

**THE S.C. GENERAL
ASSEMBLY**

BEST

**WORST
OF 2011**



INTRODUCTION

With the official end of the 2011 legislative session, we're releasing the third installment in our annual series chronicling the best and worst legislation of the year.

The South Carolina General Assembly takes up a bewildering array of bills every year, and it's

beyond the capacity of even informed citizens to keep up with them all. With that in mind, the Policy Council provides here a review of significant bills and resolutions for the 2011 session. Our list isn't exhaustive – and, for the sake of readability, is briefer than in past years – but it does cover major legislation on spending, taxation, economic development, education, health care, and government reform and restructuring.

The sole criterion used to determine whether a bill is among the year's best or worst can be summed up by this question: Does it make South Carolina more free or less free? If a bill seeks to expand freedom, limit governmental power, encourage the wise and efficient use of taxpayer dollars, or lift burdens from businesses and consumers, we consider it good policy.

On the other hand, if a bill seeks to expand government meddling, encourage unwise or unnecessary government spending, inhibit consumer choice, or saddle businesses with arbitrary and unfair regulations, we think it's bad policy.

We do not believe freedom is something government provides. We believe government's role is to protect freedom – or, to borrow from the Declaration of Independence, to “secure” it. And the most important way government can secure freedom is by limiting *itself*. That principle underlies everything written in this guide.

As many of the bills featured in this guide will make clear, 2011 wasn't a great year for the advancement of freedom in South Carolina. Economic conditions were poor to start with: growth was minimal, joblessness stayed high, and income levels remained abysmal compared to the rest of the country. And yet, even under these circumstances, legislators decided to increase the budget by almost a billion dollars over last year. New programs and agencies were created and obsolete ones given new life. No serious attempt was made to limit future spending, a modest school choice bill was rejected, and legislators persisted in the corrosive practice of doling out special favors to well-connected companies and special interests. Moreover, when lawmakers realized there would be a budget surplus, they refused to return it to taxpayers – spending every penny instead.

Still, the news wasn't all bad. The General Assembly passed a law requiring a recorded vote on

STATUS OF BILLS

2011 was the first year of the two-year 119th session of the General Assembly. While reading this publication one will see that some bills are still pending – either in a committee or in one chamber of the General Assembly. These bills can be (and are likely to be) taken up when the General Assembly returns in January for the second year of this session.

every bill and resolution that would have the force of law, initiated a serious discussion on eliminating the Budget and Control Board, and passed an important law requiring agencies accepting federal money to disclose exactly what “strings” are attached.

We hope every South Carolinian who cares about the principles of limited government, free enterprise, and individual liberty and responsibility will find this year’s *Best and Worst* guide instructive and useful.

BUDGET RECAP

The appropriated total budget grew by almost \$1 billion, going from \$21.1 billion in 2011 to \$21.9 billion for 2012.

Every part of this year’s appropriated budget increased from last year’s – the General Fund grew by \$339 million, fines and fees were up by \$246 million, and federal funds rose by \$168 million.

Budget vetoes had significantly less of an impact on spending in 2011 as compared to 2010. Last year, Gov. Sanford issued 107 budget vetoes, for a total of \$314 million. Legislators sustained 51 of those vetoes for a total of \$261 million in savings. In 2011, Gov. Haley issued 35 budget vetoes totaling \$150 million. Legislators sustained 8 of those vetoes for a total of \$507,969.

SPENDING AND TAXATION

[WORST] PRETENDING TO CAP SPENDING

H 3368: Passed House; referred to Senate Finance Committee

South Carolina desperately needs an effective, comprehensive spending cap. This one is neither. Like S 207 (see immediately below), it would cap yearly General Fund appropriations to either 6 percent per year, or population growth plus inflation growth, whichever is lower. Unlike S 207, though, government would get to keep excess revenue, depositing it in a “Spending Limit Reserve Fund.” In short, excess revenue would eventually get spent anyway. Finally, an effective cap should be comprehensive and so include Other Funds and Federal Fund spending.

[BEST] CAPPING SPENDING BY REFUNDING SURPLUS REVENUE

S 207: Referred to Senate Finance Committee

This bill would limit yearly General Fund appropriations to either 6 percent per year, or population growth plus inflation growth – whichever is lower. While that formula may not be ideal (since inflation could skyrocket and make the cap virtually meaningless), and while it doesn’t include Federal Funds and Other Funds, the bill’s great virtue is that it refunds excess revenue. It creates an Income Tax Rebate Fund that would be used to: 1) replenish the General Reserve Fund; 2) offset the cost

of natural disasters; and 3) provide tax rebates to those with individual and corporate income tax liability. As we have [written elsewhere](#), an automatic tax rebate mechanism is the only thing that can make a spending cap a true cap.

