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* Jamie Murguia and Shane McNamee contributed extensively to this report.
INTRODUCTION

The South Carolina Policy Council began publishing The Best and Worst of the General Assembly in 2008 in order to give citizens a sense of what South Carolina’s lawmaking body did, tried to do, or failed to do in a given year. Best and Worst was – and still is – South Carolina’s only all-encompassing analysis of each year’s legislative session.

This year, sadly, was not one state lawmakers should be proud of. Lawmakers took significant steps to compromise several constitutional rights – especially, though not exclusively, First and Second Amendment rights. They also passed bogus non-reforms on road funding and legislative ethics, and either passed or nearly passed several egregious bills in the areas of regulation, education, taxes, and state spending.

In the pages that follow, you’ll read – in plain English – exactly what each bill would accomplish. In many cases, you may be shocked by the sponsors’ brazenness: They either don’t know they’re trying to pass regressive and/or unconstitutional language, or they do know and assume you won’t. But that’s the value of Best and Worst – you’ll learn precisely what your lawmakers are up to, for good and ill.

The grading system remains the same. Each bill is among the “best” or it’s among the “worst.” Although, inevitably, some bills are worse than others – some of the “worst” are weak rather than destructive, some of the “best” are improvable – we think the simpler grading system works best.

Two thousand sixteen was the second year of a two-year legislative session, meaning the bills listed in these pages either became law or are effectively dead. The bills left unratified at the end of the 2016 session will have to be refiled in 2017 if they’re to have another chance.

Although we wish we could report more bills in the “best” category and fewer in the “worst,” our lawmakers aren’t there yet. We have to tell you the truth, disappointing as it can be. Even so, there are a few signs of hope, as you’ll see. Good news and bad, though, we hope this year’s guide helps you assess the performance of the men and women who represent you in the State House.

E. Ashley Landess
President

Reader’s note, Two thousand sixteen was the second in a two-year session, meaning the bills that didn’t become law are dead. If they’re to get a hearing next year, they’ll have to be refiled (and many of them will). Thus in the “status” line of each of the bills, the phrase “Referred to the Finance Committee” or “Referred to Judiciary Committee” means the bill died in that committee. Similarly, a “favorable report” from a committee means the bill made it out of committee, but never made it to the floor. By contrast, a status indicating a bill’s act number (“Act No. 252”) means the bill passed into law.
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CONSTITUTIONAL RIGHTS

In South Carolina, the judiciary is unilaterally controlled by the legislature, and consequently the legislature routinely passes bills into law that directly violate principles of both the state and federal constitutions. In the federal model, there is always a court to check the constitutional logic of legislative decisions. That check is largely nonexistent in South Carolina, and some of the results of that absence you will witness below.

WORST H.3189 – UNCONSTITUTIONAL RESTRICTION ON FREE SPEECH

STATUS: Passed House, Failed Senate Special Order Motion

This bill turns one of the worst provisions of last session’s atrocious “ethics” bill into standalone legislation. H.3189 would require individuals making an independent expenditure in excess of $500 during a calendar year or an individual who makes an electioneering communication to file a report of the expenditure or communication with the State Ethics Commission – subjecting the individual to regulation and reporting requirements for a pretty minimal investment. The bill would further require groups that make an “electioneering communication” to disclose their donors. Electioneering communication is defined so broadly that it would virtually outlaw any criticism of a politician by anyone other than campaigns during the run-up to an election – a neighborhood newsletter, say, could easily run afoul of the law simply by mentioning a candidate. The provision is manifestly intended to have a chilling effect on criticisms of politicians.

▼ Regulates citizens’ right to criticize public officials, and runs directly counter to numerous court rulings.

WORST S.944 – RESTRICTING USE OF THE STATE HOUSE GROUNDS (S.935)

STATUS: Referred to Senate Finance Committee, Failed in the Senate

Each bill seeks to impose limits on the use of State House grounds by requiring groups to receive some form of permission before use. The Director of the Department of Administration (DOA) would be required to create regulations designating permissible demonstration areas and prohibited demonstration areas on the statehouse grounds. The DOA would also be tasked with creating a permit requirement for events and demonstrations planned on the State House grounds, which requires that the permit be submitted at least ten days prior to the event. These permits would be reviewed by the Director of the State Law Enforcement Division (SLED) and the Director of the Department of Public Safety (DPS) to review for safety or crowd control concerns. The agencies could deny the permit if one or both determines the event would create a legitimate safety concern. Safety concerns are not irrelevant, but S.944 would allow government officials to infringe on citizens’ constitutional right to petition government.

▼ Empowers public officials to deny certain groups the right to protest at the State House.

BEST S.868 – DENYING NON-UTILITY PIPELINES THE POWER OF EMINENT DOMAIN

STATUS: Passed Senate, Passed House, Act No. 205

When it was originally filed, this bill would have granted the power of eminent domain (government’s ability to expropriate private property for public use) to a private company constructing any kind of pipeline. It was significantly amended during the legislative process, however, and when it was sent to the governor it explicitly clarified that eminent domain would not apply to private, for-profit pipeline companies not defined as a public utility. Both the constitution and the law code are seemingly tough but actually vague on eminent domain; indeed the constitution seems to allow the General Assembly to decide questions of land seizures. The issue is bound to be looked at again given that the provision denying these powers will sunset in June of 2019. Gov. Haley signed S.868 June 3, 2016.

▲ Denies private companies the right to use eminent domain, but the provision sunsets in three years.
WORST S.1065 – PETROLEUM PIPELINE STUDY COMMITTEE

**STATUS:** Passed Senate, Passed House, Act No. 304

While it may seem harmless for lawmakers to create a study committee to "study matters related to the presence of petroleum pipelines in South Carolina," this bill allows the committee to examine “whether other states permit petroleum pipeline companies to exercise eminent domain, and if so, under what circumstances.” It should be obvious that private companies may not exercise the state's eminent domain powers. With egregious abuses of eminent domain happening across the nation, South Carolina lawmakers should be tightening existing property rights laws, not flirting with the idea of giving an inherently dangerous power to private companies. Gov. Haley signed the bill on June 9, 2016.

▼ Sets up “study committee” to explore the idea of allowing private companies to take private land.

WORST H.3039 – DILAPIDATED BUILDINGS ACT

**STATUS:** Failed 2nd Reading in the House

This bill is one of the most egregious attempts to infringe on property rights we’ve seen in years. The legislation would empower government to seize private property for forced repairs at the owner’s expense. If the building is in violation of code and considered to be an “imminent danger to the public health or safety” or even a “public nuisance,” the court could seize the property and hand it over to a “receiver” for repairs. While the receiver holds the property, he could also profit off of it via rent, operations, lease, etc., for as long as he holds it. In short, the receiver could do anything with it but sell it, provided he is also executing the needed repairs. If, after the process is complete, the owner cannot or will not pay for the repairs plus a “receivership fee” (regardless of the amount of profit the receiver made from the property while in his possession), the court would sell the property, pay the court costs and receiver, and the owner would get what's left over. As long as a citizen’s private property doesn’t endanger others, he has a right to its protection. If code violations are present, your business may be shut down, but government has no right to force you to repair it.

▼ Empowers government to give private property to someone else, who could then profit from it – a gross infringement on property rights.

BEST H.3025 – ALLOWING CONCEALED CARRY WITHOUT A PERMIT

**STATUS:** Passed House, Referred to Senate Judiciary Committee

Under this legislation, any individual over the age of 21 who is not legally barred from owning a handgun would be permitted to carry a concealed handgun in public. Concealed Weapons Permits (CWPs) would no longer be required for carrying in South Carolina, but could be obtained for other purposes. Individuals would still be prohibited from carrying in certain locations specified in state law (court-houses, police stations, daycares, etc.). The bill would also require that South Carolina accept as valid a CWP from any state rather than only those CWPs from designated reciprocal states. Finally, H.3025 would reduce the penalty for unlawfully carrying a firearm into a business that serves alcohol (carrying in those establishments is only legal if one does not imbibe while carrying). Keeping and bearing arms is a right, not a privilege, and citizens shouldn't require any permission from the government to exercise it.

▲ Would largely abolish unconstitutional state restrictions on Second Amendment rights.

BEST H.4701 – REFUSING TO ENFORCE FEDERAL FIREARMS LAWS

**STATUS:** Passed House, Senate Judiciary Committee Favorable Report

This bill would prohibit the state from assisting in the enforcement of federal law or regulation that limits the right of a person to own, possess, or use a firearm, ammunition, or firearm accessories. Given the state’s dependence on federal funds, the law, if passed, would likely prove little more than a gesture. Even so, H.4701 would also prohibit the state from accepting federal funds related to a federal law or regulation that requires firearms to be registered or confiscated. That provision would have taken effect after January 1, 2016.

