**Shortening Legislative Sessions**

**S.1456**

**Status:** Given first reading, expired in Senate Judiciary Committee.

This bill would shrink the length of time the General Assembly is in session each year and change our current annual budget into a biennial budget. Session would end in the second week of March in even-numbered years and the second weekend of April in odd-numbered years. Budget appropriations would also be made in odd-numbered years and would be forecasted to fund two years of expenditures. South Carolina has one of the longest legislative sessions in the country. Longer sessions mean more time with lobbyists and more time to pursue frivolous or otherwise nonessential legislation. A biennial session, moreover, would encourage lawmakers to take the longer view on important budgetary decisions.

**More Legislative Power over Government-Run “Company”**

**S.1331**

**Status:** Passed House and Senate, signed by the governor.

This law, authored by the chairman of the Senate Finance Committee, puts the chairman of the Senate Finance Committee on both the board of trustees and executive committee of the South Carolina Research Authority, a state-owned and state-controlled technology and real estate company. It does the same for the House Ways and Means chairman. The stated reason for the change is to “find out what’s going on” at the notoriously murky state agency/company. But there are plenty of ways for the state’s most powerful lawmakers to “find out what’s going on” with state entities other than putting themselves on those entities’ boards. Given that the Research Authority’s (highly questionable) purpose is to support specific private companies with public resources, the law virtually guarantees more legislative conflicts of interest.
A legislature should never be designed to further the careers of legislators and insulate them from criticism, but that is effectively what’s happened over the years with the South Carolina General Assembly. Fortunately, this reality is now widely recognized and lawmakers have introduced several bills to reform the state’s ethics laws accordingly. Whether these bills went anywhere once they were introduced, however, is another matter.

**Campaign Gift Disclosure**

**H.4673**

**Status:** Given first reading, expired in House Judiciary Committee.

This bill proposes a series of reforms regarding campaign gifts and donations to public officials while those officials are in office. It requires that officeholders disclose gifts of air travel (or any other thing of value above $25/day) if the gift was given because of the office held, because the giver is seeking a state contract, or because the officeholder oversees business regulated by the state. This would also increase the length of time a public official must wait after leaving office before he or she can begin work as a lobbyist from one year to three years. The bill is a competent attempt to separate, insofar as possible, financial self-interest from public decision-making.

**Making Public Information Affordable and Open**

**H.3235**

**Status:** Passed House. After first reading, the bill received a favorable report from the Senate Judiciary Committee, but expired before coming to a vote.

Currently, when the public or media submits Freedom of Information requests, state agencies can charge prohibitive prices for supplying the information, and generally drag their feet in complying with the law. This bill would prohibit overcharging the public for information, and tighten the deadline by which agencies must reply. The bill would also have gotten rid of state legislators’ effective exemption from the state’s Freedom of Information law.

**General Assembly Ethics Accountability**

**S.1373**

**Status:** Given first reading, expired in Senate Judiciary Committee.

This bill would hold General Assembly members, staff, and candidates accountable to the State Ethics Commission for alleged ethics violations. Currently, members of the House and Senate are subject only to the ethics committees of their respective chambers – a form of self-policing guaranteed to foster corruption. Placing the authority over legislative ethics with an outside agency would be an historic victory for transparency.

**Ethics Violations Transparency**

**S.1428**

**Status:** Given first reading, expired in Senate Judiciary Committee.

This bill would require that investigations by legislative ethics committees be made public once the criterion of “probable cause” is met. Currently, the investigations can remain confidential until the committee finds the member guilty of a violation. In 2012, the House passed a resolution changing its own rules to match S.1428. The Senate hasn’t
yet followed suit. While a far better solution would be to abolish the self-policing system altogether and give an outside agency oversight on legislative ethics (see S.1373, immediately prior), this bill signifies a move in the right direction.

