



# Representative J. Michael ("Mick") Mulvaney Member for Lancaster & York Counties

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## Summary of Major Issues Approved During the 2008 Legislative Session

### **PART I: REPUBLICAN CAUCUS AGENDA ITEMS**

#### **1. H. 4400: ILLEGAL IMMIGRATION REFORM**

*STATUS: Signed by Governor (6/4).*

This multi-faceted legislation accomplishes the following:

- Provides that it is a felony to transport or harbor illegal aliens with intent to further that person's illegal entry into the United States or avoiding apprehension.
- "Sanctuary Cities" prohibited
- Provides that it is unlawful to display or possess false green cards or other documents, such as a driver's license or social security card, for the purpose of offering proof of citizenship or permanent residence.
- Requires every employer participate in the federal e-verify program or verify a worker's legal status by using a S.C. driver's license. For employers with 100 or more employees, implementation begins on July 1, 2009. For all other employers, implementation begins on July 1, 2010.
- Any company receiving a public contract must employ legal workers.
- Requires the validation of citizenship to be eligible to receive public benefits.
- Illegal aliens are not eligible to attend public colleges, nor are they eligible to receive scholarships, financial aid, grants or resident tuition.
- Directs the chief of SLED to enter into negotiations with federal authorities in order to reach an understanding on: the enforcement of federal immigration laws by State and local law enforcement and the detention of illegal immigrants by State and local law enforcement officials. The SLED chief must also negotiate the removal of detained illegal immigrants by federal authorities or the deportation of illegal immigrants by state and local law enforcement officials.
- Provides a civil right of action for wrongful termination against an employer who discharges an employee authorized to work in the United States for the purposes of replacing that employee with a person the employer knows or should reasonably know is not lawfully present and authorized to work in the United States.

#### **S. 588 – SMALL EMPLOYER HEALTH GROUP COOPERATIVE**

*STATUS: Signed by Governor (2/19).*

This legislation establishes requirements, powers, duties, and restrictions for a small employer health group cooperative. The legislation enhances the authority for small employers to form cooperatives for the purpose of providing lower health insurance costs to their employees.

#### **H. 4549 – SALES TAX ON CARS FOR ROAD CONSTRUCTION**

*STATUS: Passed the House (4/10). DIED IN SENATE.*

This bill provides for the sales tax on cars to be devoted to highways, roads, and bridges. The revenues are to be used exclusively for highway, road, and bridge maintenance.

## **H. 4550 – MARRIAGE TAX CUT**

*STATUS: Passed the House on April 9. DIED IN SENATE.*

This bill provides an income tax rate reduction for married taxpayers. This bill establishes a schedule for state income tax rate reductions for married taxpayers who file joint tax returns by annually reducing the current three percent income tax rate over the course of three years so as to ultimately set the rate at two percent.

## **H. 3295 – STATE SPENDING LIMITS**

*STATUS: Passed the House (2/16). DIED IN SENATE.*

This bill establishes limits on state appropriations. The bill provides that total general fund appropriations for the fiscal year may not exceed the lesser of: (a) 106% of the adjusted base-year estimate; or (b) the adjusted base-year estimate increased by a percentage equal to the state's growth in population and CPI. The bill creates a reserve fund to receive revenues in excess of the limits. The Reserve Fund must be used to replenish the General Reserve Fund. After this priority, revenues remaining may be utilized for: (1) tax reductions; (2) infrastructure improvements; (3) schools; (4) school buses; and (5) expenses incurred by the State as a result of disasters declared by the President.

## **H. 4662 – ELIMINATION OF THE PACT TEST**

*STATUS: Became law without Governor's signature (6/5).*

The bill eliminates the PACT and replaces it with a new diagnostic test that will give teachers quicker results they can then implement in the classroom. It will be first administered in 2009. Subjects tested for accountability are unchanged (English/language arts, mathematics, science and social studies). The State Board of Education is directed to create a statewide adoption list of formative assessments for grades one through nine in English/language arts and mathematics. The bill also simplifies the student performance levels to Exemplary, Met, and Not Met. The extensive report cards sent to parents will be shortened to an executive summary outlining the major findings. A full, detailed report card will be published on the Internet.