▲ Would forbid the state from enforcing federal gun control laws.
WORST S.1023 – ALLOWING CERTAIN RETIRED PUBLIC OFFICIALS TO CARRY CONCEALED FIREARMS

**STATUS:** Passed Senate, Referred to House Judiciary Committee

This bill would allow judges, magistrates, solicitors, clerks of court, and workers’ compensation commissioners to carry concealed anywhere in the state, whether they are active in their positions or retired. Current law only allows these officials to carry concealed anywhere in the state when they are carrying out the duties of their office. It’s difficult to see any justification for giving public officials a special privilege denied to other citizens.

▼ Ensures firearm freedom . . . but only for public officials.

WORST S.943 – MANDATING REGISTRATION OF FIREARMS WITH LAW ENFORCEMENT (H.4564)

**STATUS:** Referred to House Judiciary Committee, Senate Judiciary Committee

This bill would require anyone who purchases a firearm to register that firearm’s serial number and his or her contact information with the State Law Enforcement Division (SLED) within 30 days of purchase. Those who already own firearms when this prospective law is passed would have up to one year to register their firearms. SLED would be tasked with determining an alternate method of registering firearms without serial numbers. Owners of registered firearms would further have to inform SLED in writing of any change in their contact information within ten days of the change. SLED would be required to maintain a list of all registered firearms and their owners, and could only release the list upon the request of a law enforcement agency engaged in an investigation, or upon a court order or subpoena. The first quarter of every year, SLED would be required to publish a report of the registration information from the previous calendar year. Any individual who fails to register a firearm according to S.943 would be guilty of a felony. The problem with this legislation is simply stated: no citizen should have to register with the state as a prerequisite to exercising a constitutional right.

For any constitutional right to be infringed upon (e.g., the right to free speech in a crowded theater), the necessity has to be overwhelming and obvious. That is simply not the case with gun registers. The most diligent research has found no link between firearm registration and crime reduction.

▼ Forces private law-abiding citizens to tell the government what guns they own.


**STATUS:** Senate Judiciary Committee Favorable Report

These resolutions call for an Article V convention of states to amend the U.S. constitution. All of the bills call for a convention for limited, specific purposes: two for a Congressional term limit amendment; one for balanced budget and fiscal restraints amendments; one for fiscal restraints, jurisdictional limits, and term limits amendments; and one for an amendment preserving state sovereignty over the definition of marriage. Article V of the constitution establishes two ways to amend the constitution: one through Congress, and one through a convention of states. For the latter method, two-thirds of the states must request a convention. Any amendments adopted by the convention must be ratified either by three-fourths of the state legislatures or by state conventions in three-fourths of the states, the method being determined by Congress. Among the problems with this idea: (a) many of the solutions these resolutions call for already exist at the state level, with no effect on high taxes, increased spending, or massive debt. Of equal importance, (b) no law will stop federal overreach as long as state officials keep requesting, accepting, and spending billions of federal dollars (and abiding by the accompanying mandates) every year. And (c) the delegates who would be altering the U.S. constitution would be chosen by our state legislature – the same ones who empower and continue the practice of federal control through federal subsidies.

Sadly, there is no pain-free way for the states to take on federal tyranny and out-of-control federal spending without kicking their addiction to federal money. The only way for states to affect the (admittedly dangerous) trends referenced in these bills is to reject both federal money and the accompanying mandates.

▼ Proposes a quick-fix to a variety of major problems at the national level – although state lawmakers, when given the chance to address those same problems at the state level, have not done so.
WORST H.4400 – ROLL CALL VOTING NOT REQUIRED FOR ALL BUDGET SECTIONS (H.4401)

STATUS: Referred to House Rules Committee, House Judiciary Committee

Both the bill and resolution would eliminate the requirement that each section of the state budget be approved via roll-call vote. Legislators would be allowed to vote on up to ten budget sections or ten sections’ worth of budget vetoes in one vote. This would largely defeat the purpose of the roll-call voting requirement, which is to ensure citizens know how their legislators voted on any one particular measure. South Carolina citizens finally forced members of the General Assembly to record their votes in 2011, and lawmakers ought to be finding ways to build on that achievement – for example, by requiring recorded votes in committees and subcommittees – instead of rolling it back.

▼ Allows lawmakers to opt out of recording some budget votes.

WORST H.3184 – LEGISLATIVE SELF-POLICING

STATUS: Passed Senate, Passed House, Act 282

Multiple bills were filed this session to “reform” the system that allows lawmakers to investigate and punish their own members for ethical violations. These bills have almost invariably attempted to rearrange the current system rather than eliminate it. H.3184 was batted back and forth all throughout session, then passed during the sine die period. Under the new system created by this bill, ethics complaints will go to a reconstituted Ethics Commission, which would make a recommendation to the relevant House or Senate ethics committee of whether probable cause exists or not. That recommendation would be made available to the public. But although the Ethics Commission would investigate lawmakers, final decisions on guilt and punishment would remain with the legislative ethics committees – that is, with lawmakers. Currently the governor appoints all members of the Ethics Commission, although they cannot be removed by him or her at will. Under the new arrangement, the governor will appoint four commissioners, the House will appoint two, and the Senate two. The legislature will confirm the governor’s appointments, thus giving the legislature the upper hand in the Commission’s overall makeup. In effect, then, the bill places authority to investigate ethics violations with a notoriously understaffed agency, then establishes legislative control over that agency, all while leaving the authority to punish or not punish lawmakers firmly in the hands of lawmakers. Gov. Haley signed the bill on June 23, 2016.  

▼ Rearranges lawmakers’ self-policing powers without abolishing them.

CITIZEN-CONTROLLED GOVERNMENT

South Carolina is often referred to as a “legislative state,” as if that were a legitimate form for a constitutional republic to take. What it means in practice, of course, is that a few legislative leaders – people elected only by a few thousand people in one district – run the entire apparatus of state government. These legislators can’t be held accountable by the entire state, and indeed, the vast majority of the state’s residents don’t even know their names. If South Carolinians are ever going to achieve free market reforms at the state level, they will first have to make their government accountable to taxpayers. That will mean establishing clear lines of accountability for all major decisions, making all agencies fully transparent, and eliminating the vast array of boards by which unaccountable legislative leaders control state government.
WORST H.3186 – INCOME DISCLOSURE FOR PUBLIC OFFICIALS

STATUS: Passed House, Passed Senate, Act No. 283

While this bill will require lawmakers to disclose their private income sources (with a few exceptions), it fails to address the original sources of income. For instance, lawmakers could easily funnel their more questionable incomes through a limited liability company (LLC), and only list the LLC as the income source. Similarly, lawmakers are not required to disclose any government contracts or subcontracts their business is involved in. Any reform to the state’s disclosure requirements should aim to expose conflicts of interest, and that is what this bill doesn’t do. Gov. Haley signed the bill on June 23, 2016.

▼ Requires income disclosure, but with enough loopholes to make the provision meaningless.

WORST H.3194 – DEFINES CANDIDATE AS ANYONE WITH OPEN BANK ACCOUNT

STATUS: Passed House, Referred to Senate Judiciary Committee

It’s not clear why a bill like this is needed. In any case, it would give additional protection to incumbents by broadening the definition of “candidate” to include those who maintain an open bank account containing contributions. Since candidates have more restrictions on them regarding lobbying, spending, etc., this new provision seems designed to coerce incumbents’ opponents into emptying their campaign accounts, thus making it less likely that they will contemplate another run.

▼ Discourages challenger candidates.

WORST H.3195 – USE OF CAMPAIGN FUNDS TO PAY FINES

STATUS: Passed House, Referred to Senate Judiciary Committee

H.3195 seems to ban using campaign funds to pay fines, fees, or other charges as a result of criminal charges, but would only apply once an elected official is found guilty of the crime. To put this into perspective: Former Speaker of the House Bobby Harrell, who pled guilty to using campaign funds for personal use, was able to defend himself in court by using more than $113,000 in campaign funds. Under this proposal, that would still be allowed. H.3195 takes us precisely in the wrong direction. Not only should the use of campaign funds for criminal defense be disallowed completely; politicians shouldn’t be allowed to spend campaign money on any non-campaign expense – which they routinely do.

▼ Codifies current practice of using campaign funds for legal bills, including for criminal defense.

BEST H.3199 – RESTRICTING THE USE OF SELECT CAMPAIGN FUNDS

STATUS: Passed House, Referred to Senate Judiciary Committee

This bill restricts the use of contributions accepted by candidates to retire campaign debt to the purpose for which they were intended. In other words, these contributions can be used only to retire debt, not on new spending. This is a sensible reform that will help prevent some, but far from all, misuse of campaign funds.

▲ Stops politicians from using debt-retirement campaign contributions for other purposes.

BEST H.5039 – INDIVIDUALS INVOLVED IN PROCUREMENT MUST FILE A STATEMENT OF ECONOMIC INTEREST

STATUS: Referred to House Judiciary Committee

Any individual, whether public official, public employee, or private individual who participates directly in the procurement of goods or services for state government would have to file a statement of economic interest. The principle here is absolutely sound. Clearly, anyone making large purchases with taxpayer money should have to disclose his or her financial interests.