**Economic Disclosure Transparency**

**S.1353**

**Status:** Passed Senate, given first reading in the House; expired in Judiciary Committee.

This bill would require public officials to disclose their statements of economic interest every year they’re in office. These statements disclose their contributors and how much money each contributor has given. Currently, once a public official has given a statement of economic interest the first time, he or she does not have to give an updated statement once up for reelection. This bill would make it fair for challenger candidates since both the incumbent and the challenger would be required to disclose these statements in each election.

**Bringing Lawmaker Retirement Benefits to the Open**

**S.1310**

**Status:** Given first reading, expired in Senate Judiciary Committee.

This bill would shine light on specific public pension records per the Freedom of Information Act. Information that would now be available includes the exact benefit of each beneficiary of those receiving at least $50,000 annually, and less specific information on those receiving benefits less than this. *The Nerve* recently discovered that dozens of state retirees are making six figure pensions, and the Charleston Post & Courier revealed that an exemption from FOIA had been placed on retirement records in 2008. There’s little hope in bringing lasting reform to the retirement system if the public can’t even find out what the nature of its problems are.

**Session at a Glance**

- **1,092 Bills Introduced**
- **216 Bills Passed**
- **12 Vetoes Issued on Legislation**
- **3 Sustained**
- **8 Overridden**
- **No action taken on 1 vetoed bill**
Civil Liberties

**Adding More FOIA Exemptions**

**H.4740**

Status: Given first reading, expired in House Judiciary Committee.

This bill adds further criminal justice exemptions to the state's Freedom of Information law. Exemptions would apply to information that could be used in a law enforcement action, any information that would harm a victim or witness, and the correspondence and work product of prosecutors. While its wording sounds like it would protect victims and witnesses, this bill would actually protect law-enforcement officers from prosecution for wrongdoing (e.g., withholding police video of a wrongful arrest from the public). When wrongful or illegal acts have taken place by public employees, the taxpaying public deserves to know about it.

**Giving Government Additional Power to Take Land**

**H.4628 (see companion bill S.1117)**

Status: Given first reading, expired in House Judiciary Committee.

It’s hard to argue with a bill called the “Rehabilitation of Abandoned and Dilapidated Buildings Act,” but what this legislation would do is far more insidious than refurbishing eyesores. Rather, it would empower government to seize private property, give it to a court-appointed receiver to repair or demolish, then either bill the original owner for repairs or, if the owner were unable to pay, sell it. H.4628 would be an egregious violation of property rights.

**Prohibiting Protests at State House**

**S.1227**

Status: Passed Senate and House, signed by the governor.

Aimed at last spring’s Occupy protesters, this bill would “prohibit camping, sleeping, or use of the State House grounds and all buildings located on the grounds for living accommodations purposes.” It’s sadly typical of South Carolina’s state lawmakers that they could get a bill passed and signed with remarkable speed when it affects their convenience, even as they sit on vastly more important bills for months on end for no evident reason. In any case, it’s unclear why, if the Occupiers were as disruptive as the bill implies, the Bureau of Protective Services needed a new law to deal with the situation.

**The Four Loko Law**

**S.375**

Status: Given first reading, expired in Senate Judiciary Committee.

This bill would ban alcoholic energy drinks and caffeinated malt beverages. There is no evidence that consuming these admittedly unhealthy drinks is likely to cause harm to anyone other than the

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Economic freedom and personal freedom can’t be separated from each other: the more authority government takes over one, the more it will take over the other.
consumer. The bill would therefore put the state in the position of deciding which drinks are good for you and which aren’t – an unwelcome precedent.

**Opening the Door to Unfair Search and Seizure**

*S.268*

Status: Given first reading, expired in Senate Judiciary Committee.

This bill would give judges the power to issue search warrants based on the sworn oral testimony of a law enforcement officer communicated via telephone or electronic device. Under this law, police would simply have to record their testimony on a recording device and transfer the recording to a judge to get approval for a search warrant instead of having to get the warrant from the judge in person. Police have enough power to search via “probable cause” as it is without risking violations of the Fourth Amendment by allowing officers to get on-the-spot warrants to search private property in the absence, potentially, of any probable cause whatsoever.

