To see how your legislator voted on bills in Best & Worst 2014, please visit scstatehouse.gov/votehistory.php.
Is SCPC Worth the Investment?

We Think It Is.

The South Carolina Policy Council is the only organization of its kind in the state. We exist to promote and protect freedom, and we analyze everything state government does with that goal in mind. SCPC, a 501(c)(3) non-profit, accepts no government funding. We rely on donors from across South Carolina to support our work – individuals, businesses, and foundations. Your contribution is tax deductible to the extent allowed by law.

You only get one benefit from membership, but it’s a benefit worth having – a better and freer South Carolina.

Help us today, and consider donating to SCPC. Here’s how:

1. Make a secure gift online at scpolicycouncil.org/membership.

2. Send your donation to 1323 Pendleton Street, Columbia SC 29201.

Alternatively, consider funding the freedom movement for future generations by including the Policy Council in your will or estate plan.

*For questions about SCPC membership or how to make a donation with stocks/assets, please call Geoffrey Hardee at 803-779-5022 ext. 103.*
To see how your legislator voted on bills in Best & Worst 2014, please visit scstatehouse.gov/votehistory.php.

SCPC STAFF & BOARD OF DIRECTORS

STAFF

E. Ashley Landess, President
Rick Brundrett, Investigative Reporter
Lauren Burner, Development Assistant
Lindsay Elliott, Project Manager
Emily Gould, External Relations Manager
Geoffrey Hardee, Development Director
Shane McNamee, Policy Analyst
Jamie Murguia, Director of Research
Barton Swaim, Director of Communications
Winky Zeberlein, Director of Operations

Research assistance provided by:
Dillon Jones, Policy Analyst
Policy Interns: Al Kelly, Fritz Jonker and Joseph Alberson

BOARD MEMBERS

Thomas Anderson Roe†
E. Ashley Landess
Mary Lou Lineberger
William Lowndes III
John Mahoney
Jake Rasor, Jr.
Phil Warth
Thomas L. Willcox, Jr.
It’s not hard to form an opinion about the state’s governor – whoever it may be. Media and public scrutiny can focus on one person and evaluate his or her actions in office.

But what about the General Assembly? South Carolina’s 170-member lawmaking body generates scores of bills every year, and many of these become laws that directly affect citizens’ lives. It’s not as easy to evaluate the performance of 170 lawmakers, but doing so is no less necessary and beneficial. In 2014, did South Carolina’s lawmakers use their positions to advance individual and economic liberty, or did they expand the reach of government further into the private sector? Did they exhibit any concern for property rights, or were they more interested in giving government agencies more power over individual lives? Did they use tax revenue exclusively or mainly for core government functions, or did they spend every dime they could get their hands on?

Providing South Carolinians with that kind of perspective is why we produce this guide every year. With every major bill quickly and clearly summarized in one document, it’s possible for average citizens to form educated opinions about what their lawmakers have been up to.

The grading system remains the same. Each bill is among the “best” or it’s among the “worst.” Although some among the “worst” are improvable and some among the “best” could be improved, we’re staying with the simpler categorization: If legislation makes citizens more free and burdens taxpayers less, it’s among the best. If it limits citizens’ choices and expands the state’s role at the expense of taxpayers, it’s among the worst.

It’s as simple as that. We don’t believe South Carolina needs its lawmakers to design new policies or to come up with more ways to “create jobs” and “grow the economy.” The private sector doesn’t need politicians’ great new ideas in order to produce wealth. Our lawmakers’ job is to ensure that basic government services function properly – and then to keep government from interfering with lawful and productive activity in the private sphere. We believe a freer South Carolina will be a more prosperous one, and we judge legislation good or bad according to whether it furthers that goal.

We hope this year’s Best and Worst of the General Assembly will help South Carolinians form a more accurate assessment of what their lawmakers did – or didn’t do – in 2014.
Tax Favors

Public officials – not just in South Carolina but around the developed world – routinely use government’s power to tax as a tool to dole out favors to the private entities they believe, for whatever reason, to be worthy of public help. Targeted tax “incentives” – favors intended for the benefit of one company or industry – are both unfair and counterproductive: unfair because one company gets a break that others don’t, and counterproductive because there is no empirical evidence suggesting these tax favors enhance overall economic growth. The only tax favors our lawmakers have any business enacting are those that benefit all those who pay the tax.

**Subsidizing Coastal Residents**

**STATUS:** Passed Senate, Passed House signed by Governor Act No. 191

**S.569** (covered in the 2013 edition of *Best and Worst*) is designed to subsidize part of the property insurance costs of coastal residents. The bill was modified, however, in one meaningful way since the close of the 2013 legislative year. Property insurers whose insurance portfolios are made up of more than 80 percent coastal properties will no longer be eligible to receive a new premium tax credit. Other provisions of the bill remain, though: it would still require coastal residents to be notified of ways they can legally lower their insurance premiums, and would still redirect one additional percent of the insurance premium tax to the hurricane damage mitigation program (a program that provides grants to coastal residents who make certain weather protection upgrades to their homes). The removal of the tax credit is a gesture in the right direction, the bill’s aim is still to benefit a favored constituency at the expense of all other taxpayers.

**“Economic Development Tax Incentive Evaluation Act”**

**STATUS:** Given first reading, expired in House Ways and Means Committee

**H.4875** would require the Department of Revenue to complete a study every four years to assess the impact, including both the economic benefits and the financial cost, of economic development tax incentives. Included in the reports would be the baseline assessment of the incentive, statutory goals of the incentive, the number of companies it’s granted to, a cost-benefit comparison of the revenue foregone and the tax revenue generated by those receiving the credit, the estimated number of jobs created as a direct result, and more.

While seemingly a well-intended attempt to critically evaluate the state’s current cronyist tax policies, agency-led “studies” like this one almost always present government programs in an improbably favorable light. Politicians have a way of ignoring information that doesn’t verify the virtues of their favorite projects, and it seems unlikely that any “study” of tax incentives would prove any different.

**Tax Credits for Purchasing Hybrid Vehicles**

**STATUS:** Given first reading, expired in House Ways and Means Committee

**H.4619** would provide an income tax credit beginning in 2015 to anyone who purchases or leases a hybrid electric, battery electric, or alternative fuel motor vehicle in South Carolina. This is another case of legislators attempting to influence how and where citizens spend their money.

**Subsidizing Wind Energy Research**

**STATUS:** Committee Report favorable with amendments, expired in the Senate

**S.1011** instructs the South Carolina Public Service Commission to adopt regulations that would, among other things, provide cost recovery and financial incentives (amounts unspecified) for energy suppliers and distributors who invest in offshore wind research and development activities. The state already subsidizes non-renewable energy sources (such as nuclear energy) through advanced cost recovery – essentially allowing utilities to make risky investments without fear of losses – and to a lesser degree subsidizes renewable energy through tax favors and grants to research facilities. Unsurprisingly, neither of these policies has generated favorable results for taxpayers or South Carolina’s economy. Legislators should be dismantling, not adding, to our deeply flawed system of energy subsidies.
As SCPC’s policy analyst Shane McNamee explained in an op-ed (available by typing grnol.co/1qsRVk6 into your browser), competition brings down prices and improves services in every industry where it’s been allowed to flourish – and the energy market is no different.

As SCPC’s policy analyst Shane McNamee explained in an op-ed (available by typing grnol.co/1qsRVk6 into your browser), competition brings down prices and improves services in every industry where it’s been allowed to flourish – and the energy market is no different.

It's (incentives) one giant web of politicians deciding who pays taxes and who doesn't with secret deals behind closed doors, with no information released to the public."