▲ Requires disclosure of some potential conflicts of interest.
**BEST H.3041 – GUBERNATORIAL APPOINTMENT OF EDUCATION SUPERINTENDENT**

**STATUS:** Passed House, Senate Judiciary Report Favorable

This bill proposes an amendment to the state constitution to make the superintendent of education a gubernatorial appointment rather than an elected office. The Department of Education is an executive branch agency: its head should be accountable to the governor, and citizens should have the ability to hold a single individual accountable for the state’s education system. Allowing the governor to appoint the education superintendent is just the first of a number of needed education reforms, including transferring the powers of the unaccountable State Board of Education and Education Oversight Committee to the currently weak Department of Education. As with all agency heads, the Senate would have the role of advice and consent over this new appointment.

▲ Makes education superintendent accountable to the governor.

**BEST H.3192 – REQUIRING AGENDAS FOR PUBLIC MEETINGS**

**STATUS:** Passed House, Referred to Senate Judiciary Committee

H.3192 would have removed the legislative committee exemption from the state law requiring public bodies to post an agenda. In 2014 a state Supreme Court decision stated that public bodies need not post an agenda prior to meeting. In response, last year’s S.11 required agendas to be posted and prevented public bodies from adding items to the agenda within 24 hours of the meeting (with exceptions), but exempted legislative committees and all subcommittees. H.3192 removes the exemption for legislative committees, but retained the exemption for non-legislative subcommittees. While this bill would have been a major step in the right direction, all committees and subcommittees should be subject to the same 24-hour rule.

▲ Further hinders officials’ ability to conduct public business in secret.

**WORST H.3979 – DECREASING THE ROLE OF THE JUDICIAL MERIT SELECTION COMMISSION (S.1004)**

**STATUS:** Passed House, Referred to Senate Judiciary Committee

The bill would require the Judicial Merit Selection Commission (JMSC) to submit to the full General Assembly the names of all candidates it finds qualified for judicial seats. Currently the commission submits no more than three candidates for any one seat, and the legislature votes on these limited options. Nominees for the judicial branch ought to be screened by the Senate Judiciary Committee upon nomination by the Governor, and referred to the full Senate for confirmation as applicable, just as is done at the federal level. The real problem with the bill, of course, is that it doesn’t eliminate the role the legislature plays—thus in essence missing the point of why the system needs reform at all. Any genuine reform would start with placing the power to appoint judges with the governor, with the advice and consent of the Senate, as is the case in the federal constitution.

▼ Weakens one instrument by which the legislature exercises unilateral power over the judiciary without abolishing the power itself.

**WORST H.4665 – MAGISTRATES MUST BE SCREENED BY THE JUDICIAL MERIT SELECTION COMMISSION**

**STATUS:** Passed House, Referred to Senate Judiciary Committee

In a blatant attempt to gain more control over the judicial system, this bill would require that all candidates for magistrate be screened by the legislatively-controlled Judicial Merit Selection Commission (JMSC) before being recommended for appointment by the governor. Under current law a senator recommends a candidate for nomination to the seat in his district, the Senate will vote to nominate, and the Governor will “appoint”, essentially rubber-stamping the senator’s pick. This bill would take our judicial system further in the wrong direction by increasing legislative control over the appointment process. South Carolina needs more independent judges who are not beholden to the legislators, not fewer.

▼ Further erodes judicial independence by putting JMSC over magistrate selection.
WORST S.267 - SHORTEN SESSION BY ADJOINING FIRST THURSDAY IN MAY

STATUS: Passed Senate, Passed House, Act No. 199

"Shortening session is one of the most misunderstood of all major reform topics."

The point of shortening session is to reduce the amount of time lawmakers spend in the environs of the State House, allowing them less time to be influenced by the capital’s vast population of lobbyists and special interests. Lawmakers, though, almost invariably portray the point of shortening session as either “saving taxpayer money” or making it easier to be a lawmaker. It is neither. Shortening session wouldn’t save more than a miniscule fraction of a fraction of the state budget, and making life more convenient for politicians is not the point of any reform.

S.267, though presented as a session-shortening bill, will not achieve the desired result. The bill shortens the annual legislative session by three weeks, ending it on the second Thursday in May instead of the first Thursday in June. That would shorten session modestly, but with two exceptions: (a) If the Board of Economic Advisors (BEA) forecasts a revenue reduction after April 10 for the next fiscal year, the session may be extended for up to two weeks. And (b) the House and Senate may extend session by concurrent resolution with a two-thirds majority vote, but may only consider the budget and any topics specifically listed in the resolution (this latter exception is already part of state law). Furthermore, an already-existing loophole remains part of the state law: if the House does not pass the budget by March 31st, session is extended by one day for every day after March 31st that the budget doesn’t get a third reading. Further ensuring the likelihood that session will be extended is a provision allowing the BEA to publish its final economic forecast – which allows legislative budget-writers to assess how much revenue they have to work with for the next fiscal year – on April 10 rather than February 15. The later date will make the budget process take more time, not less.

Now contrast what passed with S.123, a bill that would have shortened the legislative session and implemented a biennial budget process. This reform – which languished in the Judiciary Committee for two years – would have adjourned session the second Thursday in March in even-numbered years, and the second Thursday in April in odd-numbered years.

South Carolina’s legislative session is among the longest in the nation, which means lawmakers have more face-time with lobbyists and special interests and more time to dream up bogus government “solutions” to problems better solved in the private sector. Shaving off a week or two from the session, then allowing even that measure to be easily rescinded, will not accomplish the goal.

In any case, S.267 was signed by the governor on June 3, 2016.

▼ Cuts session’s length, but not by enough to make a difference.
WORST S.675 – “REFORMING” THE RETIREMENT SYSTEM

STATUS: Passed Senate, Referred to House Ways and Means Committee

This legislation is designed to make the retirement system less accountable to elected officials by (a) increasing the powers of the Public Employee Benefit Authority (PEBA) and the Retirement System Investment Commission (RSIC) and (b) by weakening any oversight of the system. For example, under current law the General Assembly must include in each year's budget sufficient funds for the Office of Inspector General to employ a private firm to perform fiduciary audits of PEBA and the RSIC. Under the new law, the General Assembly would only have to provide these funds every four years. The bill would delete current law requiring that the administration of public retirement systems be financed by their interest earnings; and it would delete current law requiring policy decisions made by PEBA to be approved by the Budget and Control Board (now the State Fiscal Affairs Authority). Worst of all, the bill would sunset the current 7.5 percent assumed return on the investments of the retirement system. Beginning in 2016, the assumed rate of return would be set every four years by the PEBA board in consultation with the board's actuary and the RSIC. The General Assembly could thereafter alter the rate by joint resolution.

In recent years, the state's retirement system has been heavily invested in high risk and/or questionable investments, and its annual return on investment at 1.3 percent has been one of the lowest in the nation.

▼ Makes the state's retirement system less accountable to taxpayers – precisely the opposite of what should happen at this badly performing agency.

WORST H.4844 – BALLOT QUESTION RELATING TO A LEGISLATIVE PAY RAISE

STATUS: Referred to House Judiciary Committee

This bill would place on the 2016 general election ballot an advisory question asking if the legislative salary should be raised to $35,000 or $50,000 (legislative base salary is $10,400, although most lawmakers make at least $22,400 yearly when in-district payments of $12,000 are accounted for). The question is rigged, obviously: the only options are both huge increases, and there is no selection for citizens who would like lawmakers' pay to stay the same or be decreased. More importantly, legislating was never intended by our founders to be the full-time job South Carolina lawmakers have created for themselves. One other point bears mentioning, too. Such a ballot question would be non-binding – South Carolina lawmakers don't have the power to legislate through referendum. What H.4844 appears to be, then, is an attempt to manufacture the appearance of public support for a legislative pay hike.

▼ Asks rigged question of public: How large should legislators' pay hike be?

WORST H.4145 – GOVERNMENT DIRECTION OF THE WORKFORCE

STATUS: Passed Senate, Passed House, Act No. 252

This bill takes central planning to a new level. It was promoted as an innocent effort to “coordinate” all the state's workforce training programs but goes far beyond that, forming a “council” comprised of agency heads and education leaders “to prepare the state's current and emerging workforce to meet the needs of the state's economy.” This new council of bureaucrats will make workforce development recommendations to the General Assembly. Heads of government agencies cannot predict the natural growth of private sector industries and their future demand for workers. Attempts to push the state's future labor force into favored industries will only result in a surplus of workers in some industries (meaning unemployment and reduced wages), and a shortage in others. The bill was signed by Gov. Haley on June 8, 2016.

▼ Forms “council” of bureaucrats to coordinate the economy.
BEST H.4387 – NO TRAFFIC TICKET QUOTAS

**STATUS:** Passed House, Passed Senate, Passed House with Senate amendment, Act No. 264

This bill, now a law, prohibits law enforcement agencies from giving their officers ticket quotas. The new law also prohibits officers from being evaluated based on the number of tickets they issue. This is a welcome reform that should protect citizens’ wallets and lead to a long-run increase in their safety. Law enforcement should be focused on fighting crimes with actual victims, not on raising funds via tickets for victimless offenses. Gov. Haley signed the bill on June 9, 2016.