**Prohibiting Warrantless Searches**

*H.4459*

Status: Given first reading, expired in House Judiciary Committee.

This bill would prohibit law enforcement officers from searching cell phones or other electronic communication devices pursuant to a lawful arrest without a search warrant or expressed written consent from the owner of the device. And rightly so: mobile phones are the *de facto* personal property of their users; communication on them should be protected by the Fourth Amendment.

**Authorizing “Clean Yard” Laws**

*S.235*

Status: Given first reading, expired in Senate Judiciary Committee.

This bill would authorize county governments to adopt ordinances requiring residents to keep their property “free of rubbish, debris, and other unhealthy and unsightly material or conditions that constitute a public nuisance.” Local governments have enough power over private property without encouraging them to exercise yet more. Citizens themselves are sufficiently capable of managing these matters through personal, informal channels without empowering the strong arm of the law.

**Giving Animal Control Officers Power of Arrest**

*H.3950*

Status: Given first reading, expired in House Judiciary Committee.

This bill would give Animal Control Officers the same powers and duties as Litter Control Officers. These officers would have the power to arrest pursuant to animal control ordinances and for any other laws broken that arise incidentally from the animal control violation. Regular law enforcement officers are already empowered to enforce the law. Creating new classes of law enforcement officers leads quickly to the creation of new powers and new laws. The precedent is a dangerous one.

**Expanding Campus Police Powers**

*S.457*

Status: Received second reading (on voice vote) in Senate; expired on Senate floor.

Extending the powers of campus police in order to give one Upstate college a greater ability to govern the off-campus behavior of its students is not a proper use of the law.

**Prohibiting Cell Phones While Driving**

*H.4451*

Status: Passed House, read second time in Senate.

This bill would outlaw using any handheld electronic device while driving for anyone under the age of 18, everyone driving in a school zone, and everyone driving in a highway work zone. First, what makes a 17 year old driving with a cell phone
any more dangerous than a 40 year old with a cell phone driving with 3 screaming kids in the back seat? Second, if this law is intended to prohibit people driving while distracted, then it would also have to prohibit driving with loud music, children that make noise, and thoughts about anything besides driving.

THE WAGES OF SPIN

Ever feel like politicians are playing word games with you? Ever feel like you’re being spun? We do too . . .

• In a press release announcing the House’s amendments to H.3066 (aka the Department of Administration bill), one legislative leader used the word “conservative” six times, “protecting taxpayers” three times, and “accountability” or “accountable” three times. This was about a bill that would have allowed lawmakers to avoid responsibility for bond debt and mid-year budget cuts, given them power to go on witch hunts in executive agencies, and allowed the legislature to keep most of the executive powers it already has.

• Lawmakers wanted to introduce a bill putting taxpayers on the hook for risky investments (H.3779). So what did they call the bill? “The Bill Wylie Entrepreneurship Act.” Who could oppose “entrepreneurship”? And who would be churlish enough to vote against a bill named after a deceased legislator?

• Similarly, when they wanted to introduce a bill allowing government to seize private property and force the owner to pay for improvements to it (H.4628), they called it “The Rehabilitation of Abandoned and Dilapidated Buildings Act.” Who would be in favor of “abandoned and dilapidated buildings,” and who would be so crude as to oppose their “rehabilitation”? 
To see how your legislator voted on bills in Best & Worst of 2012, please visit scstatehouse.gov/vote-history.php

Eliminating Certificate of Need Requirements
S.999

Status: Given first reading, expired in Senate Medical Affairs Committee.

A Certificate of Need, or CON, is designed to prevent the needless duplication of health care services by requiring government approval for the creation and expansion of health care facilities. As might be expected, CONs don’t work and they lead to higher costs and fewer choices. That’s one reason the federal government repealed CON requirements in 1987 and 14 states have done the same. In 2010, the General Assembly streamlined the CON process, but the costs associated with obtaining CONs are prohibitively high. By eliminating CONs altogether, S.999 would lower costs for hospitals and other medical facilities, and in turn lower costs and expand choices for health care consumers.