-Ashley Landess quoted in the Charleston Post and Courier

WEALTH REDISTRIBUTION BY TAX CREDITS

STATUS: Given first reading, expired in the Senate Finance Committee

S.892, the South Carolina New Market Jobs Act, would provide tax credits to qualified “community development” entities that make equity investments in qualified low-income community businesses. Modeled after the federal New Markets Tax Credit program, this bill would mandate the Department of Revenue to certify $250 million in qualified equity investments. Advertised as a “jobs” bill, this is another case of transferring the tax burden from favored industries to other businesses that don’t qualify for state-approved tax breaks. The overall damage to the economy would be real: since the state budget grows every year regardless of revenue levels, state budget-writers will make up for losses in revenue occasioned by these tax credits by either (a) borrowing, (b) keeping the base tax rates for other businesses and individuals high, or (c) even increasing taxes statewide.

MAKING TAX HIKES EASIER

(H.4512 and S.940)

STATUS: Recommitted to and expired in Senate Finance Committee

S.911 would make it easier for counties to impose an additional Education Capital Improvements Sales and Use Tax by removing the requirement that counties collect at least $7 million in state accommodations taxes before imposing the education sales and use tax. This bill is based, then, on the disproven premise that more funding will improve academic achievement. We have demonstrated before that this is not the case, more funding is not sufficient to improve academic outcomes.

RAISING THE GAS TAX (H.4563)

STATUS: Given first reading, and expired in Senate Finance Committee

S.891 would increase the current 16 cents per gallon gas tax by 2 cents each year starting in July 2014 until the tax has doubled to 32 cents per gallon. Raising the gas tax will prove harmful to both producers and consumers. Producers will absorb most of the costs in the short run (if they could raise prices on consumers to pay for the tax, they would already have higher prices), and these new costs which lower profitability will reduce supply thereby driving up costs for consumers in the long run. Further, the presumed purpose for the new funds generated by this tax increase is to repair the state’s crumbling infrastructure. New funds alone won’t solve this problem. If South Carolina wishes to improve the state of its infrastructure it first has to address the incentives to prioritize new construction over repairs – an incentive that comes directly from allowing the acceptance of federal funding.

ELIMINATING THE INDIVIDUAL INCOME TAX

STATUS: Given first reading, and expired in Senate Finance Committee

S.901 would gradually eliminate South Carolina’s individual income tax over a five-year span by reducing each bracket’s rate by 1.4 percent every year starting in 2015 until all brackets reach 0 percent. Currently six brackets of income are taxed at higher rates as the level of income rises. With a top rate of 7 percent on income just over $14,000, South Carolina has the highest marginal tax rate on the lowest level of taxable income in the Southeast (third in the nation), and the 13th highest income tax rate in the nation.

Tax Reform

South Carolinians pay a comparatively high sales tax, especially when municipalities take a little extra. We also pay a high income tax, and our manufacturing property tax is the highest in the nation. Rather than doling out targeted tax cuts to well-connected companies and in-
**A 3.5 PERCENT INCOME TAX**

**STATUS:** Given first reading, and expired in House Ways and Means Committee

*H.4511* would replace the state’s current individual income tax, which has six brackets with a top rate of 7 percent for income over $14,000, with a flat tax rate of 3.5 percent. The bill would also allow tax forgiveness credits on lower incomes – gradually decreasing from an 87.5 percent credit for incomes below $5,000 to a 12.5 percent credit for incomes $30,000 to $35,000. While it would only give half of the tax relief afforded by *S.901* (total elimination of the income tax), halving the current tax rate would still provide substantial relief to many South Carolinians and would provide a much bigger tax break than the governor’s proposal to do away with only the 6 percent tax bracket.

**SALES TAX FOR INTERNET RETAILERS**

**STATUS:** Given first reading, and expired in Senate Finance Committee

*S.870* would make internet retailers who make at least $10,000 from South Carolina consumers in a given year responsible for collecting and remitting sales tax on these purchases. Retailers who meet these criteria would also have to obtain a retail license. Yet for some reason the bill exempts retailers who own, lease, or use a distribution facility in the state (translation: Amazon – and any other companies politicians choose to exempt). If the sponsors of this bill were serious about “broadening” the tax base, the bill wouldn’t carve out a special exemption for retailers like Amazon – to which the state doled out tens of millions of dollars in incentives. Instead, *S.870* would keep Amazon’s special break and force other internet retailers – whether they’re stationed in Maine, Oregon, Hawaii, or somewhere else – to collect and remit sales tax to South Carolina and obtain a state retail license. This doesn’t appear to be a real attempt at creating tax fairness. It appears to be an attempt to safeguard one company at the expense of others and create another revenue stream for state lawmakers.

**ALLOWING LOCAL GOVERNMENTS TO RAISE TAXES**

**STATUS:** Given first reading, and expired in House Ways and Means Committee

*H.4361* would allow localities to impose property tax increases above the yearly statutory cap if the revenues are to be used to make improvements or repairs to existing school facilities. Relatively poor South Carolina citizens are already having their state taxes constantly increased, and the cap on local property taxes already has seven other exemptions.

Further, if local governments want to prioritize school facilities, there’s nothing stopping them from doing that now: allowing them to do so by tax increases only encourages poor decision-making. In any case, however, the legislature tried to erode what little legal protection South Carolina taxpayers still have.

“**If you want to know what’s in the budget before it’s too late to make a difference, you’ll need to come to Columbia and spend three days a week from January to April, and attend a variety of budget subcommittee and committee meetings – and even then you won’t have any firm idea of which programs and agencies state leaders are prioritizing and which ones they’re not.**”

-Barton Swaim in South Strand News
THE COMMON CORE BILLS

With the massive grassroots pushback against Common Core, the nationalized education standards regime being implemented in South Carolina, lawmakers were forced to do something this legislative session. It was a long, complicated legislative process, but here, in short, is what happened:

A Senate Education subcommittee began the year taking up S.300, a bill introduced last session that, as originally written, would have explicitly prohibited Common Core Standards from being imposed in South Carolina. The subcommittee almost immediately watered down the bill by striking the original language and inserting language that didn’t prohibit the standards but merely mandated that the standards be reviewed by 2018 (later amended to 2016) – even though academic standards are routinely reviewed anyway. The amended bill would also mandate that standards not developed by the state be approved by the General Assembly. And it would have removed the state from the Smarter Balanced testing consortium (which Superintendent Zais later did unilaterally).

The full Senate Education Committee approved this amended version and, for procedural reasons pertaining to germaneness, created a duplicate bill. After yet another identical bill was introduced in the Senate, the bill that ended up making its way through the House and Senate was H.3893. That bill was amended to look essentially the same as the others. Before it was voted on in the House and Senate, SCPC warned that despite claims by lawmakers that the bill would “kill” Common Core for good, it fell far short of that goal. The bill was then strengthened, at least slightly, to force a review of the state’s English and math standards by the end of 2014 and for implementation of new “college and career ready” standards by the 2015-16 school year. This amended version was passed by both chambers and signed into law by Governor Haley.

We’ve long argued that it would be nearly impossible to eliminate Common Core (or any similar federalized system or program) through a single piece of legislation. That’s true in this case. Common Core was implemented in South Carolina and in other states through federal incentives – specifically Race to the Top funds (which South Carolina applied for but never received) and waivers from some regulations of the No Child Left Behind Act (NCLB), a program through which the state receives hundreds of millions of dollars in federal funds in exchange for remaining in compliance. Since one of the conditions for receiving NCLB waivers is the implementation of a common set of “college and career ready” standards (the meaning of which is determined by federal authorities), South Carolina would still need to maintain “college and career ready” standards in order to receive those waivers and the money that comes with it. Since Common Core already fits the relevant “college and career ready” criteria, it’s hard to imagine that the state’s “new” standards will look much different from Common Core. If they don’t, the state could lose hundreds of millions of federal dollars. (That would ultimately be a good thing in our view. The point, though, is that it’s not a risk state policymakers will likely take.)

South Carolina’s math and English agreed that since the H.3893 calls for a “review” of the current standards, Common Core will be the “base” from which the standards are written. According to the State Board and EOC, in other words, there’ll be no starting from scratch.