▲Hinders police departments from meeting their budgets by issuing tickets.

WORST S.1000 – TOWN OF CAMDEN MAY ANNEX BLIGHTED PROPERTY BY ORDINANCE (S.999)

**STATUS:** Passed Senate, Recommitted to House Kershaw Delegation

This bill would permit the town of Camden to annex a specific commercial property by ordinance after finding “that the commercial property, including its improvements, constitutes a danger to the safety and health of the community by reason of lack of ventilation, light, and sanitary facilities, dilapidation, deleterious land use, or any combination of these factors.” Under current law, if an entire area that’s proposed to be annexed belongs to a corporation, it may be annexed on the petition of the stockholders of the corporation.

▼Attempts to expand the already substantial powers of government entities to exercise eminent domain.

WORST H.4555 – REPEALING SOUTH CAROLINA’S RIGHT TO WORK LAW

**STATUS:** Referred to House Labor, Commerce, and Industry Committee

H.4555 would repeal South Carolina’s right-to-work law, allowing union membership to become a prerequisite for employment. That would, in other words, allow unions to force workers to join whether or not they want to be members – a form of coercion that not only harms economic growth and mobility but also infringes on individuals’ right to sell their own labor.

▼Would allow unions to coerce membership.

WORST H.4702 – RESTRICTING FREEDOM OF THE PRESS BY REGISTERING JOURNALISTS

**STATUS:** Referred to House Labor, Commerce, and Industry Committee

This proposal would require the Secretary of State’s Office to create a registry for journalists. An individual would have to be registered to practice journalism, and to do so would have to provide a criminal record background check, an affidavit from the media outlet attesting to the applicant’s journalistic competence, and an application fee in an amount determined by the office. The bill’s sponsor claimed 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 – that is, if the argument for doing so is speculative or has reference to some dubious goal like “jobs” or “more revenue” or “economic development” – our elected officials should reject it.

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the bill was a kind of joke: he was upset that some journalists were (as he thought) advocating the idea that guns should be registered, so he proposed, as a prank, that they should have to register themselves. As The Nerve commented at the time, however, the significance of the bill “isn’t just that we have a legislator willing to use the powers accorded him by our republic to propose legislation he knows to be unconstitutional as a way of scoring points against people whose views he doesn’t approve of. ... The lesson here, rather, is that intimidation and retaliation are now a part of the State House culture. In other words: it’s about more than a silly bill. It’s about a nasty mindset.”

**WORST H.5368 – ALLOWING COMMITTEE TESTIMONY TO BE UNDER OATH**

**STATUS:** Recommitted to House Judiciary Committee

This bill would allow legislative committees to require anyone offering public testimony to be put under oath. Anyone who “willfully gives false, materially misleading, or materially incomplete testimony under oath” would be “guilty of contempt of the General Assembly.” If a majority of committee members believe someone has committed contempt of the General Assembly, they may turn the matter over to SLED, which would have the option of turning the case over to the Attorney General. The first offense: a misdemeanor, punishable by a $100 minimum fine, a six-month minimum imprisonment, or both. The second offense: a felony punishable by a minimum prison sentence of five years, or a fine at the discretion of the court.

This legislation, which was allowed to bypass the committee process late in the session, would allow just two or three members of the General Assembly to have a private citizen investigated by SLED simply on their say-so. Why just two or three members? Because public testimony is only given at subcommittee hearings, and subcommittees often consist of only three members, a majority being two.

▼H.5368 would threaten anyone testifying before State House committees with jail time for the “crime” of giving “misleading” or “incomplete” testimony – an obvious and egregious attempt to silence criticism.

**WORST S.939 – A STATE-LEVEL “ASSAULT WEAPONS” BAN (H.4440)**

**STATUS:** Referred to Senate Judiciary Committee, Referred to House Judiciary Committee

S.939 would prohibit the ownership, transportation, or sale of “assault weapons” by private individuals in South Carolina. The term assault weapon – which isn’t a technical or industry term but comes from media reports – is vaguely defined by the bill as “semi-automatic firearms with a large magazine of ammunition that are designed and configured for rapid fire and combat use. This term does not apply to firearms used for sport or hunting.” Like its now extinct federal counterpart, the assault weapons ban proposed by S.939 would prohibit the ownership of many firearms while continuing to allow the ownership of others that are equally deadly. The federal assault weapons ban was allowed to lapse in 2004 after a study by the federal Department of Justice concluded, “we cannot clearly credit the ban with any of the nation’s recent drop in gun violence ... Should it be renewed, the ban's effects on gun violence are likely to be small at best and perhaps too small for reliable measurement.” Just so, this bill would do little to nothing to make South Carolinians safer, even as it directly infringes on their right to arm themselves.

▼Bans “assault weapons” without defining the term with any precision.

**WORST S.940 – MANDATORY REPORTING OF LOST OR STOLEN FIREARMS**

**STATUS:** Referred to Senate Judiciary Committee

S.940 would require any handgun dealer or owner to immediately report the loss or theft of a handgun to a law enforcement agency. Just how this law would be enforced is unclear. If law enforcement finds a lost or stolen gun, how can it be proven that the original owner willfully failed to report the loss of the weapon and wasn’t simply unaware of the loss? It will also be difficult to impossible to trace back any lost or stolen gun to an individual absent a mandatory statewide gun registry, an initiative that proved a failure (thanks to noncompliance) when tried in Canada.

▼Punishes the victimless “crime” of failing to report a loss to the government.

To see how your legislator voted on bills in Best & Worst 2016, please visit scstatehouse.gov/votehistory.php
**WORST S.917 – RESTRICTIONS ON DEALER TRANSFER OF FIREARMS (S.918, H.4551, H.4552)**

**STATUS:** Referred to Senate Judiciary Committee, House Judiciary Committee

Each of these bills would prohibit a licensed firearm dealer from transferring a firearm before either the completion of a National Instant Criminal Background Check System (NICS) check, or 28 days have elapsed from the date the dealer contacted the NICS, whichever comes first. Violation of this law would be a class-A misdemeanor, punishable by up to a $1,000 fine, three years of imprisonment, or both. Current federal law allows a licensed dealer to complete a firearm transfer if he or she has not received a response from NICS within three business days. As is the case with virtually all gun control attempts, these bills would restrict the rights of law-abiding citizens and do little to prevent violent criminals from obtaining weapons. Individuals who wish to obtain a firearm for criminal purposes are not likely to attempt to obtain that firearm in a way that requires them to undergo a background check.

▼ Imposes tighter regulations on lawful gun purchases.

**WORST S.941 – UNIVERSAL BACKGROUND CHECKS FOR GUN TRANSFERS (H.4444, H.4480, H.4399)**

**STATUS:** Referred to Senate Judiciary Committee, House Judiciary Committee

This bill would mandate that no person or firearm dealer may sell or transfer a firearm prior to the completion of a background check through the State Law Enforcement Division and the National Instant Criminal Background Check System (NICS). Any person or dealer who violates this law would be guilty of a felony and could be fined up to $2,000 or imprisoned for up to five years. This would be a severe infringement on the personal liberties of South Carolina citizens. A universal background check requirement would impose significant time and monetary costs on those wishing to sell or otherwise transfer their legally-owned property. Arguments for this and similar bills would be more cogent (though not, finally, persuasive) if they had any chance of reducing violent crime. There is no clear evidence that they do.

▼ Requires stringent background check on transfers of firearm ownership.

**WORST S.942 – CREATING WEAPONS PURCHASE PERMITS**

**STATUS:** Referred to Senate Judiciary Committee

S.942 would require any state resident to obtain a “weapons purchase permit” from the State Law Enforcement Division (SLED) before buying a firearm or ammunition in South Carolina. In order to obtain the permit an individual would have to be 21 years of age and show proof of having taken a firearms training course, or be ex- or current military, ex-law enforcement, an active duty police handgun instructor, a person who has a SLED-certified or approved competitive handgun shooting classification, or a person who can demonstrate to the Director of SLED or his designee that he has a proficiency in both the use of handguns and state laws pertaining to handguns. A weapons purchase permit would have to be renewed every three years for a $25 renewal fee. Applicants for renewal would have to pass another background check. A permit holder would be legally obligated to report the loss or theft of a weapons purchase permit; failure to do so would be a misdemeanor subject to a $25 fine. S.942 would violate the individual right to keep and bear arms as affirmed by the Supreme Court in DC v. Heller and McDonald v. Chicago.

▼ Adds an extra layer of permission for exercising your right to keep and bear arms.