No Liquor Sales on Thanksgiving and Christmas
H.3385

Status: Passed House, read second time in Senate.

This law would prohibit the sale of liquor on Thanksgiving and Christmas. There’s no reason why lawmakers in Columbia should decide how local communities celebrate holidays. At the very least, these decisions should be left to localities.

Deleting Unnecessary Regulations
H.4575

Status: Given first reading, expired in House Judiciary Committee.

This bill would abolish a provision in the law requiring agencies to review regulations every five years. State agencies frequently ignore the requirement to review old regulations and delete unnecessary ones. So the bill proposes an elegant solution to the problem: If a regulation isn’t renewed after five years, it expires.

Many people bemoan the regulatory burdens borne by businesses, but few understand where these burdens actually come from. They come from the General Assembly. In 2012, we saw a few attempts to curtail unnecessary regulation and more than a few that would add to it.

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Handing over Regulatory Power to Washington

**S.606**

**Status:** Tabled (and expired) in the **Senate**.

This bill brings the regulation and labeling of food products in line with federal regulations. Ultimately this bill will abdicate some of the composition of state safety regulations to federal regulators who possess no detailed knowledge of local conditions.

Mandatory Recycling

**H.4258**

**Status:** Given second reading in **Senate**; recommitted to Senate Medical Affairs Committee.

This bill approves regulations issued by DHEC on the recycling of electronic devices. Standards for recycling, fees for manufacturers, and fines for noncompliance are all established by the bill. A Competitive Enterprise Institute study on mandatory electronic recycling programs found that regulations such as those mentioned above when implemented on a larger scale in Europe have been linked to significant economic and environmental costs. The environmental costs came primarily from increased greenhouse gas production due to the miles traveled to collect the electronic devices as well as the recycling process itself.

Ruling out Boxing Matches

**S.1366**

**Status:** Given first reading, expired in Senate Labor, Commerce, and Industry Committee.

This joint resolution announces that the state will not remove fees required for receiving a license to hold boxing matches or exhibitions. In effect, by this resolution the legislature would have turned down an opportunity to deregulate a small but not insignificant industry.

Codifying Needless, Prohibitive Regulations

**H.4928**

**Status:** Passed **House**; expired in Senate Labor, Commerce, and Industry Committee.

This bill codifies new regulations on the barber trade. New regulations approving fees necessary for barber licensure do nothing to help ensure properly trained barbers, but frivolous licensure regulations like these do make entry into the field more difficult and reduce competition.

Limiting Regulation of the Cosmetology Industry

**H.5140**

**Status:** Given first reading, expired in House Medical, Military, Public and Municipal Affairs Committee.

With this bill, the legislature would have refused to add further regulations to the already strenuous requirements for licensing as a cosmetology school or practitioner.
Health Care

Constitutional Response to Individual Mandate
H.4424

Status: Given first reading, expired in House Labor, Commerce, and Industry Committee.

An amendment to the state constitution, this joint resolution is proposed as a ballot item to be voted on in the next general election. Among other things, the resolution states that no individual can be compelled to purchase health insurance or health care services (a direct response to the individual mandate) and prohibits fining or punishing those who “pay directly” for health care services. There is no specific clause in the Affordable Care Act, or ACA, that prohibits direct payment for health care services, though it does mandate insurance. With ACA still in place, health care providers (doctors, hospitals) would in many cases be unlikely to accept “direct payment” from consumers for care, since this would open them up to a high level of medical liability and risk typically shouldered by insurance companies. Some cash payment practices have been successful, and the option should certainly be available for doctors and patients to freely contract for services, but such arrangements are unlikely to become a complete replacement for insurance. We’ve put this in the “best” category because it’s an attempt to think through the consequences of a massive, unsought federal intrusion, but doubt it can provide a workable solution. (See also two similar bills: H.4477 and S.1028.)