[BEST] INCREASING ECONOMIC TRANSPARENCY

S 832: Referred to Senate Finance Committee

This bill would provide protection to taxpayers asked to subsidize economic development deals extended by the state to private companies. All incentives would be structured as forgivable loans subject to repayment should job and investment targets not be met. Public notice and hearings, as well as objective fiscal analysis, would be required before the Legislature could take up incentives agreements. Similarly, all such agreements would be subject to a standalone vote by the General Assembly and would automatically expire after five years. (See also S 206.)

[BEST] TRACKING FEDERAL AND FEE/FINE SPENDING

S 312: Signed into law by governor

Revenue from Federal Funds and fees/fines (Other Funds) accounted for 77 percent of the total \$22 billion state budget for FY2011-12. Federal funding alone exceeded \$8.6 billion. These enormous portions of the state budget are growing at alarming rates, and there are very few ways to check that growth. This bill, now a law, addresses

that problem. This law requires all state agencies to specify the sources of all state funds (both General Fund and Other Funds) used to meet federal match requirements. In turn, all agencies seeking federal funding must submit to the governor a report explaining what “strings” are attached to the funding and what state matching funds are required. In addition, the state budget authorizes via proviso (70.27) the creation of an Other Funds Oversight Committee (cf. S 419) to review and examine the source of Other Funds. The budget also requires agencies to submit an annual fee and fine report – although enforcement of this proviso has been weak. (See also S 740.)

[BEST] PROHIBITING FEE/FINE INCREASES

H 3051: Passed House; referred to Senate Finance Committee

One reason government spending rises every year is because state agencies can administratively create and increase fines and fees. This bill would prohibit that practice, requiring instead that the General Assembly introduce fee/fine increases as a joint resolution subject to a recorded roll call vote. (See also S 14, S 205.)

[WORST] USING LONG-TERM DEBT TO COVER GENERAL OPERATING EXPENSES

S 785: Vetoed by the governor, veto sustained
S 877: Vetoed by the governor, veto still pending
S 884: Passed in the Senate, still pending in the House
H 4149: Vetoed by the governor, veto overridden
H 4049: Passed in the House, still pending in the Senate

These bills allow school districts to use bond debt to cover annual operating deficits. Using general obligation bonds to support day-to-day operations is a notoriously unwise budgetary practice – the equivalent of remortgaging a home to keep up with daily living expenses. The likely result will be an eventual property tax increase.

As reported by SCPC’s online investigative news journal, [The Nerve](#), the governor vetoed S 785 (Florence County district 4); S 877 (Hampton County district 2); and H 4149 (Colleton County district 4). The Florence County veto was sustained and is not law; the other two vetoes will be taken up next session.

Two other measures, S 884 (Jasper County) and H 4094 (Charleston County), have passed in one chamber, but not the other. Passage for both proposals is virtually assured, owing to a quirk in the law that allows local delegations to pass local legislation without a full vote from the General Assembly.

[BEST] PROMOTING ONLINE SPENDING TRANSPARENCY

H 3067: Referred to House Ways & Means Committee

This bill would promote transparency by requiring all state agencies and local government entities to maintain searchable transaction registers on the Internet. In addition, it would require each local government entity to post the number of full-time employees and employees’ annual compensations for those earning more than \$50,000. (See also proviso 86.13.)

[WORST] BAILOUT MASQUERADING AS A “TAX CUT”

H 3762: Signed into law by governor

This law is a second pass at adjusting the formula used to determine employer contributions to the state’s Unemployment Trust Fund. [Readers will recall](#) that years of mismanagement by the S.C. Employment Security Commission left taxpayers holding the bag for a \$2 billion-plus bailout of the fund. At the heart of the issue is whether frequent users of the unemployment insurance system (that is, employers with frequent layoffs) should pay more – precisely because they are drawing more from public money than they contribute. These frequent users, however, represent some of the larger employers in the state and have complained loudly and frequently about being forced to pay at higher

rates. A compromise was reached by allocating \$146 million in windfall revenue (proviso 90.18) to help pay down the state's obligations. In short, money that could have been used to lower taxes for everyone was used to lower rates for a select few businesses. Adding insult to injury, the law requires that premium rates will be recalculated, retroactive to January 1, 2011. Employers who paid at the higher rate will then be credited for these "overpayments." H 3762 also reduced the state's maximum benefit period from 26 weeks to 20 weeks. In addition, the law limits benefits for seasonal workers. As of July 2011, South Carolina still owed [just under \\$1 billion](#) to the federal government for covering previous unemployment insurance shortfalls. The interest payments alone for repayment of this debt have run into the millions.