Still, opponents of Common Core shouldn’t give up. They’ve been successful in getting lawmakers to at least consider new standards, and now the fight begins to both reform education accountability and federal dependency in education. Only when the state ends its dependency on federal education dollars, and only when decision-making over standards is put in one accountable branch of government – preferably the Department of Education under the Superintendent – will South Carolina have the freedom to create or reject the standards system its citizens and public officials think best.
Heavily amended, the final version of S.535 was less objectionable than the original draft, which created an “Enterprise Division” at Clemson University, possessed of eminent domain like power. As it currently reads, S.535 sets the standards by which the Joint Bond Review Committee (JBRC) and the Budget and Control Board (soon to be renamed the State Fiscal Accountability Authority, or SFAA), review and approve university permanent improvement projects and leases. The level of oversight exercised by the JBRC and the SFAA prior to project approval depends on the cost of the proposed projects, the proposed funding sources, and the credit rating of the university proposing the project. Although unsuccessful, legislators made some attempts to craft a conference bill far worse than the bill described here. The bill would have included the Clemson Enterprise Division as well as a University of Charleston provision, but the effort failed and S.535 died in conference committee.

**MORE STANDARDIZED ASSESSMENTS**

**STATUS:** Given first reading, and expired in House Education and Public Works

H.4956 would prohibit students who failed to adequately perform on statewide assessments from advancing to the next grade. Students who fail to demonstrate adequate performance would be given the chance (for a $125 fee) to take remedial coursework in summer classes and then re-take the test or a separate test developed specifically for these students. The bill would also require twelfth-grade students to take and achieve a certain score on the WorkKeys skills assessment test in order to graduate. Not all students learn the same way, yet making standardized tests a critical part of public schooling encourages a one-size-fits-all approach to teaching and assessment. Innovation is desperately needed to improve the state of public education in South Carolina; policymakers’ continued fixation on standardized testing makes innovation less and less likely.

**MANDATING MINIMUM PAY FOR TEACHERS (S. 963)**

**STATUS:** Given first reading, and expired in Senate Education Committee

The companion bills S.898 and H.4478 would mandate that public teachers and administrators in South Carolina be paid, at minimum, the Southeast region’s average salary for their positions. Presumably the thinking behind these bills is that South Carolina’s pay must be commensurate with surrounding states in order to attract the best teaching talent and ensure positive educational outcomes. But even if an increase in teacher pay attracted more teachers at the top of their field, those teachers would still be stuck teaching under restrictive state and federal standards. These standards provide disincentives to different approaches to education – a problem that will only be exacerbated with the implementation of Common Core. The bill would certainly increase expenditures on teachers and administrators, but it does nothing to solve the problems that lie at the heart of South Carolina education.

**REQUIREING LEGISLATIVE APPROVAL OF ACADEMIC STANDARDS**

**STATUS:** Senate Education Committee report majority favorable with amendment, and expired in the Senate

S.888 would require approval by a Joint Resolution of the General Assembly to revise academic standards not developed by the State Department of Education – in addition to the approval by the State Board of Education and the Education Oversight Committee (EOC) as current law requires. At the very least, this would give parents (and voters) more influence on the education standards of their children. Unfortunately, much of the decision-making power would still be left with the two entities that aren’t directly accountable to voters – the State Board and the EOC.

**ELIMINATING THE EDUCATION OVERSIGHT COMMITTEE**

**STATUS:** Given first reading, and expired in House Education and Public Works

H.4352 would eliminate the Education Oversight Committee (EOC) and devolve many of its functions to the Department of Education, and some to the State Board of Education. The EOC is a hybrid committee consisting of lawmakers and leaders from the business and education industries, making it completely unaccountable to voters. Devolving its duties to the Department of Education, which is headed by the State Superintendent, would make education decisions more accountable to South Carolinians. This could have major implications on the decisions over standards and assessments (including Common Core).

**ANOTHER STATE PRE-K PROGRAM**

**STATUS:** Given first reading, and expired in Senate Education Committee

S.834 would transform the Child Development Education Pilot Program from a yearly proviso into permanent law. It would then be a full day 4K/preschool program, available by 2015-2016 to all “at risk” children in public school districts. Within five years of its implementation, the program would be expanded to cover all children in public school districts. South Carolina already has multiple publicly funded early education programs, and their results provide little justification for expansion. State financed early education to date has produced little to no lasting benefits for children who participate.
Government Spending

Every dollar government spends is a dollar taken out of the private-sector economy – it’s taken from a family or individual who would otherwise use it to make ends meet, pay off school debt, repair a car or a home, or buy flowers for a spouse. Unfortunately, the South Carolina state budget funds scores of programs and agencies that are both unnecessary and unrelated to any core function of government.

STUDY COMMITTEE TO RESEARCH FEDERAL DEPENDENCY

**STATUS:** Given first reading, and expired in House Ways and Means Committee

**H.5119** would create the South Carolina Federal Funds Study Committee. The committee would assess the financial stability of the federal government, the level of dependency the state and local governments have on federal funds, and how a reduction of federal funds would affect the state and local governments. The committee is also to make recommendations to reduce the state’s dependency on the receipt of federal funds to the legislature and governor by October 31, 2015. Unfortunately, the findings of study committees virtually never turn into action. We don’t need a study committee to tell us that a full third of the state budget comes from Washington DC, and that this is dangerously high – particularly given the unfathomable levels of debt into which the federal government has descended in recent years.

DOUBLING DOWN ON BAD TRANSPORTATION POLICY

**STATUS:** Given first reading, and expired in Senate Finance Committee

**S.994** would enact two large infrastructure funding changes. First it would change a recently enacted law that stipulates $50 million be transferred to State Transportation Infrastructure Bank, or STIB, each year, to be bonded into $500 million for projects the bank deems worthy. This bill would increase this annual transfer amount to $100 million, which could be bonded into $1 billion of new debt each year. Second, the bill would mandate the full transference of a revenue source (half of which is currently dedicated to education) to the State Non-Federal Aid Highway Fund. (This revenue source used to be dedicated entirely to education, but half of the proceeds were redirected to infrastructure last year, and only one year later the legislature was back for the other half of the revenues.) The bill failed, but lawmakers got the money by another route: they used the state budget to increase funds transferred to the Infrastructure Bank under **Act 98** from $50 million to $100 million.

ZERO-BASED BUDGETING

**STATUS:** Given first reading, and expired in House Ways and Means Committee

**H.4549** would mandate that both agency budgets and the executive budget be submitted using a “zero-based budgeting process.” Unlike traditional state budgeting, in zero-based budgeting no expenditures are assumed. The fact that an agency or program received funds the previous fiscal year is no guarantee they will receive these funds again. Every appropriation must be justified under zero-based budgeting. While such an approach would not drastically reduce government by itself, it would at least force agencies to justify more of their expenditures.

MORE MONEY TO THE HIGHWAY FUND

**STATUS:** Given first reading, and expired in House Ways and Means Committee

**H.4380** would limit annual state budgetary appropriations to the amount of state revenue forecasted by the Board of Economic Advisors (BEA) in their February 15th forecast beginning in fiscal year 2016. Typically revenues exceed this forecast, and this bill would require that all revenues in excess of the February 15 forecast be credited to the state highway fund. We have documented similar attempts before to divert revenue directly to highway funds. What makes this attempt noteworthy is that it comes after a year when the legislature transferred $50 million to a state transportation agency so that it could bond into $500 million. Fund transfers are merely a band-aid for our state’s crumbling infrastructure. The problem of infrastructure maintenance won’t be solved until the legislature stops allowing the federal government to foot most of the bill for the state’s roads – a policy that drives up prices and encourages the state to neglect the many, many state roads that don’t qualify for federal funding.
CREATING A “DIVISION OF SMALL BUSINESS AND ENTREPRENEURIAL DEVELOPMENT”

STATUS: Given first reading, and expired in Senate labor, Commerce and Industry Committee

S.806 would create a sub-agency, under the Department of Commerce, that would “develop and implement an economic development strategy for promoting small businesses in South Carolina” and “provide community-based economic development assistance to local economic development organizations and community leaders in small business.” Small businesses aren’t hurting because of the lack of government intrusion in the economy; they’re hurting because they’re over-regulated and over-taxed, while state government hands out tax favors to big businesses – putting the preponderance of the tax burden on smaller businesses. If policymakers are serious about wanting small businesses to thrive, they should begin reversing failed corporate welfare policies. Instead of trying to “develop” the economy by rewarding companies they happen to like, they should lower taxes and cut/remove regulations across the board.