**HEALTHCARE**

South Carolinians see the rising costs and deteriorating quality of medical care in the United States, and they are rightly alarmed. The way to address the problem, however, isn’t to double down on the policies that have created the problem in the first place: more regulation, more centralization, more government subsidies. The way to address it, rather, is to remove the barriers to market competition. It really is that simple.
BEST  **H.4999 – LIABILITY OF HEALTH CARE PROVIDERS WHEN PROVIDING FREE CARE (S.357)**

**STATUS:** Passed House, Passed Senate, Act No. 189

The scope of the Good Samaritan statute is expanded under this bill to cover health care providers who provide services free of charge. In other words, health care providers (including doctors, dentists, and chiropractors maintaining special volunteer licenses) would be immune from any civil damages tied to the free provision of services, provided that the agreement to provide the services for free is made in writing in cases of a nonemergency. The only exception to this immunity obtains when the provider performed the services with gross negligence or willful misconduct. These kinds of protections will encourage more medical professionals to provide services to citizens who may be uninsured or otherwise have trouble paying regular prices for these services. The bill was signed by Gov. Haley on May 25, 2016.

▲ Protects ordinary benevolent behavior from scheming lawsuits.

WORST  **S.1016 – NEW RESTRICTIONS ON EYE CARE (H.4728)**

**STATUS:** Passed Senate, Passed House, Veto overridden by Senate, Veto overridden by House, Act No. 173

This bill regulates the use of eye care diagnostic kiosks so that a prescription for glasses or contacts could not be based solely on the use of such a device. The bill, now a law, imposes several new regulatory hindrances on these kiosks, and will almost certainly drive up the cost of eye care in South Carolina by prohibiting the use of innovative equipment intended to save consumers time and money.

▼ Punishes upstart competition in the optometry industry.

BEST  **H.4542 – RIGHT TO TRY (S.929)**

**STATUS:** Passed House, Passed Senate, Act No. 230

This bill allows terminally ill patients to use investigational drugs, biological products, or devices which are still under the FDA approval process but not yet approved, upon the recommendation of a physician and after giving informed consent. The bill also contains a variety of safeguards for all parties involved. Makers of the investigational drugs, biological products, or devices would not be required to provide them to patients, and would be protected from lawsuits arising from the use of their products as long as they make a good faith effort to comply with this law. Health care providers and physicians are protected from retaliation by licensing boards and Medicare certifiers for participating in this law/program. Insurance companies are not required to pay for it, and the heirs of an eligible patient who dies while under “right to try” treatments would not be liable for any outstanding debt related to the treatment. This excellent reform clears away bureaucratic red tape that costs lives. The fact that a patient is terminally ill obviously serves as a strong mitigating factor to any concerns about the dangers of a yet unapproved medical treatment. Gov. Haley signed the bill on June 3, 2016.

▲ Loosens needless restrictions on care for the terminally ill.
**BEST H.5193 – AUTHORIZING PRESCRIPTION OF OPIOID ANTIDOTES IN CERTAIN CIRCUMSTANCES**

**STATUS:** Passed House, Passed Senate, Act No. 247

This bill gives pharmacists the ability to dispense opioid antidotes without a prescription under certain regulations. Although current law allows doctors to issue standing orders for first responders to access opioid antidotes for patients experiencing overdoses, no one else may obtain an antidote without a patient-specific prescription. H.5193 requires the Board of Medical Examiners and the Board of Pharmacy to create a protocol authorizing pharmacists to dispense opioid antidotes without a prescription to either a patient or a patient's caregiver. Gov. Haley signed the bill on June 5, 2016.

▲ Deregulates a small section of the code governing pharmacists.

**BEST H.4550 – MEDICAL USE OF LOW-THC CANNABIDIOL BY CERTAIN INDIVIDUALS (S.584)**

**STATUS:** Referred to House Judiciary

S.584 would amend the state law regulating marijuana to create more flexibility for medical uses. Current law permits the use of cannabidiol (a non-psychoactive derivative of the cannabis plant) to treat forms of epilepsy. This bill would expand the provision for medical use of cannabidiol to any “non-treatable medical condition.” The definition for non-treatable medical condition includes a broad number of illnesses and conditions that are not sufficiently treated by traditional approaches, or any condition that is severely debilitating or terminal, as requested by a physician. The bill also slightly changes the substance perimeters. Any substance for medical use made from a plant of the genus cannabis could not contain more than nine-tenths of one percent of tetrahydrocannabinol acid as well as tetrahydrocannabinol, and would no longer be required to have more than fifteen percent of cannabidiol. This bill would be a small step in the right direction, as medical professionals, not the state, should be the primary judges of appropriate medical treatment.

▲ Puts one small component of medical care into patients’ control.

**ROADS AND ROAD FUNDING**

South Carolina drivers rightly demand better roads. They pay plenty of taxes, and roads are one of the most essential services government provides. Why are the state’s roads and bridges in such terrible shape, and what can be done about it? The easy answer – and the answer most lawmakers would like to give – is simply to raise taxes. Unfortunately, that won’t solve the problem. Our roads and bridges aren’t deteriorating because South Carolinians haven’t sent enough money to Columbia. They’re deteriorating because no one is accountable for the state’s road system. Until one statewide official – the governor – is made responsible for the shape of our roads, we will continue to see the priorities of individual legislators trump the needs of the state.

**BEST S.315 – EXTENDING GOVERNOR’S AUTHORITY TO APPOINT DOT SECRETARY**

**STATUS:** Passed Senate, Referred to House Ways and Means Committee

One reason reforming the Department of Transportation (DOT) has been such a challenge is that lawmakers are adamant they reformed it in 2007. While that law – Act 114 – appropriately gave the governor the authority to appoint the Secretary of the Department of Transportation, it also contained a sunset provision on that authority. This bill would repeal the sunset clause of Act 114 and vest the appointment power in the governor until such time the legislature changes it. The effect of this bill would essentially...
be to perpetuate the status quo that has existed since 2007, and while that isn't necessarily reform it would have been an improvement over the ultimate outcome. In May 2016, the Supreme Court struck down a budget proviso that would have extended the governor's ability to appoint the Secretary an additional year, allowing the appointment power to fall to the DOT Commission upon expiration.

▲ Deletes a small but pernicious detail in the DOT "reform" of 2007.

**BEST H.5204 – DOT REFORMS, ABOLISHING DOT COMMISSION, SUNSETTING STIB**

**STATUS:** Referred to House Ways and Means

This bill would abolish the DOT Commission and rightly devolve its duties to the agency's governor-appointed secretary. It would also sunset the State Transportation Infrastructure Bank on January 1, 2017 – a key component of any genuine reform – and require more transparency from the DOT by requiring the agency to post its detailed budget for each fiscal year on its website, including "all other projected expenditures and revenue sources … and any mandate associated with the funding." The state's dependence on federal funds has exacerbated an already backward and poorly functioning infrastructure system by encouraging policymakers to prioritize expansions and new constructions over badly-needed maintenance. Requiring DOT to disclose federal funds associated with their projects is a necessary reform if the state is serious about fixing its roads.

▲ Puts one statewide official, the governor, in charge of DOT, and abolishes the agency responsible for diverting road funds to politically-influential counties.

**WORST H.3349 – NEW REGULATIONS ON “COMPOUNDING PHARMACIES”**

**STATUS:** Passed House, Referred to Senate Medical Affairs Committee

This legislation would establish a lengthy list of new regulations for "compounding pharmacies" (pharmacies that mix or modify medications). Like many other pharmacy-related bills, H.3349 was introduced by a pharmacist-legislator known for filing bills favorable to currently-practicing pharmacists.

▼ More competition-stifling regs for pharmacists.

**WORST H.4327 – QUALITY HOSPICE PROGRAMS ACT**

**STATUS:** Passed Senate, Passed House, Veto by governor sustained

This bill would require additional licenses for multiple hospice facilities under a parent hospice organization. These extra facilities would have to be located in the next county over from the parent hospice facility as well. There was no obvious and legitimate reason to pass H.4327 into law. If the demand for hospice care is greater than what one
WORST S.1258
BOND BILL FOR ADDITIONAL STIB FUNDING

STATUS: Passed Senate, Passed House, Act No. 275

When lawmakers agreed they couldn’t pass a tax hike in 2016, they settled on incurring debt to solve the state’s transportation woes. Under S.1258, two revenue streams (car taxes and DMV fees) are directed into the state-funded resurfacing program within the State Highway Fund. The DOT will then send a list of potential bridge & road projects (with certain qualifications) to the State Transportation Infrastructure Bank (STIB), which will submit the proposed projects to the Joint Bond Review Committee for approval. Once the projects are approved, the STIB will inform DOT how much money is needed to bond for the projects, and DOT will transfer the money to the STIB out of the state-funded resurfacing program. Any funds not being bonded will be used for maintenance - basically, to fix potholes.

Under the DOT reform component of the legislation, the governor appoints the eight DOT commissioners - one from each congressional district, and one at-large - upon the advice and consent of the Senate. That sounds good, but these appointees will then go before their respective congressional legislative delegations for approval. If approved, they will then go before the legislature’s Joint Transportation Review Committee (JTRC). If approved by the JTRC, they’ll then go before the Senate for a final vote. The at-large appointee would go straight to the JTRC for approval. If at any point the appointee is not approved, the governor must start over with a new appointee. The DOT Secretary will be appointed by the DOT commission rather
than the governor. Furthermore, the governor can only remove commissioners with the approval of the respective congressional delegations. The STIB will only be required to submit loan decisions, not bond decisions, to the DOT commission for approval. While the STIB would be required to follow Act 114 criteria for road funding projects, the legislature can override that by passing a joint resolution allowing the STIB to fund a project that isn’t in accordance with the Act 114 prioritization criteria. That allows lawmakers to bypass what little accountability they just put in place for the STIB.