## **H. 4346 – ELIMINATION OF HIDDEN EARMARK SPENDING**

*STATUS: Passed by the House on May 1. DIED IN SENATE. House rule 5.3F makes this binding in the House.*

This bill provides that every request by a legislator for an earmark project must be made in writing. The bill establishes new disclosure requirements for information concerning these earmarks including the name of the legislator making the request and a brief explanation the program or project. The earmark project or program must include an appropriation or proviso for a specific program or project not originating with a written agency budget request or not included in an appropriations bill from the prior fiscal year.

## **PART II: ITEMS APPROVED BY BOTH HOUSES**

### **H. 3567 – CIGARETTE TAX**

*STATUS: House sustained the Governor's veto on May 27.*

This bill adds an additional 50-cent tax on each pack of twenty cigarettes. The majority of the funds went to expanding the state's Medicaid program. Governor Sanford vetoed the bill and the House sustained the veto.

### **H. 3496 – DUI REFORMS**

*STATUS: Signed by the Governor (4/15).*

The legislation enhances penalties for the DUI. It includes a new, graduated system of penalties for a first offense and tougher penalties across-the-board. It also requires the DMV to suspend the driver's license of the convicted for the period of incarceration plus three years when great bodily injury occurs and five years when a death occurs. If a person under the age of 21 refuses to submit to a BAC test, the DMV must suspend the person's license, or deny the issuance of a license or permit for a period of 6 months for a first offense, and one year for any subsequent offense.

## **H. 4800, H. 4801 – STATE BUDGET**

*STATUS: Signed by Governor.*

- Full funding of the Education Finance Act.
- Full funding of the LIFE, HOPE, and Palmetto Fellows Scholarship programs.
- \$2.5 million provided for the Hydrogen Grants program at the South Carolina Research Authority.
- \$4.5 million for the LightRail broadband, high-speed optical research network at the state's research universities.
- PRT receives \$10 million for destination specific tourism advertising grants.
- A 1% State employee pay increase is provided with \$19.9 million.
- \$3.9 million is appropriated for public defenders at the Commission on Indigent Defense.

## **H. 4494 – ENDOWED CHAIRS**

*STATUS: Overrode Veto (6/25)*

This bill continues the law that uses lottery funds for the creation of endowed professorships at the state's research universities. It allows for this by eliminating the \$200,000,000 monetary cap and the 2010 expiration date for funding. It also revises matching fund provisions by replacing requirements for private funds with requirements for non-state funds, thereby allowing such sources as federal funds to be counted for matching purposes. Finally, it provides that eligible research universities are encouraged to partner with other South Carolina colleges and universities to develop proposals that will enhance the economic competitiveness of our State.

## **H. 4815 – MOTION PICTURE INCENTIVES ACT**

*STATUS: Overrode Veto (6/25).*

The legislation allows for a rebate to a production company a portion of the South Carolina payroll tax withholdings in connection with production of qualified activities.

## **S. 453 – "FINANCIAL IDENTITY FRAUD AND IDENTITY THEFT PROTECTION ACT"**

*STATUS: Signed by the Governor (4/2).*

This bill allows a consumer to place a freeze on his credit information, and a reporting agency cannot charge a fee. Local law enforcement must report identity theft if contacted by a suspected victim and SLED is required to maintain an identity theft database. A consumer reporting agency must remove all false information from a credit report, if the agency receives notice from the consumer to do so. If an agency violates this section, it is liable for damages.

## **S. 311 – GROUP CHILDCARE HOMES**

*STATUS: Signed by Governor (6/4).*

This legislation requires the owner or operator of a group childcare or family childcare home who does not carry liability insurance to notify each enrolled child's parent no later than January 1, 2009 and obtain signed statements from them indicating notice was received.