[BEST] INCREASING BUDGET TRANSPARENCY

S 327: Passed Senate and is part of Senate rules

This resolution amends the Senate rules to require bills that appropriate money or raise revenue, including bond bills, to be made public on the General Assembly's website for at least 72 hours before being considered by the Senate. The House does not have a similar rule. (See also S 208.)

[BEST] BUDGET NARRATIVES

H 3886: Referred to House Ways & Means Committee

The way the budget is currently written makes it difficult to track funding for specific programs. This bill would require the governor's budget and the House and Senate budget reports to include narrative descriptions of agency programs. These narratives would include the "mission, goals, statutory and regulatory basis of each program, and a brief history of the agency's administration of the program," as well as identifying the specific source of funds for the program. South Carolina is one of only seven states that do not include program descriptions in their budgets. (See also H 3887.)

The governor issued 11 vetoes

4 vetoes were sustained

3 vetoes were overridden

3 vetoes will be taken up next session

1 bill became law without the governor's signature

- The one bill on which the governor took no action extended special tax breaks to Amazon.com — it became law without her signature.

- The governor's veto of the I-95 Corridor Authority Act, a bill that would create a new agency to "create jobs" in counties along Interstate 95, was overridden by the Senate. The House decided not to take action on the veto until January 2012.

- Another bill vetoed by the governor would have given approximately \$1 million in retroactive tax breaks to a nonprofit organization that had already located to South Carolina. The bill was vetoed by the governor, and the veto sustained. As reported by *The Nerve*, the company still got its tax exemptions.

- The governor also vetoed three bills that would have allowed local school districts to use general obligation bonds to cover operating expenses. One of these vetoes was sustained; the other two will be taken up in 2012.

[WORST] INCREASING GAS TAXES

S 279: Referred to Senate Finance Committee

With oil prices near record highs, this bill proposes creating a “local option motor fuel user fee.” In plain language that means counties will be able to raise the gas tax by one cent per gallon. The money is to be used to pay for road improvement projects. First, this is a tax increase, pure and simple – not a user fee. Second, if counties need more money for roads, a sounder option would be to use their growing [economic development budgets](#) rather raising taxes. They might also consider cutting staffing costs – in the midst of the Great Recession, [local government hiring](#) in South Carolina increased by more than 8 percent.

[WORST] RAISING LOCAL SALES TAXES

S 584: Signed into law by governor

This bill extends tax increases on Lexington County residents by renewing a one cent sales and use tax for an additional seven years. Meanwhile, the county is sitting on an undesignated, unreserved balance of more than [\\$21 million](#) (20 percent of their yearly expenditures). It’s also worth mentioning that Lexington has one of the highest [per capita spending rates](#) in the state and one of the highest [tax burdens](#). (See also S 952 and H 4275.)

[BEST] CUTTING MANUFACTURING PROPERTY TAXES

S 347: Referred to Senate Finance Committee

South Carolina has the highest effective manufacturing property tax rate (3.73 percent) in the nation – more than double the national average. Instead of cutting it, the Legislature uses this high rate as an excuse to dole out economic incentives. This bill would cut the tax from 10.5 percent to 6 percent. For the sake of comparison, Virginia’s effective rate is 0.48 percent (tied with Delaware for lowest in the country); North Carolina’s is 0.98 percent; and Georgia’s is 1.52 percent.

[BEST] ELIMINATING THE CORPORATE INCOME TAX

S 155: Referred to Senate Finance Committee

This bill would reduce the corporate income tax every year until 2020, when the tax would be reduced to zero. The bill would also repeal many targeted tax credits, including the research and development credit. One problem: taking eight years to fully eliminate this tax is too long, especially given that corporate income tax revenue represents only a small portion (just over 2 percent) of General Fund revenue. Whatever the bill’s problems, however, it’s a refreshing departure from the usual policy of simply subsidizing government-favored industries and handing out tax credits to political allies. (See also S 142, S 274.)

[BEST] ELIMINATING CAPITAL GAINS TAXES

S 140: Referred to Senate Finance Committee

Like S 155, this bill would have an immediate positive impact on South Carolina’s uncompetitive tax environment. It would gradually reduce the state capital gains tax. This tax cut would boost investment and reduce taxes on the sale of homes and other property. It is also especially timely, given that the federal Affordable Care Act is [increasing capital gains taxes](#) by 3.8 percent.