MORE POWER FOR AN UNACCOUNTABLE AGENCY

STATUS: Passed the Senate, Passed House, signed by the Governor Act No. 195

By removing two key provisions in the state code, S.812 would give more spending and regulatory leeway to the South Carolina Rural Infrastructure Authority (RIA) – a new government spending program that provides financial assistance for infrastructure in certain rural counties in the state. Under the bill, the RIA would no longer be subject to the Administrative Procedures Act, the state law mandating state agencies to file new regulations with the Legislative Council and publish them in the State Register. Moreover, S.812 removes the provision that any financial assistance given by the RIA must first be reviewed and approved that the Joint Bond Review Committee. In effect, the bill would give an already unnecessary and unaccountable agency more power to spend and regulate.

Consider the state’s over 40 licensing boards and over 160 chapters of state code dealing with regulations and licensing. Entrenched companies and industries lobby for these strict licensing and regulation laws to make it too expensive for competitors to compete against them. Many state lawmakers do little but introduce legislation that, when passed, protects them from competition.

Instead, they (entrenched industries) can use the arm of the state to keep competitors out of the market. How do they do this? By lobbying for stricter licensing requirements and regulations that make it too expensive for others to enter the industry.

-Dillon Jones in the Orangeburg Times and Democrat
Health Care

Our policymakers are concerned about the soaring costs of health care, and rightly so. Yet the way to bring those costs down isn’t to bring in more government money and regulation: that’s why they’re high in the first place. The way to bring health care costs down is to remove the barriers to market competition.

“NULLIFYING” OBAMACARE

STATUS: Passed the House, Failed the Senate

Originally known as the “nullification” bill, H.3101 went through many changes since it was originally pre-filed for the 2013 legislative session. While the original bill contained many flaws, the “anti-commandeering” amendment proposed in the Senate would have brought many beneficial changes.

The legislation passed by the House in May 2013 would have prohibited public employees from assisting in the enforcement of the provisions of the Affordable Care Act (ACA), allowed the Attorney General (but not an individual) to bring an action in the name of the state against any entity causing harm by implementing ACA, given the General Assembly the “absolute and sovereign authority” to refuse to enforce provisions of ACA that it deems to exceed the authority of Congress, allowed for a tax deduction to offset the federal individual insurance mandate penalty, and prohibited the state from running a state-run health insurance exchange.

If the bill were to include the strike-and-insert amendment filed by Sen. Tom Davis, H.3101 would contain the following: An anti-commandeering provision. The general premise of the anti-commandeering doctrine – upheld by the Supreme Court in Printz v. United States – is that the federal government may neither issue directives requiring the states to address particular problems nor command them to administer or enforce a federal regulatory program.

The amended bill would, however, make certain exceptions to the prohibition on ACA’s enforcement, including the allotment of Medicaid under current standards; portions of the ACA that give states flexibility in administering Medicaid; ACA regulations that must be carried out by service providers in order to secure Medicaid/Medicare reimbursements; and ACA regulations that must be administered by the state Department of Insurance. Essentially, then, even if the bill in its current form were to pass, the state would still comply with components of the Affordable Care Act.

A provision requiring that federal ObamaCare dollars be treated on a contractual basis. Perhaps the key difference between the bill passed by the House and the Senate proposal is the requirement that public officials be held accountable for the acceptance of federal money. As first outlined by SCPC, the state’s elected officials cannot assert state sovereignty over policy matters while simultaneously taking millions of dollars from the federal government for those programs. Put bluntly: South Carolina cannot expect to control its own affairs while Washington pays the bills. The Senate proposal would establish a process by which all state entities, before applying for and accepting federal dollars, would explain – in detail – what the money is for, what policy prerogatives the state must cede to the federal government in order to get the money, and how the consequently funded program, regulations, or mandates will affect individuals and businesses. Agencies and departments would not be allowed to request or accept federal funds tied to the ACA that are not specifically listed in the governor’s executive budget. Each program funded in whole or in part by ties to the ACA would receive an up or down vote in both legislative chambers. The entire process would be repeated annually.

The idea behind the amendment is both reasonable and practical: It would force the governor and legislators to take responsibility for the ObamaCare-related funds they bring into this state. What makes the implementation of ObamaCare possible in the first place, after all, is the longstanding practice by state officials of trading state prerogatives for federal money. The Senate’s amendment would bring that transaction into the open.

NEW ANTI-COMMANDEERING BILLS

(H.4979)

STATUS: Given first reading, and expired in Senate Judiciary Subcommittee

S.1164 is nearly identical to a proposed amendment on H.3101 that was torpedoed in the Senate on dubious procedural grounds. S.1164 would have prohibited state officials from enforcing, or using state resources to enforce, To see how your legislator voted on bills in Best & Worst 2014, please visit scstatehouse.gov/votehistory.php.
certain provisions of the ACA, including: the establishment of a state-run health insurance exchange, assistance of enrollment in any health insurance exchange, enforcement of sections of the ACA requiring individual and employer insurance mandates. Moreover, the bill would create a strict process for state entities to apply for grants and draw down funds tied to the healthcare law, which was based on a proposal by SCPC.

**CREATING “HEALTH ENTERPRISE ZONES”**

**STATUS:** Given first reading, and expired in House Medical, Military, Public and Municipal Affairs

**H.5026** would allow the Director of the Department of Health and Environmental Control (DHEC) to designate select areas in the state as “health enterprise zones.” Medical practitioners in health enterprise zones would be eligible for income tax credits, and loan repayment assistance. Non-profits and local government agencies who apply for an area to qualify as a health enterprise zone would be eligible to receive grants from DHEC. Evidently state policymakers believe the free market is completely incapable of determining the need or demand for medical services and facilities. The state already prohibits the creation of new health care facilities in select locations under the Certificate of Need law; under H.5026 it would encourage the creation of health care facilities in other areas. The principle here is not a hard one: Free markets allocate goods and services more efficiently and equitably than bureaucrats ever will.

**ANOTHER HEALTH INSURANCE MANDATE**

**STATUS:** Recomitted to and expired in House Labor, Commerce and Industry Committee

**H.4996** would require that health insurance offered in South Carolina cover amino acid-based elemental formulas used to treat food protein allergies and other digestive disorders. What's offered in a health insurance plan should be left up to the insurer, and consumers should be free to purchase a plan that has the coverage they want and omits the coverage they don't. While this free market interaction is obviously being disturbed on the federal level, there is no need for the state to further pile on. South Carolina already has 30 different coverage mandates that help to drive up the price of plans offered by large insurance companies. The mandates also keep smaller insurers from entering the market since they can't afford to offer plans that cover all the mandated conditions. South Carolina should be seeking to remove insurance mandates, not expand them.