Finally - and bizarrely - the amendment includes language stating that the General Assembly finds this legislation in compliance with the constitutional requirement that a bill can only have one subject. That’s pretty clearly a legislative maneuver intended as a preemptive defense against a likely legal challenge based on the fact that the bill has more than one subject.

The “roads bill” was signed by the governor on June 8, 2016.

▼Pays for roads with more debt while making the system less accountable.
location can offer in a given county, why restrict a business that has already gone through the licensing process and had a license issued (basically a business in good standing and deemed responsible) from opening an additional location? The bill appears to be an attempt by existing providers to limit competition by smaller and more agile firms. The governor was right to veto it, and the House was right to sustain that veto.

▼ Imposes burdensome requirements on hospice providers.

WORST H.4574 – LICENSURE FOR ELECTROLOGISTS AND ELECTROLOGY INSTRUCTORS

STATUS: Passed House, Referred to Senate Medical Affairs

This bill prohibits anyone from practicing or teaching electrology unless licensed by the State Board of Medical Examiners and establishes the Electrology Licensure Committee to advise and assist the board in issuing licenses. The committee is composed of five members appointed by the governor. The bill lays out licensing requirements, and the committee is responsible for making regulatory, fee, penalty, and other executive recommendations to the board. Licensing laws do not ensure quality of service but are very effective at keeping low-income entrepreneurs from entering the industry and offering competition. These regulations also drive up prices, making their services harder to access for low-income consumers.

▼ More licensing requirements with no evidence of need.

WORST H.4447 – PERMITS FOR MOBILE BARBERSHOPS

STATUS: Passed House, Senate Labor, Commerce, and Industry Committee Favorable Report

Under this proposal, the State Board of Barber Examiners would issue mobile barbershop permits, set permit and renewal fees, create a permit application process, and inspect the mobile barbershop before issuing or renewing the permit. The permit would have to be renewed annually, and the permittee is required to keep a record of all locations where barbering services have been provided and to have a licensed barber in charge at all times. This is, in short, a typical instance of heavy-handed government overreach. Regulating at this level will stifle small businesses, raise the entrance bar for entrepreneurs, and increase their financial burden by squeezing money from them in the form of fees and taxes.

▼ A busybody regulation clearly intended to stifle entrepreneurship and competition.

WORST H.4845 – FUNERAL HOME DIRECTORS MAY REFUSE TO RELEASE BODIES

STATUS: Passed House, Referred to Senate Labor, Commerce, and Industry Committee

A reintroduction of a similar bill from the last legislative session, H.4845 would allow a funeral home to transfer a body to another funeral home only after the latter pays the former for services rendered to the body. So, for example, if a family initially places the deceased with one funeral home, then discovers that the price is prohibitive, the body could not be transferred until the new funeral home pays the first funeral home for services. Under current law, holding a body hostage in this way is a criminal offense. There are less ethically questionable means of recovering a debt through other avenues, such as the legal system. Leave aside the moral issue of essentially holding a body for ransom; the bill’s sponsor is a licensed funeral home owner and director – an obvious conflict of interest.

▼ Punishes less expensive competitors in the funeral industry.

WORST S.160 – THIRD PARTY FUNERAL SERVICE PROVIDERS MUST BE LICENSED

STATUS: Passed Senate, Referred to House Labor, Commerce and Industry Committee

This legislation would require the licensure of all third-party funeral service providers, defining providers as anyone who “advertises the practice of funeral services to the public but who contracts with or otherwise engages another licensee to provide, assist, or otherwise participate in the practice of funeral service that he has agreed to perform for a fee.” Like most occupational licensing laws, this new regulation is very likely to drive up prices for consumers.
and decrease opportunities for aspiring entrepreneurs. The funeral industry in particular is grossly overregulated, to the advantage of existing firms and to the detriment of consumers.

▼ Further regulates competitive funeral service providers to the benefit of established funeral service providers.

WORST S.938 – CREATING A STATE MINIMUM WAGE

**STATUS:** Referred to Senate Labor, Commerce and Industry Committee

S.938 would create a state minimum wage higher than its federal counterpart. The state minimum wage would be set at $8.75 an hour starting January 1, 2017, would be raised to $15 an hour by January 1, 2020, and afterward would be adjusted annually for inflation. The bill attempts to mute any unemployment effects caused by raising the minimum wage by allowing persons aggrieved by a violation of this law to bring civil action against an employer. Employers in turn would be prohibited from any retaliatory action against a person who filed such a civil complaint. The attorney general would also be able to enforce this law through civil action which could either seek injunctive relief, or impose a fine of $1,000 for each violation of the law. Enforcement provisions aside, the laws of supply and demand cannot be legislated away. Forcing employers to pay a wage above the wage the productive capacity of their workers dictates will inevitably increase unemployment in the long term. Even if companies are legally prohibited from firing current employees whose work does not justify their mandated wages, they will compensate by simply hiring fewer people, or hiring from a more restricted pool of applicants in the future.

▼ Attempts to settle disputes over noise-making with a new law.

WORST H.5245 – BEER MANUFACTURERS, ETC., MAY OFFER COUPONS & REBATES (S.1239)

**STATUS:** Passed House, Passed Senate, Act No. 248

This bill allows beer and wine manufacturers and retailers to offer coupons and rebates to customers, but also requires manufacturer coupons and rebates to be made available on request to any licensed retailer – a decision that should be left to the manufacturer, not mandated by the government. Most, if not all, of the regulations currently governing this industry are highly protectionist. The role of government is to preserve the right of businesses to function freely, not to micromanage the market as government sees fit. Gov. Haley signed the bill on June 5, 2016.

▼ Imposes more micromanaging regs on the beer and wine industry.

BEST S.1035 – AUTHORIZING AND REGULATING TELEMEDICINE

**STATUS:** Passed Senate, Passed House, Act No. 210

S.1035 allows licensed South Carolina physicians to prescribe medication to a patient through telemedicine, and requires them to comply with the same regulations and standards of traditional practitioners. Telemedicine is defined by the bill as “the practice of medicine using electronic communications, information technology, or
other means including, but not limited to, secure video-conferencing or interactive audio,” etc. S.1035 specifies that telemedicine does not include audio-only phone calls, emails, instant message conversations, or faxes. Physicians practicing telemedicine are not permitted to prescribe Schedule II and III or lifestyle medications except as authorized by the State Board of Medical Examiners, or drugs prescribed for the purpose of inducing abortions. Regulations notwithstanding, the bill removes a small but significant barrier to individual choice in health care, and is likely to make some medical care more accessible (especially to those in rural areas) and less expensive. Gov. Haley signed S.1035 on June 3, 2016.

▲ Removes some barriers to doctors prescribing treatments by video-conferencing, etc.

**WORST H.4717 – MORE WELFARE FOR THE AGRICULTURE INDUSTRY**

**STATUS:** Passed Senate, Passed House, Veto overridden by House, Veto overridden by Senate, Act No. 174

H.4717 establishes the South Carolina Farm Aid Fund in response to the October 2015 flooding. The fund is administered by the Department of Agriculture, with the advice of a Farm Aid Advisory Board. To qualify for assistance from this fund, the farm must have lost 40 percent of agricultural commodities due to the October 2015 flooding, be located in a county for which the U.S. Secretary of Agriculture issued a Secretarial Disaster Declaration, and must have a farm number issued by the Farm Service Agency. Each grant can equal up to 20 percent of the farmer’s verifiable loss, but no one (including the farmer’s relatives) may receive grants aggregating more than $100,000. Additionally, received grants when combined with losses covered by insurance may not exceed 100 percent of the total loss. The bill appropriates $40 million from the 2014-2015 Contingency Reserve Fund to the South Carolina Farm Aid Fund.

Crop insurance is already available to farmers from the federal government, and those programs have a history of waste and fraud. The federal government also provides crop disaster relief outside of its crop insurance programs. Indeed, agriculture is one of the most heavily subsidized industries in the American economy, and the average farmer is financially far better off than the average worker or professional in many other industries. Political rhetoric aside, there is no special need for the government to subsidize the agricultural industry. Farmers should be responsible for their own profits and losses, and subject to the risks inherent in their industry just like every other business. Notwithstanding, lawmakers easily overrode the governor’s veto.