[WORST] ALTERNATIVE ENERGY MANDATES

S 719: Referred to Senate Judiciary Committee

As in past years, legislators attempted to mandate that utility companies adopt a renewable energy portfolio requiring certain levels of electricity be generated from alternative energy sources like windmills and solar panels. This bill would require that 20 percent of annual retail sales by electric power suppliers be produced by renewable energy resources. Not only is the bill a clumsy attempt at controlling the energy market; it represents government overreach at its worst. The legislation

aims to do everything from stabilize energy prices to create jobs to protect public health. One thing it will surely do: raise utility rates for South Carolina consumers.

[BEST] HIGHER-ED TRANSPARENCY

*S 172: Ratified by General Assembly;
signed by the governor*

This bill would require higher-ed institutions to create an online transaction register, updated monthly. On the whole, it's a step in the right direction. Even so, some of the new law's specifics are problematic. The legislation creates a working group charged with creating "a methodology to establish a uniform compensation and classification plan among the public institutions of higher learning and technical colleges." But, just as with the K-12 system, a uniform system of compensation is unlikely to be the most efficient or economical for separate universities, each with different hiring needs. Moreover, a uniform compensation plan may fail to reward high-performing employees. And this bill lifts some current restrictions on Joint Bond Review/Budget and Control Board approval of capital improvement projects. [Proponents of the change](#) argue it will streamline the spending/debt approval process, saving money in the long-run. On the other hand, the Legislature needs to exercise more [oversight over the issuance of debt](#) for new construction and other projects, especially as regards higher-ed buildings that are [not being fully utilized](#). (See also S 311.)

LOCAL GOVERNMENT OVERVIEW

Local governments receive huge amounts of money from the state – nearly \$270 million in the most recently passed budget. Proviso 86.13 of this year's appropriations bill would the allocation of these funds far more transparent by requiring local governments to report in their budgets where state money is actually going. Local governments would also be required to report spending projects and donations to non-profits as budget line items.

These reforms would allow citizens to scrutinize the spending priorities of their local governments, and would put pressure on those governments to disclose their relationships with non-profits and other organizations. The new proviso, along with online transaction registers (see H 3067), will go some way toward making local governments more responsive to taxpayers' concerns.

ECONOMIC DEVELOPMENT

[BEST] TORT REFORM

H 3375: Signed into law by governor

The only kind of government-generated economic development that's effective in the long run involves government removing impediments to economic activity – and doing so for all competitors, not for the well-connected few. This year's tort reform bill, now a law, takes a step in that direction. The law establishes a two-part trial process before the same jury for determining awards for punitive damages. In practice, this requires juries to decide separately on whether a plaintiff is due restitution and whether he is due punitive damages. In addition, the law caps punitive damages (at roughly \$500,000) except in cases of extraordinary negligence. Bifurcated trials and commonsense damage caps are one way to help reform South Carolina's litigious business climate, which is the 12th worst in the nation according to a U.S. Chamber of Commerce survey.

[WORST] FUNNELING ECONOMIC DEVELOPMENT DOLLARS TO NONPROFITS

H 3191: Recommitted to House Committee on Labor, Commerce & Industry

This bill would expand the power of the Jobs-Economic Development Authority (JEDA), allowing it to fund, not just businesses, but nonprofits; and not just programs aimed at creating jobs, but

activities that “provide other significant public benefits.” The proposal would also allow JEDA to issue bonds, “without limitation,” to finance the acquisition of tangible or intangible assets – that is, virtually anything. Essentially, the legislation would allow JEDA funds for supporting nonprofits that don't create jobs but provide vaguely defined “public benefits.” In short, the bill would make an unaccountable agency even more unaccountable.

[WORST] HANDING OUT TARGETED TAX BREAKS TO RETAILERS

S 36: Passed by General Assembly; became law without governor's signature

As originally passed by the Senate, this law exempted durable medical equipment purchased with Medicaid/Medicare funds from the state sales tax. How it became a vehicle for a five-year tax break for Amazon.com requires some explanation. Apparently, it all began with a “promise” from the Department of Commerce that the state would exempt Amazon from having to collect sales taxes on purchases made by South Carolina residents. After grassroots pressure killed the deal, Amazon threatened to pull the plug on its planned Lexington County distribution center. A pledge to increase job creation and capital investment numbers to 2,000 and \$125 million, respectively, swayed legislators to reconsider. At that point, the House amended S 36 so as to stipulate that Amazon's distribution facility would not have nexus in South Carolina for the purpose of collecting sales

and use taxes. The exemption will remain in effect until January 2016. Even apart from the sales tax collection exemption, Amazon was already slated to receive millions in targeted incentives. The total cost of the deal, not including lost sales tax revenue and lost local property taxes, is estimated at [\\$61 million for taxpayers](#) over 10 years.