**FORCING PEOPLE INTO GOVERNMENT-SPONSORED WELLNESS PROGRAMS AND EXPANDING MEDICAID PER OBAMACARE**

**STATUS:** Given first reading, and expired in House Ways and Means Committee

**H.4752** would require persons with “poor health behaviors” (exemplified as smoking or excessive BMI) to participate in wellness programs sponsored by the Department of Health and Environmental Control. The bill further requires South Carolina Department of Health and Human Services (SCDHHS) to submit a waiver to the federal government requesting the establishment of a market where those making between 100-138 percent of the federal poverty line can purchase insurance coverage (which is curious – since these people can still purchase insurance). The bill also stipulates – in one of its badly written paragraphs – that “SCDHHS is required to establish relationships with qualified health plans to provide access utilizing the federal funds authorized under the federal Affordable Care Act to cover low income families.” Whatever that may mean, the bill would force both the state to give up its sovereignty over its health policy, and citizens to give up control over their own health.

**ESTABLISHING A MEDICAL CANNABIS TREATMENT RESEARCH PROGRAM**

**STATUS:** Passed the Senate, Passed the House, signed by the Governor Act No. 221

**S.1035** would amend a program already in the state code but never used, the Controlled Substances Therapeutic Research Act, to make it more specific to medical cannabis therapeutic treatment research. The program would be put under the Department of Health and Environmental Control (DHEC). The bill specifies who would be eligible to participate in the program, the instances in which medical cannabis can be administered, and the reporting requirements by academic medical centers that supervise or administer these treatments. Moreover, the bill would provide criminal and civil immunity from state actions or suits arising from the proper implementation of the program, and require the state to defend state employees who carry out the provisions of this bill. There's simply no reason why government should forbid law-abiding people from taking part in a program that provides well-attested benefits.
ALLOTTING OUT-OF-STATE-INSURERS TO OFFER HEALTH INSURANCE IN SOUTH CAROLINA

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

S.886 would allow the Department of Insurance to authorize out-of-state insurers to offer health insurance plans in South Carolina. These plans would not be subject to the rules and regulations applying to health insurance in South Carolina, but would continue to be subject to the regulations from the insurer's home state. While modest in its potential effects, this reform would introduce some competition into the insurance market and thereby help to drive down costs.

REFUNDING THE CERTIFICATE OF NEED PROGRAM

STATUS: Given first reading, and expired in Senate Medical Affairs Committee

S.845 would re-fund the state's Certificate of Need (CON) program. Gov. Haley vetoed that funding in the 2013 legislative session. The CON program requires that investors must get permission from bureaucrats in order to build new health care facilities, expand existing ones, purchase certain medical equipment, or even add a certain number of beds. The CON program is another unnecessary government intrusion into the state's health care market and has done nothing to make health care cheaper or more effective. An April 2014 ruling by the Supreme Court would require the Department of Health and Environmental Control to continue the program despite having its funding cut off.

THE GENERAL ASSEMBLY'S $25.5 BILLION BUDGET INCLUDED $137.5 MILLION IN NEW SPENDING ON A CHANGED SCHOOL FUNDING FORMULA THAT WILL SPEND MORE MONEY ON COMPARELLY HIGH-SPENDING SCHOOLS, $45 MILLION ON THE "DEAL CLOSING FUND" (USED FOR CORPORATE WELFARE CASH PAYMENTS TO COMPANIES STATE OFFICIALS WANT TO "LURE"), AND $100 MILLION TO THE INFRASTRUCTURE BANK BOARD UNDER THE AUTHORITY OF ACT 98. THIS LAST PROVISION WILL BE USED TO ISSUE BILLIONS IN NEW BOND DEBT – AND THE NEW BOND REVENUE WON'T BE USED TO REPAIR OR MAINTAIN EXISTING ROADS BUT TO BEGIN OR COMPLETE NEW PROJECTS, MANY OF WHICH ARE UNNECESSARY.

AMONG THE MOST OUTRAGEOUS HIDDEN SPENDING INCREASES IN THIS YEAR'S BUDGET WAS A PROVISION AFFORDING LAWMAKERS A $12,000 PER YEAR PAY RAISE. FIRST, LEGISLATIVE LEADERS IN THE HOUSE SUCCESSFULLY ATTEMPTED TO STIFLE ANY WORD ABOUT AN ACTUARIAL REPORT CONCLUDING THAT THE PAY HIKE WOULD HAVE ADDED UP TO $38 MILLION TO THE STATE'S RETIREMENT LIABILITY (THAT REPORT WAS REVEALED LATER BY THE NERVE). THEN, WHEN IT BECAME UNCLEAR IF PROONENTS HAD THE NECESSARY TWO-THIRDS MAJORITY TO OVERRIDE THE GOVERNOR'S VETO, MANY SENATORS CHANGED THEIR VOTE TO "NO" ONCE THEY REALIZED THE PAY RAISE WOULD NOT PASS.

CONTINUING ANOTHER MENACING BUDGET TRENDS, OVER A THIRD OF THE BUDGET – $9.4 BILLION, INCLUDING FOOD STAMP MONEY LAWMAKERS NO LONGER INCLUDE IN THE BUDGET – WILL COME DIRECTLY FROM THE FEDERAL GOVERNMENT. THAT'S A 3.8 PERCENT INCREASE IN THE DEGREE TO WHICH OUR STATE GOVERNMENT IS FUNDED (AND CONTROLLED) BY THE FEDERAL GOVERNMENT.

ONCE THIS FINAL LEGISLATIVE VERSION WAS RATIFIED, THE GOVERNOR VETOED ONLY $18.5 MILLION IN APPROPRIATIONS, OR 0.07 PERCENT OF THE ENTIRE BUDGET AND LESS THAN 2 PERCENT OF THE INCREASE FROM THE PREVIOUS YEAR'S BUDGET. IN TURN, LAWMAKERS SUSTAINED ONLY $4.5 MILLION WORTH OF THESE VETOES, OR 0.018 PERCENT OF THE BUDGET.

NOT A GREAT YEAR FOR TAXPAYERS.
Reform and Restructuring

The debate over government restructuring has too often missed the point. The point of restructuring isn't to “save taxpayer dollars” or to make government more efficient. Those things may be benefits of restructuring, but they are not the reason to restructure. The reason, rather, is that one branch of South Carolina's government – the legislature – dominates the other two. A few legislative leaders, elected only by their districts, run virtually all of state government, and as a result it’s virtually impossible to hold anyone accountable for bad policies and poor decisions. Any bill purporting to restructure government should seek first to remedy the state’s severe imbalance of power.

H. 3945 - A brief history of the “ethics bill”

When initially introduced in 2013, H.3945 sailed through the subcommittee and committee process despite the fact that its content was kept hidden from the public: hardly a promising start for a bill intended to make government more transparent and accountable. In fact, the bill – as became clear when it finally went online – would have decriminalized ethics violations, required citizens to register as lobbyists before testifying to the General Assembly, deleted legislative recusal requirements, and created a new ethics commission dominated by legislators. At the time, many speculated that the decriminalization provisions of the bill were intended to aid House Speaker Bobby Harrell, who was under investigation by the State Law Enforcement Division (SLED) for, among other things, converting campaign funds to personal use.

After The Nerve revealed all this, House members quickly moved to introduce amendments that would restore criminal penalties for ethics violations. Ultimately, House leaders crafted a 38-page strike and insert amendment behind closed doors. That amendment was passed by the House before many members even had a chance to read the new bill. That bill no longer decriminalized ethics violations, but it did create a 16-member ethics super committee controlled by legislators, and stipulated that in order for certain criminal offenses to be prosecuted, those offenses must have been committed “willfully.”

Once passed by the House, a Senate Judiciary Subcommittee amended the bill once again to create a system whereby the State Ethics Commission would investigate legislators for alleged ethics violations. That sounded like a move in the right direction, but punishment for these violations would remain with the legislative ethics committees. The subcommittee also added a system of tiered penalties for ethics violations.

H.3945 came before the Senate again in early 2014 (while the legislature was officially out of session) after a special committee on ethics prepared a new amendment. The new proposed amendment contained a relatively strong income disclosure provision, but also retained the process by which the state ethics commission would investigate but not punish lawmakers for violations, leaving punishment up to the legislative committees (i.e., the violators’ friends and colleagues). Senators debated this proposal and other amendments in executive session (behind closed doors) for several months in 2014 before passing a bill that contained a form of income disclosure but left the current ethics violation investigation process intact.