▼ Sends yet more public money to already oversubsidized ag industry.
WORST H.3374 – REDUCING OBLIGATIONS TO LOCAL GOVERNMENTS

**STATUS:** Passed House, Referred to Senate Finance

H.3374 would rename the Local Government Fund the “Local Government Revenue Sharing Fund” and would eliminate the requirement that the fund be appropriated an amount not less than 4.5 percent of General Fund revenues of the last completed fiscal year. In any fiscal year in which General Fund revenues are projected to increase, the appropriation to the fund would be increased by the same projected percentage increase, but not more than 5 percent. The bill doesn’t specify what the initial appropriation to the Revenue Sharing Fund should be. If it’s determined by the current year’s appropriation for the Local Government Fund, this would be a significant reduction in the legal funding requirement for the fund given that the legislature is currently failing to meet its legal obligation to appropriate an amount equal to 4.5 percent of the General Fund to the Local Government Fund. When the legislature appropriates less than what the law requires, local governments either increase taxes or reduce services. The state legislature has long attempted to arrogate local powers to itself while depriving local governments of funds and decision-making powers – a centralizing tendency that makes for bad policy and inefficient government. Depriving localities of revenue that belongs to them is one more instance of this longstanding trend. Leave aside the merits or demerits of the state devoting 4.5 percent of its revenue to local governments. Maybe that amount should be zero, or maybe it should be more. The point is that, by law, that amount is 4.5 percent. When state lawmakers fulfill that legal obligation, then they can begin creating a more flexible funding system. Until then, they should just follow the law.

▼ Allows local governments to raise taxes for tourism marketing.

WORST H.5011 - REINSTATEMENT OF LOCAL OPTION TOURISM DEVELOPMENT FEE

**STATUS:** Passed House, Passed Senate, Veto overridden by House, Veto overridden by Senate, Act No. 249

The bill allows municipalities to extend the Local Option Tourism Development fee. This fee is 1 percent of all sales subject to sales tax, and is mostly to be used for tourism advertisement and promotion. However, 20 percent of the fee proceeds may be used for a property tax credit. Current law states that the fee can only be imposed for ten years at the most. The fee could be renewed in the same way it was imposed, either by ordinance or local option. The problems with this and similar bills are basically three. First, tax increases for specific projects – in this case, tourism marketing – nearly always lead to waste and fraud. Second, it’s intrinsically unfair for government officials to use public money to prop up one industry. And third, there is no way to assess the success of such a venture: Who really knows if a certain advertisement for South Carolina beaches, say, had any positive effect at all? And in any case why would anybody suppose government officials know the best ways to spend advertising money?

▼ Devises a “legal” way around state government’s financial obligation to local governments.

TAX FAVORS

Public officials 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, and much to suggest they do not. The only tax favors our lawmakers have any business enacting are those that benefit all taxpayers.
WORST H.4762  –  REVISING MILLAGE REGULATION EXCEPTION FOR CERTAIN COUNTIES

**STATUS:** Passed House, Passed Senate, Veto overridden by House, Veto overridden by Senate, Act No. 276

H.4762 adds an exception to the millage rate increase limitation in state code. Currently, local governing bodies may only increase millage rates to the extent of the increase in the average of the 12 monthly consumer price indices, plus the percentage increase in the population in the last year. There are a number of exceptions to this, and this law adds an exception for counties having at least 40,000 acres of national forest land. The bill's three sponsors are all from counties that would qualify for this exception, effectively allowing a local tax increase. The list of counties that would qualify is as follows: Abbeville, Chesterfield, Edgefield, Fairfield, Greenwood, Laurens, McCormick, Newberry, Oconee, Union. Gov. Haley's veto was overridden by the Senate.

▼ Adds exception to exception-riddled code on millage rates.

WORST H.5009  –  LIFTING TEXTILES COMMUNITIES REVITALIZATION INCOME TAX CREDIT CAP (S.1125)

**STATUS:** Passed House, Passed Senate, Act No. 179

H.5009 (along with companion bill S.1125) lifts the cap on the textiles communities revitalization income tax credit. Under current law, anyone who rehabilitates a textile mill site is eligible for either a property tax credit or a credit against income taxes, corporate license fees, or insurance premium taxes. If the taxpayer files for the latter, the credit equals 25 percent of actual rehabilitation expenses, with a cap at 50 percent of income tax liability, corporate license fees, or insurance premium taxes. This bill lifts the 50 percent cap, allowing the taxpayer to claim a credit of 25 percent of rehabilitation expenses regardless of amount. The credit is a terrible idea in the first place: Why should the state in effect recoup the capital outlay of one kind of investor – one who revamps a textile facility – but not another? The bill was signed by the governor on May 23, 2016.

▼ Makes a rent-seeking tax credit even more lucrative.

WORST S.1075  –  AMENDING REGULATIONS FOR MOTOR VEHICLE WEIGHT ALLOWANCES, ALTERNATIVE FUEL, TAX CREDITS

**STATUS:** Passed Senate, Referred to House Ways and Means

S.1075 is an example of confused policy if ever there was one. The bill simultaneously encourages and discourages the use of liquefied natural gas. First, the bill amends state law to make clear that alternative fuel (newly defined to include liquefied natural gas) is subject to the 16 cent per gallon gas tax. Second, the bill implements a variety of income tax savings and credits for an individual purchasing natural gas property or vehicles. This confusing mix of tax incentives and disincentives to use the same product exemplifies what is wrong with our state's tax policy. Ideally the state would be moving towards a tax system that doesn't single out services or products for favored or disfavored tax status. A preferable tax system would impose a consistent low rate on broad categories of activity (sales or income). Instead, lawmakers use the tax code to favor some and to penalize others. In this case, they're trying to do both at the same time.

▼ Imposes confusing combination of taxes and credits on natural gas.

WORST S.982  –  SALES TAX EXEMPTIONS FOR NATURAL GAS

**STATUS:** Passed Senate, Referred to House Ways and Means

S.982 creates a sales tax exemption for natural gas and liquefied petroleum gas if the purchaser has a miscellaneous fuel user fee license, and will convert the natural gas into compressed or liquefied natural gas for use in their own motor vehicle, or use the liquefied petroleum gas as a motor fuel. The purchaser would be required to remit the motor fuel user fees as required by law.

▼ Another special interest tax exemption bill.
**WORST H.4390 – EMPLOYER TAX CREDIT FOR PAID PARENT-EMPLOYEE RELEASE TIME**

**STATUS:** Referred to House Ways and Means Committee

H.4390 creates a tax credit for employers who grant paid leave to their employees for the purpose of attending their children's educational events. The credit amounts to half of the base pay the employee receives for each hour the employee is gone, and cannot exceed 4 hours in a single day, or 8 hours a year. This bill also requires state employers to grant the same paid leave to their employees, and repeals an obsolete section of code requiring the Education Oversight Committee to devise an incentive for paid parent-employee release time. The idea that the state should micromanage employer-employee relationships in this way is preposterous. Among other problems, a law like this would create incentives for fraud that wouldn't otherwise exist.

▼ Uses tax code to entice employers to allow parents to attend children’s “educational activities.”

**WORST H.4558 – INCOME TAX CREDIT FOR DEVELOPERS**

**STATUS:** Referred to House Ways and Means Committee

H.4558 creates an income tax credit for developers who help relocate people who are displaced by the redevelopment of their residence. Under this bill, the credit would equal 20 percent of the cost of relocating each individual, and total credit claimed must not exceed more than $100,000 per developer. The credit must be taken in five equal installments over the next five years, but any unused portion of any credit installment may be carried forward for the next five years. The bill also limits the total amount in credits for all taxpayers to $2 million on a first come, first serve basis. The kind of assistance envisaged here is nice, but the state can’t be in the business of rewarding niceness with tax credits. Where will it end?

▼ Allows tax credit for developers that relocate displaced by redevelopment.

**WORST H.4415 – PRIVATE SCHOOL BUSES CAN’T BE PAINTED CERTAIN COLORS**

**STATUS:** Recommitted to House Education and Public Works Committee

H.4415 would prohibit private school buses that don’t conform to State Board of Education regulations from being painted “national school bus glossy yellow.” The regulations in view concern “painting, lettering on the front and rear of the bus, use of stop arm and warning lights for loading and unloading pupils on the highway, maximum speeds, and stopping at railroad crossings.” This is a ridiculous infringement on private property rights that can serve no genuine public purpose.

▼ Dictates the way private entities paint buses.

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After decades of funding increases, why does South Carolina’s education still perform poorly relative to those of other states? The answer: What improves educational performance isn’t money; it’s choice. Where there is no choice, there is no competition: and where the vast majority of citizens are limited to only one educational product, the producers of that product have no incentive to improve it. When that changes – when South Carolina taxpayers are given more choices in how they use the resources they’ve paid for – South Carolina schools will improve. As long as it remains the same, they won’t.

**EDUCATION**

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WORST H.4774 – CONTINUING THE SC FIRST STEPS TO SCHOOL READINESS PROGRAM

**STATUS:** Passed House, Favorable report from Senate Education

Companion bills H.4774 and S.1038 would reauthorize the First Steps to School Readiness program, which provides funding to and oversight of various early education programs in South Carolina, until July 1, 2021, and would ensure that the program is automatically reauthorized every five years thereafter. South Carolina already participates in the federal pre-K program, and operates multiple state level pre-K initiatives. There is little evidence that any of these programs improve student performance beyond elementary school, and no empirical evidence that they have any beneficial effects for participants once they have reached high school. At a time when many are calling for increased state education funding, it’s imperative to ensure that the dollars currently spent on education are spent wisely, and not on feel-good but underperforming programs.