[WORST] SUBSIDIZING HIGH-RISK STARTUPS

H 3779: Passed House; referred to Senate Finance Committee

This bill is intended to encourage “angel investing” – early investing in unproven and risky start-ups. *The Nerve* [reported](#) on this troubling idea in July. The bill would give angel investors a 35 percent income tax credit (capped at \$100,000 per investment). The total cost to taxpayers would be \$5 million per year (the cumulative, annual cap on all credits). In effect, this bill forces taxpayers to subsidize risky investments – investments the free market might not otherwise tolerate ... such as [hydrogen-powered cars](#). The bill contains no protections for taxpayers should these investments fail. Ordinary taxpayers won’t reap any of the profits either.

[BEST] REDUCING SALES TAXES AND ELIMINATING EXEMPTIONS

H 4271: Referred to House Way & Means Committee

This bill would eliminate dozens of state sales tax exemptions, ranging from exemptions on newspapers to exemptions on wrapping paper. Exemptions on groceries, prescription medicine, durable medical equipment, and utility bills would remain in place. In return, H 4271 would reduce the general sales tax rate from 6 percent to 3.85 percent and the state accommodations tax from 7.0 percent to 4.5 percent. Based on previous analysis of a similar plan promoted by the [Taxation Realignment Commission](#), the bill would likely result in increased tax revenue, suggesting the sales tax rate could be reduced by even more. As it stands, the state’s byzantine tax code empowers legislators to pick

winners (those industries with political influence) and losers (those without), harming consumers and ordinary taxpayers in the process. (See also S 274, S 708, S 709, S 715, S 716.)

[WORST] CREATING NEW ECONOMIC DEVELOPMENT AGENCIES

S 211: Passed General Assembly; vetoed by governor; veto under consideration by House

This legislation establishes a state agency to “carry out economic development and educational improvement activities” aimed at improving the economy of any county within 30 miles of I-95. These activities are to be pursued in light of recommendations from the December 2009, I-95 Corridor [Human Needs Assessment](#). The authority would receive state funding, though the legislation does not specify how much. The authority would also be controlled by a 19-member board, with the majority of board members appointed by the Legislature.

[WORST] CREATING REDUNDANT ECONOMIC DEVELOPMENT AUTHORITIES

H 3633: Referred to House Agriculture, Natural Resources & Environmental Affairs Committee

This bill would create a semiautonomous government agency under the Agriculture Department known as the Agribusiness Economic Development Authority. Its function would be to offer taxpayer funded incentives to new agriculture-related businesses in South Carolina. The authority would be permitted (among other things) to enter into contracts with federal or state agencies or private companies; extend, sell, or purchase agricultural loans; and borrow money and issue bonds. How this new authority would be distinct from the Rural Infrastructure Authority, an agency created last year but not yet funded, remains unclear.

[WORST] HANDING OUT PROPERTY DEALS

H 3688: Narrowly failed on third reading in the House

The good news is that the state apparently wants to unload its old property. The bad news is that this bill would give tax credits to developers that rehabilitate “abandoned” government (state and local) properties. “Rehabilitation” includes the cost of virtually everything but the expense of acquiring the property, including the construction of new buildings. “Abandoned” means closed for at least one year, meaning virtually any property could be made eligible for this credit.

[WORST] PICKING WINNERS & LOSERS INSTEAD OF CUTTING TAXES

H 3720: Passed House; referred to Senate Finance Committee

This bill would give a 10-year corporate income tax break to any company seeking to move or expand its national corporate headquarters in South Carolina. [As reported by The Nerve](#), the bill seems to have been written on behalf of two Greenville companies. A similar credit – which cost [\\$9 million](#) in FY2009 alone – is already offered by the state.