In February 2014 the bill returned to the House. There it was further amended and passed by the full House. Once again, amendments from the House seemed designed to aid the House Speaker in his ongoing legal battle. The amended bill – which passed the House – allowed legislators to spend campaign funds on virtually any expense, and in the event that funds were misspent, a provision would have allowed legislators to return

It is because the King would be a tyrant, if he could, that a House of Commons is given to control him. How absurd, then, to say that the same check which is required by a king, is not required by a House of Commons! Have a hundred despots ever been found to be less evil than one?

-John Stuart Mill
the “mistakenly” spent funds to their campaign accounts within 30 days with no penalty.

The two chambers took H.3945 to conference committee to work out the differences. Alas, the conference version of the legislation was among the worst variants of the bill. The conference report was passed by the House, but a group of senators, correctly pointing out many of the bill’s flaws, managed to filibuster attempts to vote on H.3945 until time ran out in the session.

H.5072 would allow the House and Senate to authorize a special prosecutor to investigate “alleged” violations of ethics laws by constitutional officers – for example, the Attorney General. (The prosecutorial appointee would also be empowered to investigate “other officers,” a term referring to the heads of several executive departments and members of other boards and commissions. It may include legislators.) If authorized, the special prosecutor would be appointed jointly by the Senate President Pro Tem and the House Speaker. The prosecutor would also be entitled to the full resources and use of the state grand jury. This proposal would violate Article 24, Section 5 of the South Carolina constitution. That section says, in part, “The Attorney General shall be the chief prosecuting officer of the State with authority to supervise the prosecution of all criminal cases in courts of record.” Although placed on the calendar “without reference” – meaning it could bypass the ordinary committee process – many of the legislation’s sponsors, once word began to circulate that the bill had been intended as a retaliatory move by the House Speaker against the Attorney General, removed their names from the bill.

H.5073 would create a ballot proposition that, if approved, would amend the constitution to remove all the legal powers of the state Attorney General. Like its companion, H.5072, the bill was an obvious attempt by the House Speaker to retaliate against the Attorney General because the A.G. refused to squash an investigation into the Speaker’s conduct – an abominable misuse of the lawmakers’ privilege.

While H.5038 would have been much stronger than current law, which requires no disclosure of private income at all, it includes some classes of income that don’t have to be disclosed such as court order income, interest from bank accounts, and mutual funds. More importantly, income less than $2,500 would not have to be reported – an awfully large loophole. H.5113 would have required public officials to report compensation they receive from their employer if that employer subcontracts with the government entity the public official is associated with for various work. Neither bill amounts to what’s needed in this area – full disclosure of at least the sources of all private income.

Companion bills H.4806 and S.1064 would change the member selection process for the Judicial Merit Selection Commission (JMSC) – the body that screens candidates for judicial positions. The proposals would have expanded the JMSC to 15 members, with two members appointed by the legislative delegation for each of the seven federal congressional districts. The governor would appoint the final member. The bills also forbid lawmakers from serving on the JMSC. H.4806 and S.1064 would give more notice for budget hearings. These bills would also alter the selection process for judicial merit selection commission members.

H.4410 would force local governments to give additional notice of public hearings before budget adoption by online announcements and telephone calls to registered voters. Budget hearings are an essential medium for taxpayers to get their voices heard on how their tax dollars should be spent. Ironically, the sponsor of this bill serves on the House Budget Committee.

To see how your legislator voted on bills in Best & Worst 2014, please visit scstatehouse.gov/votehistory.php.
Ways and Means Committee, which along with the Senate Finance Committee, routinely violates a statutory provision requiring these committees to hold joint open hearings on the governor’s executive budget each year. Do as we say, not as we do.

**PROHIBITION ON PUBLIC EMPLOYEE COLLECTIVE BARGAINING**

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

S.814 would prohibit collective bargaining (union bargaining) by public employees at all levels in South Carolina. Labor unions are not inherently bad or irreconcilable with the free market, but public labor unions, in addition to receiving the rewards of their bargaining from taxpayers, rarely face the same resistance from management in negotiations. That’s because management in this case is government, and government doesn’t face the cost constraints faced by private businesses. While unions aren’t and shouldn’t be prohibited in the private sector (even in right-to-work states), they should play no part in the public sector.

**EARMARK REQUESTS DISCLOSED**

**STATUS:** Given first reading, and expired in Senate Rules Committee

S.1139 would amend Senate rules to require any senator requesting that an earmark be added to any appropriations bill (defining “earmark” as an appropriation for a specific program or project not originating in a written agency budget request) do so through a formally filed form. The completed forms would be available for public inspection on the legislature’s website and no earmark could be considered for inclusion in an appropriations bill before a form was filed. Formal earmark disclosure would provide a dose of much needed transparency to the state budget process. Disclosure of earmark requests would help to illuminate legislative conflicts of interests and help to catch more public officials attempting to enrich themselves through the state budget process – as The Nerve exposed one lawmaker doing last year.

“The founders believed in the right to own one’s own property, which today would include cell phones and other recording devices, and the concomitant right not to have it seized without a warrant—a warrant, moreover that shouldn’t be issued without probable cause and other specific provisions.”

-Dillon Jones
in Statehouse Report
Regulation

Recent studies have confirmed what many South Carolina business-owners knew already – namely that our state is one of the most overregulated states in the nation. With few exceptions, state regulations stunt economic growth, fail to protect the public, stifle creativity, and empower politicians and regulators to do favors for friends and political donors. Lawmakers should be far more concerned with ridding the code of regulations than adding to it.

**Deregulating Brewpubs and Changing Liquor Laws**

**STATUS:** Passed House, Passed Senate, and signed by the Governor Act No. 223

H.3512 was originally written to allow the use of coupons in the purchase of alcoholic liquor and to prohibit the sale of alcoholic liquor between retail dealers. But the bill was amended to include a version of S.1230, the “Stone” bill (which would, among other things, allow brewpubs to sell the beer they brew to wholesale retailers), and H.3539, a bill that would allow the sale of alcohol on election days. While H.3512 contains some lamentable restrictions on commercial actions, the deregulating aspects of the bill are positive developments for the beer and liquor industries in South Carolina – and the larger South Carolina economy.

**Deleting All Hair Braiding Licensure Laws**

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

H.5063 would remove all licensure and registration requirements for those who wish to engage in hair braiding. Licensure requirements like those governing hair braiding stifle economic mobility and prevent financial independence for many who wish to use their skills to improve their lives. This would be an excellent change in law that would remove significant barriers for would-be entrepreneurs.

**Loosening Regulations on Retail Sale Outlets**

**STATUS:** Given first reading, and expired in House Labor, Commerce and Industry Committee

H.5067 would remove requirements that any retail sales outlet selling funeral merchandise (such as caskets) have a permit from the Board of Funeral Services to perform funeral services. In place of a funeral services permit, retail sales outlets would register with the board biannually as sale outlets for a $100 fee. This is a laudable attempt to lower both the costs of doing business for entrepreneurs and the price of goods for consumers. This bill also represents a positive mindset change, at least among some legislators, in the regulation of the funeral industry. Regulators have up to this point resisted regulatory reform, despite recommendations from the Governor’s Regulatory Taskforce.

**More Cost Recovery for Utilities**

**STATUS:** Passed House, Passed Senate, and signed by the Governor Act No. 236

S.1189 allows a limited amount of solar leasing by companies that hold a certificate from the Office of Regulatory Staff. The bill also allows utilities to receive more cost recovery (i.e., Public Service Commission-approved price hikes) when they participate in a “Distributed Energy Resource Program” by buying or making investments in renewable energy. While it is absurd that solar leasing is currently illegal, this bill which purports to change that causes as many problems as it fixes. Solar leasing should be legal without certificates, and the last thing consumers need is more avenues for utility cost recovery.