Medical Service Agreements
S.1028

Status: Given first reading, expired in Senate Banking and Insurance Committee.

This bill attempts to establish the legality of “medical service agreements.” Essentially, these would be subscriptions to health care providers (doctors, hospitals, community care services) that entitle the subscriber to a certain amount of health care services. The idea is to make an end run around insurance companies, allowing consumers to pay cash directly for services. As with H.4424, this bill is a genuine attempt to push back against an egregious federal intrusion, but it isn’t a particularly good replacement for insurance. Without further legislation (including tort and malpractice reform), it’s likely to cause a whole new set of regulatory issues.

Joining the Interstate Healthcare Compact
S.836

Status: Passed House and Senate; signed into law by governor.

This law would allow South Carolina to enter into a compact with other states (which would have to receive Congressional approval – highly unlikely) with the goal of taking regulatory control of health care away from the federal government and putting it entirely under the jurisdiction of the states. While a compact might be an acceptable way to keep federal regulators out of a state, it simply

What should the state do about the gargantuan federal mandate known as the Patient Protection and Affordable Care Act? State lawmakers tried to answer that question in 2012, with varying degrees of success.
replaces them with state regulators invested with exactly the same powers, which by itself won’t lead to a stronger or freer market for health care. If state lawmakers were truly serious about creating a free market for health care, they’d propose a piece of legislation that protects the rights and powers of their constituents instead of one that protects the rights and powers of state legislatures.

State Budget at a Glance

- **Total budget:** $23.6 billion – $1.3 billion
  (larger than last year’s budget)
- **74 vetoes issued,** worth roughly $57.1 million
  (less than one percent of the total budget)
- **43 vetoes overridden**
- **31 vetoes sustained,** totaling about $4 million
  (seven percent of all vetoes, less than one percent of the total budget)
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Research assistance provided by Braum Katz, Andrea Sepenzis, Nadia Hajji, and Steven Vanderlip.
Want a firm idea of where your legislators really stand? Ask them where they stood on any of these bills.

**H.3506 - Corporate Welfare Deal (Passed)**
This bill passed both House and Senate but got bogged down in conference. The original legislation had to do with professional employer organizations, but when it got bogged down in conference committee, lawmakers gutted its content and replaced it with tens of millions in tax credits for three tire manufacturers – corporate welfare at its ugliest.

**H.3066 - Reshuffling Agencies (Passed House and Senate, Failed in Conference)**
As amended at the end of the 2011 session, H.3066 would have abolished the Budget and Control Board, and it would have moved some executive functions from the legislature and placed them back where they belong. By the time both chambers had reworked it, however, the bill created several new agencies (including the Budget and Control Board in all but name) and merely rearranged others. Moreover, it empowered the legislature to create “investigative committees” to go on witch hunts in executive agencies. What started out as an attempt to create clear lines of accountability ended by enhancing the General Assembly’s dominance.

**H.4995 - Faux Tax Reform (Passed House, Died in Senate)**
The purpose of this sales tax reform bill was to cut exemptions and lower the rate (currently South Carolina has one of the highest sales tax rates in the nation – six percent). But the longer the bill stayed in the House, the more exemptions lawmakers decided to preserve. The result? By the time the bill passed the House, almost all the original exemptions were still in place, and the bill lowered the sales tax by a fraction of one cent.

**H.3779 - “Angel Investing” (Passed House, Died in Senate)**
This bill would give wealthy investors hefty tax credits for investing in high-risk startup companies – thus taking a substantial portion of the risk from “angel investors” and placing it on taxpayers.

**H.4628 - Government Takings (Died in House)**
H.4628 would empower government to seize private property, give it to someone else to repair or demolish, then either bill the original owner for repairs or, if the owner were unable to pay, sell it.