[WORST] RETROACTIVE TAX “INCENTIVES”

S 533: Passed by General Assembly; vetoed by governor; veto sustained

This bill would have granted sales tax exemptions worth approximately \$1 million on machinery, building materials, and electricity purchased by nonprofits researching the impact of natural hazards on buildings. In order to qualify, the nonprofit would have had to invest \$20 million over the course of three years, including past investments. Only one nonprofit actually qualified – the Institute for Business and Home Safety in Chester County. The bill passed, was vetoed and then the veto sustained ... because the General Assembly

had already passed this same incentive package (Act 280 of 2010) for the same nonprofit last year. A Department of Revenue (DOR) interpretation of Act 280, however, had concluded the institute was not eligible for the incentives. When DOR reversed course, the new law was no longer needed. The story is too bizarre to be told in full here, but reporter Eric Ward at *The Nerve* has [covered](#) it in detail. (See also H 3695.)

[WORST] SUBSIDIZING HOLLYWOOD PRODUCERS

S 49: Referred to Senate Finance Committee

This bill would have increased payroll tax breaks from 15 percent to 20 percent and doubled rebates (from 15 percent to 30 percent of expenses) on in-state purchases made by film production companies. In lieu of the bill, however, the General Assembly again passed a budget proviso (39.13) increasing film incentives by the same amounts. The Senate had stripped the proviso out of its budget, but it was added back once the budget went to conference committee. The Policy Council has written about how ineffective film incentives are at creating jobs. In fact, they typically do the opposite – for each tax dollar given in rebates, the government loses \$0.81 in revenue.

EDUCATION

[BEST] CREATING EDUCATION TAX CREDITS FOR AT-RISK CHILDREN

H 3407: Failed by one vote in the House

This bill would have provided education scholarships and credits to low-income families who want to send their children to qualified private schools; created new tax credits for charitable donations to school scholarship funds; and provided tax relief to parents homeschooling their children. Included in the bill are provisions requiring independent assessments of the following benchmarks: the fiscal impact of implementing a scholarship program; the academic achievement of the enrolled students; and student and parental satisfaction levels. All in all, the bill would have expanded educational opportunities, enabled charitable giving, and compelled the state to consider whether government-run schools are the most cost-efficient and academically successful way of educating our children.

[BEST] GIVING SCHOOL DISTRICTS MORE DISCRETION IN PAYING TEACHERS

H 3716: Passed House; referred to Senate Finance Committee

Among other things, this bill seeks to amend the “index of taxpaying ability,” the complicated mechanism of allocating state funds to local school districts. An alternative explored in our report *Unleashing Capitalism* would involve eliminating

the index altogether in favor of [weighted student funding](#). Currently, South Carolina allocates only a portion of its education dollars on a weighted basis; this bill refines and updates the categories. The bill also gives local districts more authority in determining teacher compensation. Instead of requiring districts to automatically increase teacher pay on an annual basis, H 3716 would leave this decision up to the districts. The bill also establishes a committee to develop an incentive pay structure. Again, though, it seems individual districts are better equipped to look at this issue on their own. Moreover, the committee only includes teacher representatives. Other stakeholders, such as taxpayers and parents, should also be represented.

[BEST] EXPANDING WEIGHTED STUDENT FUNDING

S 433: Reported favorably out of Senate Education Committee; referred to Senate Finance Committee

This bill would add, refine or expand several important categories of weighted student funding: funding for gifted and talented students; impoverished students; students with limited English proficiency; students enrolled in virtual charter schools; and students enrolled in brick-and-mortar charter schools. As we [discuss](#) in our report *Unleashing Capitalism*, weighted student funding would enable schools to provide educational offerings tailored to specific student needs. Unfortunately, this bill doesn’t go far enough, maintaining the state’s “index of taxpaying ability” rather than

sending funding directly to schools. The bill would also give school districts the option of implementing an incentive compensation system regulated by the Board of Education.

SESSION OVERVIEW

The first year of the 119th session of the South Carolina General Assembly began January 11, 2011. The House took two one-week furloughs, while the Senate opted not to take any furlough days. Per the Sine Die resolution, which establishes the date by which the General Assembly must conclude its business, both chambers adjourned on June 2nd for a brief recess. They returned June 14th through June 29th for the Senate to complete work on the budget, and so both chambers could take up legislation dealing with reapportionment and congressional redistricting. Both chambers subsequently returned for a single legislative day on July 26th to finalize details on the congressional redistricting plan. The South Carolina General Assembly officially adjourned on July 26th and will return on January 10, 2012, for the second year of the 119th session.

- 1,534 bills and joint resolutions introduced
- 100 passed
- 3 vetoes overridden by both chambers

“Green” Tax Credits Not So Popular

As in recent years, legislators continued to push for targeted tax credits for environmentally friendly causes. One of these, H 3059, passed the House and would extend the current \$2,000 income tax credit on plug-in hybrid vehicles for five more years. Only 10 taxpayers took advantage of the credit in FY2008-2009. Other green targeted tax credits include:

S 32: Income and sales tax credits on the purchase of solar and/or renewable energy equipment.