**Sunset Provision for Regulations**

**STATUS:** Given first reading, and expired in House Labor, Commerce and Industry Committee

H.4962 would make it so that all regulations promulgated after July 1, 2014 automatically expire five years after their enactment. We’ve reported before that sunset provisions like this proposal are one of the few policies that have been found to have a statistically and economically significant effect in reducing regulation. Currently regulations must be
reviewed five years after their enactment but not removed. A sunset provision would make it harder for regulations to carry on through mere inertia. Instead, agencies would have to present the real world costs and benefits of regulations they wish to continue.

A CRACKDOWN ON RESIDENTIAL PROPERTY RENTERS

**STATUS:** Passed the Senate, Passed the House, and signed by the Governor Act No. 261

**S.985** would create a partnership of local jurisdictions and the Department of Revenue (DOR) in order to crack down on people receiving rental income from their residential properties without a license and without paying accommodations taxes. DOR and local jurisdictions would share data to find non-compliant landlords. Implementing jurisdictions would also be required to provide material outlining the legally required taxes that must be collected from tourists renting residential property. A fiscal penalty would be imposed if a residential property owner renting his or her residence fails to collect the appropriate taxes after receiving notice of the law. When entrepreneurial activity shows regressive arbitrariness of a tax – in this case, a tax on “accommodating” people – why must the response always be to place the tax on more people rather than removing it from everyone? This kind of protectionism shouldn’t have a place in the law.

RAISING THE MINIMUM WAGE (S.959 and S.960)

**STATUS:** Given first reading, and expired in House Labor, Commerce and Industry Committee

**H.4400** would raise the minimum wage in South Carolina from the current federal minimum wage of $7.25 to $10 an hour. The bill is no doubt intended to help individuals on the lower end of the pay scale, but it would do far more harm than good. Employers will not pay workers above their ability to produce value. If a worker is producing $7.25 of value an hour for an employer and the law suddenly decrees that all employees must be paid $10 an hour, the employer is far more likely to let the employee go then to raise his wage to $10 an hour. Employers will also no longer have incentive to hire new workers. The principal result of increasing the minimum wage is not increasing prosperity but increasing unemployment, particularly among the youth.

MANDATING PAID SICK LEAVE

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

**S.906** would mandate that all South Carolina employers provide earned paid sick leave to employees, and outlines what sick leave can be taken for and the rate at which earned sick leave will accrue. While ensuring everyone has paid sick leave may seem like a noble goal, this policy will serve to increase the cost of employees for employers who don’t already offer sick leave. The effect will be to discourage some employers from hiring new workers (reducing employment opportunities) or to pass on this new cost to employees by reducing other forms of compensation.

ALLOWING INDUSTRIAL HEMP CULTIVATION

**STATUS:** Passed the Senate, Passed the House, and signed by the Governor Act No. 216

The United States imports an estimated $2 billion worth of hemp annually from Canada and China, but it’s against the law to grow hemp in this state and 39 others. **S.839** would allow South Carolinians to grow hemp, a product of the cannabis plant that’s used in producing fiber, oil, and seed products such as rope, paper, fuel, construction materials, food, soaps, lotions, and clothing. The bill distinguishes the growing of hemp from growing marijuana (the cannabis plants cultivated must not contain more THC than allowed by the Controlled Substance Act) and creates a new penalty with a maximum 5 year sentence or $5,000 fine for growing marijuana on property used for hemp production. Although the production of hemp is banned by federal law, states are not required to enforce that law unless they are receiving federal funds to be used specifically for law’s enforcement. South Carolina would not be violating federal law by allowing hemp production. Beyond the jobs and economic boost hemp production would provide to South Carolina, moreover, this cash crop grown by the nation’s founding fathers benefits the environment: it can remediate soil damage and absorbs tons of carbon dioxide annually.

(SLIGHTLY) RELAXING LIQUOR LICENSE REGULATION

**STATUS:** Passed the House, Passed the Senate, and signed by the Governor Act No. 253

**H.4399** would allow the issuance of licenses to companies that manufacture or sell liquor within 300 feet of a church, school, or playground, if the owners of these facilities don’t object. The state should not be regulating the placement of these businesses absent its ability to produce compelling evidence that they generate negative effects for communities. This bill, while it does not completely do away with this regulation, at least loosens it.

To see how your legislator voted on bills in Best & Worst 2014, please visit scstatehouse.gov/votehistory.php.
MORE GOVERNMENT POWER OVER INSURANCE COMPANIES

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

H.4351 would force the Department of Insurance (DOI) to create and maintain a profile of each licensed insurance adjuster, agency, broker, company, and producer. Each profile would include a plethora of information on the insurance entity, including most importantly all complaints of violations of the insurance code filed against the licensee by a citizen or initiated by the director. These profiles would be public records subject to Freedom of Information requests, and DOI would have to maintain a database of these profiles online, which would be updated weekly. Even apart from the costs to taxpayers – the bill would create the need for more tax-backed man hours and likely new full-time government employees to create and maintain this new database – H.4351 would put yet another burden on the already overregulated private insurance industry, thus driving up insurance costs even more.

ADDING EXCEPTIONS TO WORKER’S COMPENSATION REQUIREMENTS

STATUS: Passed House, referred to and expired in Senate Judiciary Committee

H.3147 would add a special exception to current workers’ compensation eligibility requirements by allowing law enforcement officers to collect compensation for “stress” or “mental injury” (without medical evidence) if the injury arises from the officer’s direct involvement in the use of deadly force in the line of duty. Current law allows the collection of workers’ comp for stress or mental injury only when the employee can prove the stress was a result of extraordinary and unusual employment conditions distinct from normal conditions, and when he or she can provide medical evidence that these conditions caused the problem.

There is no compelling reason why law enforcement officials should get special treatment when it comes to stress based workers’ compensation awards. Officers sometimes engage in deadly force in the performance of their duties, but these incidents don’t necessarily constitute extraordinary employment conditions, as noted by the New York Supreme Court Appellate Division. To recognize these incidents as extraordinary conditions could lead to significant costs. Granting special exemptions for one class of employee also opens the door for other classes of employees getting similar exceptions – many occupations, after all, involve uniquely stressful demands. And of course the more exceptions are in any benefit law, the more it’s open to abuse.
Individually Liberties

Wherever possible, South Carolinians should enjoy freedom from government coercion. Unnecessary coercion inhibits economic dynamism, compromises citizens’ quality of life, and always costs more than public officials anticipate. If the argument for limiting individual freedom isn’t obvious and overwhelming – if the argument for doing so is speculative or has reference to some dubious goal like “jobs” or “more revenue” – our elected officials have a duty to reject it.

PERMITTING CWP HOLDERS TO CARRY IN RESTAURANTS

**STATUS:** Passed the Senate, Passed the House, and signed by the Governor Act No.123

S.308 allows individuals with a Concealed Weapons Permit (CWP) to carry in restaurants that serve alcohol unless otherwise prohibited by the business owner. The bill took some interesting turns during its debate, including a compromise in the Senate that would have imposed a curfew for CWP holders in these establishments. That provision was rejected by the House, and the bill was eventually passed by both the House and Senate, and signed into law by Governor Haley.

“CONSTITUTIONAL CARRY”

**STATUS:** Given first reading, and expired in Senate Judiciary Committee

S.115 would make South Carolina the sixth state to enact the policy of “constitutional carry.” If enacted, anyone who is legally allowed to own a handgun in the state would be able to carry that handgun in public either openly (in plain sight) or concealed, without the requirement of a concealed weapons permit. Citizens who still want to obtain a CWP in order to carry a handgun concealed in public for their protection. Currently, Wyoming, Alaska, Arizona, Vermont, and Arkansas enact the same or similar policy.