▼ Entrenches pre-K program despite lackluster record of success.

WORST H.4937 – ESTABLISHING THE SC EDUCATION & ECONOMIC DEVELOPMENT COORDINATING COUNCIL (H.4781)

**STATUS:** Passed House, Senate Education Committee amendment adopted

H.4937 creates a South Carolina Education and Economic Development Coordinating Council. This would be a 28-member board that would advise and report on the implementation of the South Carolina Education and Economic Development Act (which mandates that career awareness and exploration be incorporated into the public school curricula from the first grade, culminating in personalized graduation plans depending on the student’s career interests), with a focus on workforce development and student success in postsecondary education. This bill reflects the General Assembly’s push toward more funding workforce development (a euphemism for statewide central planning). But the point of education is to educate, not to channel young people into certain careers in an attempt to plan the economy.

▼ Furthers the transformation of education into economic central planning.

WORST H.4936 – PROVIDING EDUCATION GOALS FOR ALL HIGH SCHOOL GRADS

**STATUS:** Passed House, Passed Senate, Passed House with Senate amendment, Act No. 195

This bill defines the success standards for high school graduates and mandates that the state make a “reasonable and concerted effort” to ensure graduates have “world class knowledge based on rigorous standards in language arts and math,” are offered the ability to obtain “world class skills” (including creativity and innovation, critical thinking, etc.), and are educated on “the state’s vision of life and career characteristics” (integrity, self-direction, global perspective, etc.). The fact that its authors could write such drivel – does the state really have a “vision of life and career characteristics”? – strongly suggests that South Carolina’s education policy is based on vague intentions and empty gestures. The idea, furthermore, that lawmakers can refer blithely to the state’s “vision of life” is alarming.

▼ A pointless and meaningless gesture at establishing “world class” education.

WORST H.4938 – SURVEYING COLLEGE STUDENTS ON RURAL TEACHER INCENTIVES (H.4782)

**STATUS:** Passed House, Passed Senate, Act No. 291

Companion bills H.4782 and H.4938 would mandate that students at the state’s colleges of education be surveyed on whether they ever thought about teaching in a rural and economically challenged district, and what incentives would cause them to work in such a district. These surveys would be the first step towards new financial incentives for teaching in rural districts, a policy that has been suggested multiple times by Gov. Haley. The effort will do little to improve teacher quality, however, since the highest performing teachers have an easier time acquiring positions in what are perceived to be the better or more desirable school districts and are therefore less likely to be swayed by these benefits. What is needed isn’t more money for public schools. What’s needed is parental choice instead of a monolithic one-size-fits-all education system. The bill was signed by Gov. Haley on June 5, 2016.

▼ Mandates surveys to further interest in teaching in rural areas.
**WORST H.4939 – REVISIONS TO EDUCATION SYSTEM, STATUTES (H.4780)**

**STATUS:** Passed House, Passed Senate, Passed House with Senate amendments, Act No. 241

The bill creates a committee to review Title 59 of the state law code and report to the General Assembly the statutes that are obsolete or no longer applicable. It also instructs the Department of Education (DOE) to develop a system for providing services and technical assistance to school districts, including academic assistance and assistance with finances. Finally, the bill instructs the DOE to monitor and evaluate school board operations and the professional development of teachers and staff in underperforming schools to identify needed improvements, and to communicate those needed improvements and changes to the school districts and entities involved. It’s unclear what exactly this bill is supposed to do, other than “fix” our education system somehow, but a convoluted system that increases bureaucracy, spending, and state overreach into the local school district operations is only going to make things worse.

▼ Mandates more tinkering with an obsolete education system.

**BEST H.4621 – PRIVATIZING HIGHER EDUCATION INSTITUTIONS**

**STATUS:** Referred to House Ways and Means

The bill would transfer ten of the major colleges and universities in South Carolina to not-for-profit organizations for the purpose of operating them as private institutions. The transfer would include all assets and liabilities, but the state would remain “contingently liable” on general obligation bonds pertaining to the institutions. A cursory look at the finances of most public universities in South Carolina should disabuse anyone of the idea that these schools depend on state government subsidies to survive. Nearly everywhere in 21st-century America, public universities exist to promote economic development, attract prestige and federal grants, and generally “compete” with other state universities for reasons no one can explain. Offering an affordable education to the state’s young people is treated as a quaint idea from a bygone era. The details involved in transferring ownership would be complicated, but privatizing South Carolina’s public universities would better allow state government to focus on its core functions, and would make university leadership more accountable and therefore more likely to keep their institution efficient and on mission.

▲ Makes state universities’ de facto autonomy official.

**WORST H.4940 – CREATING THE OFFICE OF TRANSFORMATION WITHIN THE DEPARTMENT OF EDUCATION (H.4779)**

**STATUS:** Passed House, Passed Senate, Act No. 178

H.4940 creates the Office of Transformation under the Department of Education to provide technical assistance (including diagnostic reviews and analyses) to underperforming schools and districts. This approach assumes that the educational problems we face are local problems, not statewide. However, our problems are indeed caused by an unaccountable, bloated, and ill-advised statewide approach to education, and this bill simply adds more of the same. It is safe to assume that this bill will do little to solve our education woes in South Carolina.

▼ Creates another bureaucratic office to solve state’s educational problems.

**WORST H.4941 – CREATING ‘INTERVENTION’ PROGRAM FOR UNDERPERFORMING SCHOOLS**

**STATUS:** Passed House, Senate Education Committee Favorable Report w/ Amendment

H.4941 requires the Department of Education to create an intervention program to address financially struggling school districts. The Department would lay out guidelines for financial practices and conditions that could compromise a district’s financial integrity, and the appropriate corrective actions, ranging from requiring the district board to develop a recovery plan to taking over the district’s financial operations. The bill attempts to solve bad management at the local level by imposing advice from Columbia.

▼ Attempts to solve bad local management by imposing advice from Columbia when what’s needed is less control by both.
**WORST H.4382 – REQUIRING HIGH SCHOOL STUDENTS TO BE REGISTERED TO VOTE**

**STATUS:** Referred to House Judiciary Committee

H.4382 requires the Department of Education, Election Commission, and county voter registration boards to make sure all seventeen-year-old high school students complete a voter registration form, to be submitted by the high school. Students may opt out for religious or philosophical reasons. This bill also mandates that all students be given an opportunity to discuss the importance of registering to vote and voting. The proper role of schools is to educate, not facilitate government activity and involvement. And in any case, if citizens can’t register to vote on their own initiative, the state has no business forcing them to.

▼ Forces high schoolers to register to vote.

**WORST H.4776 – PROVIDING ASSISTANCE TO SCHOOL DISTRICTS**

**STATUS:** Passed House, Referred to Senate Finance

This legislation titled the “South Carolina Education School Facilities Act” would give the State Board of Education the ability to prioritize capital projects in school districts and fund approved projects with General Obligation Bonds issued by the State. Like most education bills debated and passed by the South Carolina legislature, this one is premised on the assumption that more funding is the central ingredient necessary to improve educational performance. This assumption is directly contradicted by evidence on both the state and national levels showing no positive correlation between increased educational funding and student achievement. Worse, the bill provides this new funding through debt. South Carolina already has $10 billion in non-general obligation debt, and another $10 billion in local government debt, not to mention billions in unfunded public pension liabilities.

▼ Gives the State Board of Education power to issue bonds for school district capital projects.

**BEST H.4537 – CODIFYING TAX CREDIT SCHOLARSHIP PROGRAM FOR EXCEPTIONAL NEEDS STUDENTS**

**STATUS:** Passed House, Referred to Senate Finance

This bill would codify the exceptional needs scholarship tax credit program, taking it from a proviso that must be renewed annually to a permanent program. Individuals and corporations would receive dollar for dollar income tax credits by donating to exceptional needs children’s tuition for eligible schools. The bill would benefit all the students participating in the program, and indeed lawmakers should consider extending tax credit scholarships – or other forms of school choice – to all South Carolina K-12 students. Making school choice widely available could improve academic achievement for all South Carolina students and cost the state less money.

▲ Allows wider educational latitude for parents of special needs children.
Budget Numbers

In 2016, South Carolina lawmakers increased state spending at a much faster rate than the growth of inflation and population, and once again increased the state’s dependence on federal funds.

*These numbers do not include federal money funding the food stamp program (SNAP). In 2013, SNAP funds (estimated at $1.5 billion for fiscal year 2013-14) were moved “offline” into an unbudgeted account and have been unaccounted for in state budget documents since then. It’s unknown how much money the federal government will disburse to South Carolinians through the SNAP program in fiscal year 2016-17, but the total for fiscal year 2015-2016 was $1,098,856,985.
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