S 190: An extension of income tax credits related to the production of ethanol and soy-based biodiesel.

H 3218: Sales tax exemptions on solar panels.

HEALTH CARE

[WORST] DESTROYING THE FREE MARKET FOR HEALTH INSURANCE

H 3738: Referred to House Ways & Means Committee

This bill would establish a state-based health exchange in South Carolina that gives state and federal bureaucrats vast new powers over health care insurance. The exchanges are widely regarded as the [linchpin of the federal Affordable Care Act](#) (popularly known as “Obamacare”). This bill stalled in committee, but look for health exchange legislation to gain momentum in 2012 once Gov. Haley’s planning committee issues its report in October 2011.

[BEST] EXPANDING HEALTH CARE CHOICE

S 185: Referred to Senate Banking & Insurance Committee

This bill would allow the sale of out-of-state insurance plans that offer different coverage mandates from those required by South Carolina law. (Georgia has already passed such a reform.) South Carolina health insurance plans currently have 29 mandates, which raise the price of insurance by an estimated 30 percent. Other states – Idaho (13); Alabama (19); Hawaii (23) – have fewer mandates. This law would allow consumers more choice in selecting the level of mandated coverage they are comfortable with. An even better option is

to eliminate mandates altogether, allowing insurers to custom-tailor plans suited to consumer needs.

[WORST] INCREASING STATE HEALTH INSURANCE COSTS

S 586: Vetoed by governor; veto overridden by both chambers

This law expands coverage offered by the State Health Plan to yet more groups. The plan already covers teachers and other full-time state employees, in addition to county/municipal employees and a host of other groups, including employees of special purpose districts. Now legislators have added two more categories: municipal sanitation service workers and employees of joint municipal power agencies. In light of the massive amount of unfunded retiree medical liabilities – [about \\$9 billion](#) – the state is already carrying, it’s an especially bad idea to add more participants to the State Health Plan. (See also S 524.)

GOVERNMENT REFORM AND RESTRUCTURING

[BEST] RECORDING EVERY VOTE

H 3004: Signed into law by governor

This law requires every bill and joint resolution passed by the Legislature to receive a recorded vote. In the past, large numbers of bills passed or failed on anonymous “voice votes,” with the result that individual legislators couldn’t be held accountable for many of their decisions. This law allows voice votes only on third reading when the bill under discussion has not been amended (the bill would have already received a recorded vote on second reading). In short: all legislation passed by the South Carolina General Assembly will have a recorded vote associated with it.

[BEST] RESTRUCTURING THE EXECUTIVE BRANCH

H 3066: Passed House; amended on second reading in Senate

Originally this bill would have created a Department of Administration, created three new sub-agencies to take over some of the Budget and Control Board functions, and yet kept the Board intact – thus duplicating government rather than consolidating and limiting it. But the Senate radically amended the legislation to include a measure abolishing the Board altogether. Details aside, eliminating the Budget and Control Board is a significant step in the right direction. But much remains to be done. As our [report](#) on the subject showed in more detail, abolishing the Board should also mean requiring the governor to write a

robust executive budget, forcing the Legislature to take responsibility for making targeted budget cuts and authorizing bond debt, and requiring more transparency and better fiscal impact analysis from the Office of State Budget. (See also S 10.)

[WORST] PASSING BAD PROVISOS INTO PERMANENT LAW

S 418: Referred to Senate Finance Committee

This bill has already received a favorable committee report, in spite of the fact that it doesn’t yet have any content – literally. Expect legislators to stuff it full of pet projects and pork before it hits the floor in 2012 – and all those bad provisos we report on every year will simply disappear into the permanent code.

[BEST] PUTTING THE GOVERNOR AND LIEUTENANT GOVERNOR ON THE SAME TICKET

H 3152: Passed House; favorable majority report from Senate Judiciary subcommittee

Several restructuring bills introduced this year would strengthen the Executive Branch – a much-needed reform in a state dominated by the Legislature. This joint resolution would initiate the process of amending the state constitution so as to provide for the joint election of the governor and the lieutenant governor.

[BEST] GOVERNOR APPOINTS SUPERINTENDENT OF EDUCATION

H 3070: Passed House; favorable majority report from Senate Judiciary subcommittee

This joint resolution would initiate the process of amending the state constitution so as to authorize the governor to appoint the superintendent of education. Legislators introduced similar bills aimed at reducing the number of elected constitutional officers, such as H 3071 and H 3072.