LIMITING EMINENT DOMAIN POWERS

**STATUS:** Given first reading, and expired in House Judiciary Committee

H.4943 would prohibit any public body from acquiring a mortgage by use of the power of eminent domain. Any measure that curtails government’s power to seize property at a price it determines to be fair is worthy of applause. While this legislation wouldn’t apply to all land and real estate, it would leave many homeowners more secure in their property.

COMPENSATING LANDOWNERS FOR GOVERNMENT CAUSED DECREASE IN PROPERTY VALUE

**STATUS:** Given first reading, and expired in House Judiciary Committee

H.5028 would stipulate that right-of-way acquisition cost for government bodies exercising eminent domain include compensation to landowners within 1,000 feet of the right of way who have seen their property values fall due to the right of way’s location. The bill’s sponsors recognize that eminent domain seizures aren’t the only way government activities harm property-owners.

THE SECOND AMENMENT STILL EXISTS DURING A STATE OF EMERGENCY

**STATUS:** Given first reading, and expired in House Judiciary Committee

H.4880 would prevent anyone acting on behalf or under the authority of the state or a local government from prohibiting the lawful use of firearms, and the seizure or confiscation of lawfully possessed firearms or ammunition, during a declared state of emergency. The bill also provides people who believe their rights were violated under this section the means to readdress the situation and for the return of the firearm or ammunition. These provisions would act as a safeguard to prevent violations of individual liberties like those that occurred in New Orleans after Hurricane Katrina, when, at the orders of the mayor, law enforcement agents broke into homes and confiscated lawfully-owned firearms.
**PROHIBITING THE WARRANTLESS SEARCH OF ELECTRONIC DEVICES**  
**STATUS:** Passed the House, referred to and expired in Senate Judiciary Committee

H.4791 would protect South Carolina citizens by prohibiting government entities from performing any warrantless searches of electronic devices and the information within them. Government entities would also be prohibited from obtaining data revealing the past, present, or future location of an electronic device without a warrant. Some minor exceptions are included in the bill: parents can consent to a warrantless search of their child’s geolocation data, and an owner of a stolen electronic device can consent to the geolocation search. The legislation would protect the rights of South Carolinians by recognizing that the right to be secure in person, houses, papers and effects is not limited to physical possessions. While this bill failed to pass, a recent Supreme Court decision found warrantless searches of cellphones to be unconstitutional, and so the issue is out of the legislature’s hands.

**PROHIBITING STATE EMPLOYEES FROM ASSISTING FEDERAL INTRUSIONS**  
**STATUS:** Given first reading, and expired in House Judiciary Committee

H.4795 would prohibit all state employees from personally assisting or using state funds to help a federal agency collect a person’s electronic data or metadata. The bill also prohibits the use of any personal electronic data or metadata collected by a federal agency from being used in a criminal investigation or prosecution. State agencies that violate these provisions would be prohibited from receiving state grant funds the following fiscal year, and state employees who violate them would be barred from future employment by the state.

**ELIMINATION OF CWP FEES**  
**STATUS:** Given first reading, and expired in Senate Judiciary Committee

S.1045 eliminates all application fees for Concealed Weapons Permits, including the initial application fee, renewal fee, and replacement fee. The bill essentially requires the State Law Enforcement Division (SLED) to pick up the tab on CWP fees instead of imposing fees on those who are forced to get a state-approved permit to carry a concealed firearm. While in nearly every case we wouldn’t condone additional state expenditures, there is no reason why law-abiding citizens should have to pay the government for a right afforded them by the Second Amendment.

**BANNING E-CIGS IN PUBLIC PLACES**  
**STATUS:** Given first reading, and expired in House Judiciary Committee

H.4553 would prohibit the use of electronic cigarettes in places where the use of traditional cigarettes is already banned. This is a purely reactionary measure to the appearance of e-cigarettes, which often resemble traditional cigarettes. There is simply no justification for prohibiting the use of e-cigarettes in public places: they emit only water vapors and provide no second-hand smoke risk. There is also data to suggest that e-cigarettes pose significantly less health risks to users than traditional cigarettes, since they lack chemicals that come from tobacco combustion. Prohibitions on e-cigarettes may actually harm more people than they help by taking away incentives to use a product safer than traditional cigarettes.

**BACKGROUND CHECKS FOR INDIVIDUAL GUN SALES AND AT GUN SHOWS**  
**STATUS:** Given first reading, and expired in House Judiciary Committee

H.4503 would require an instant criminal background check be completed for private sales exchanges, and transfers of firearms (with very limited exceptions), including sales, exchanges, and transfers that occur at gun shows, by a licensed dealer who can charge a fee of up to $25 per transaction. This bill would allow government more latitude than it already has to regulate the sale of private property. It’s yet another example of gun control legislation that will have unhappy consequences for the law-abiding citizen. If it were to pass, the bill would require that, in the event you wanted to sell your personal property (in this case, a firearm) to another person, you would have to locate a licensed dealer willing to run a criminal background check on that person and complete all the required paperwork involved in that process. Not only is this an imposition on the dealer and his or her business – it’s a violation of individual liberties. The most comprehensive studies on gun control have found no gun control measures that were effective in reducing gun violence.

---

To see how your legislator voted on bills in Best & Worst 2014, please visit scstatehouse.gov/votehistory.php.
BARRING POLITICAL SUBDIVISIONS FROM ENFORCING WEAPON REGULATIONS

STATUS: Given first reading, and expired in Senate Judiciary Subcommittee

S.885 would make it illegal for local governments in South Carolina (municipalities, counties etc.) to enforce regulations concerning the transfers, ownership, possession, carrying, or transportation of knives, firearms, ammunition, or components of firearms. It is already illegal for political subdivisions to promulgate new regulations on these items. There is no evidence that gun control measures have reduced violence. If lawmakers wish to promulgate these kinds of pointless and burdensome regulations, the state should enforce them, not local governments.

“Nothing that anyone says will "save taxpayer dollars" actually saves taxpayer dollars. Using government resources more frugally doesn't "save" them in any real sense of that term, and spending more dollars for more theoretically cost-effective results 10 or 20 years from now certainly doesn't "save" them. In fact, there is only one way to accomplish that end, and it does not happen in South Carolina: return the unused funds to taxpayers.

The principle here is this: If the government gets to keep the money, there isn't a limit on government spending. The money will still get spent, all right, but just not in the usual way and through the usual channels.

-Barton Swaim in the Charleston City Paper
Note: Under the state constitution, the governor can let a bill become law simply by not acting on it -- allowing a bill to become law "without signature" is a traditional way of dissenting from a bill's logic while recognizing that the legislature will override it anyway. Hence the discrepancy between the number of bills signed and vetoed and the number passed: 324 passed, while Haley only acted on 316 of them.
Tyranny is Crumbling.

WILL YOU HELP US FINISH THE FIGHT TO BECOME THE FREEST STATE IN THE NATION?

With a donation today to the South Carolina Policy Council, it’s possible to put an end to the pervasive corruption that plagues our government and invest in the future of South Carolina. The Policy Council is a 501(c)(3) non-profit that accepts no government funding. Instead, we rely on donors from across South Carolina – individuals, large and small businesses, and private foundations – to support our work. Your contribution is tax deductible to the extent allowed by law. The real benefit, though, will be a better and freer South Carolina.

To invest in the movement to make our state the freest in the nation with SCPC:

1. Make a secure gift online at scpolicycouncil.org/membership
2. Mail your donation to 1323 Pendleton Street, Columbia, SC 29201
3. Consider supporting freedom in South Carolina for future generations by including the Policy Council in your will or estate plan.

For questions about contributions to SCPC, please call Geoffrey Hardee at 803-779-5022 x103.
This publication is possible through the support of people like you.

Please consider donating today at http://www scpolicycouncil.org/membership

Thank you for your support!
To see how your legislator voted on bills in Best & Worst 2014, please visit scstatehouse.gov/votehistory.php.