[BEST] OFFICE OF INSPECTOR GENERAL

S 258: Passed Senate unanimously; debate adjourned in House

This bill would statutorily establish the position of inspector general. The inspector general would be appointed by the governor for a four-year term and tasked with “investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies.” The law gives the inspector general authority to conduct investigations and offer policy recommendations aimed at rooting out government corruption and waste. It also requires him to report all alleged crimes to the governor and law enforcement. This law would apparently supersede the governor’s own [executive order](#) establishing the Office of Inspector General. (See also H 3052, H 3066.)

[BEST] SHORTENING SESSION

H 3889 and H 3890: Both referred to House Judiciary Committee

South Carolina has the longest legislative session in the Southeast (we’re tied with Tennessee), and the sixth longest in the nation (tied with seven other states). Longer sessions mean legislators spend more face time with lobbyists and less with constituents, and they mean higher administrative costs and more per diem expenses. The first of these measures would shorten session by one month, from the first Thursday in June to the first

Tuesday in May. The second would initiate the process of amending the constitution in order to move forward the start of session from the second Tuesday of January to the second Tuesday of February. Both measures failed to emerge from committee.

[BEST] BIENNIAL SESSION

S 173: Referred to Senate Judiciary Committee

This joint resolution would begin the process of amending the constitution so as to implement a biennial session.

[BEST] PROHIBITING TAXPAYER FUNDED LOBBYING

H 3175: Referred to House Judiciary Committee

This bill would prohibit every agency from using state funds to engage in lobbying activities. In the meantime, the General Assembly passed a budget proviso (90.20) that forbids agencies from using General Fund appropriations on lobbying activities. Agencies may still use Other Funds revenue for such purposes. A related bill, H 4309, would prohibit school board associations and similar bodies from funding lobbying activities.

LONG SESSION LEADS TO SILLY LEGISLATION

South Carolina's long legislative session provides plenty of opportunities for legislators to take up bills that are either trivial, nonsensical, or both. Here is a sampling:

S 86 would regulate the practice of braiding hair using hair extensions – apparently the public's health and safety are at risk here. *Status:* In committee; still pending (may come up in 2012).

S 87 would require barbers to obtain continuing education credits. Because we know how often men's hairstyles change. *Status:* Introduced in 2009; re-introduced in 2011; still pending.

S 105 would direct the Department of Transportation to post signs along the state's major roads directing drivers to "agro-tourism-oriented facilities engaged in educational or agro-tourism activities." *Status:* In committee; still pending.

S 591 would give tax credits to companies that hire unemployed workers. As we wrote in the 2009 *Best and Worst*, this bill arbitrarily rewards some businesses over others, and in any case the credit is too narrow and too temporary to actually work. The estimated cost of this bad idea is \$100 million. *Status:* Introduced in 2009, given a favorable report by Senate Finance Committee in 2011; still pending.

S 823 designates collards as the official state vegetable. *Status:* After lengthy and sometimes contentious debate, this bill became law in June.

S 850 would cap the price of gasoline sold in South Carolina. *Status:* In committee; still pending.

H 3030 would require schools to provide two years of (taxpayer funded) swimming lessons to high school students attending schools within a certain geographical proximity to a swimming pool. Never mind that babies and small children, not high school students, have the highest risk of drowning. *Status:* Introduced in 2009; re-introduced in 2011; still pending.

H 3093 would require musical therapists to be licensed and subject to oversight by the South Carolina Board of Music Therapy. The usual regulations and licensing fees would apply. *Status:* Introduced in 2010; re-introduced in 2011; still pending.

H 3136 would impose fines and criminal penalties for releasing 20 or more helium-filled balloons over the course of an hour, even though there are already laws against littering and vandalism. *Status:* Introduced in 2010; re-introduced in 2011; still pending.

H 3397 designates the Florence County Pecan Festival as the state's official pecan fest. *Status:* Signed into law by governor.

H 3776 is a concurrent resolution celebrating tree farming in South Carolina. *Status:* Adopted by both chambers.

H 4073's purpose is to "safeguard life, health, and property, as well as consumer protection, and to promote the public welfare by improving the quality of human environmental design." This is to be done by requiring interior designers to register with the state and assess fees and fines on outlaw interior designers. *Status:* In committee; still pending.



The South Carolina Policy Council

was founded in 1986 as an independent, private,
non-partisan research organization to promote
the principles of limited government, free
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responsibility in the state of South Carolina.

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