## **H. 4713 – STATE VETERANS' CEMETERIES**

*STATUS: Signed by Governor (6/4).*

The legislation reduces the residency option for an honorable discharged veteran and his or her eligible family member for burial in a state veterans' cemetery from 20 years to 5 years. It also clarifies that the veteran's eligible family member may be interred in the veterans' cemetery if he or she predeceases the veteran.

## **S. 1143 – "SECOND AMENDMENT RECOGNITION ACT"**

*STATUS: Vetoed by Governor (6/11)*

This legislation establishes the "Second Amendment Weekend" during the Friday and Saturday following Thanksgiving Day each November. During this period, the sales of handguns, rifles, and shotguns are exempted from the state sales and use tax.

## **S. 96 – INHALED ALCOHOL PROHIBITION**

*STATUS: Became law without Governor's signature 6/17.*

This bill makes it unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess an alcohol without liquid device. 'Alcohol without liquid device' means a device that is designed or marketed to mix alcohol with pure or diluted oxygen, or another gas, to produce an alcoholic vapor that an individual can inhale or snort. Penalties are provided for violations. The bill does include exceptions.

## **H. 4745 – RESIDENTIAL IMPROVEMENT DISTRICT ACT**

*STATUS: Became law without Governor's signature (6/17)*

This bill provides a new option for financing infrastructure and other improvements necessitated by new residential developments. It provides a mechanism for local governments to accept a plan from the owners of undeveloped land regarding the infrastructure required to accommodate new growth. When an improvement plan is adopted, the legislation authorizes the governing body of a county or municipality to create an improvement district and impose upon the landowners an assessment to fund improvements such as roads, sidewalks, parks, recreational facilities, storm water drainage projects, utilities, and school facilities. If a proposed improvement pertains to a school, such as new construction or additions to existing construction, then the improvement must be approved by the local school board prior to the creation of the district.

## **H. 3094 – RESTRICTIONS ON WHERE SEX OFFENDERS RESIDE**

*STATUS: Signed by Governor (6/16).*

This provides that it is unlawful for sex offenders to reside within 1,000 feet of a school, daycare center, children's recreational facility, park, or public playground. Local law enforcement must notify the person if they are in violation, and they are given 30 days to vacate the residence. School districts must make certain information available to parents regarding sex offenders that reside within 1,000 feet of a school bus stop.

## **H. 4980 – CHARTER SCHOOLS REVISIONS**

*STATUS: Signed by Governor (5/21).*

This legislation provides that a charter may be approved or renewed for a period of ten school years. A charter school may terminate its contract with a sponsor if all parties under the contract agree to the dissolution. It also provides that an applicant may appeal the decision to the Administrative Law Court. Likewise, local school boards of trustees may appeal decisions to approve applications made by the South Carolina Public Charter School District to the Administrative Law Court. A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court. Previously, such appeals were made to the State Board of Education. A charter school may give enrollment priority to a sibling of a pupil already enrolled or previously enrolled, children of a charter school employee, and children of the charter committee, if such priority enrollment does not constitute more than twenty percent of the enrollment of the charter school.

## **H. 4758 – STUDENT TRANSFERS AND PARTICIPATION IN SCHOOL ACTIVITIES**

*STATUS: Signed by Governor (6/11).*

This provides that a high school student who is the victim of physical abuse, harassment, or stalking by a classmate during school hours or otherwise resulting in a restraining order being granted against the classmate may transfer with the consent of the student's school district to another high school within or out of the district within 30 school days of the restraining order being violated, without any loss of eligibility to participate in interscholastic activities at the school to which the student transfers.

## **H. 3355 – “ULTRASOUND BILL”**

*STATUS: Signed by Governor (5/14).*

This legislation revises the prerequisites for the performance of an abortion by providing that, if an ultrasound is performed, an abortion may not be performed sooner than one hour following the completion of the ultrasound. The physician who is to perform the abortion or an allied health professional working in conjunction with the physician must inform the woman before the ultrasound procedure of her right to view the ultrasound image at her request during or after the ultrasound procedure.

## **H. 3528 – RELEASE OF CONCEALED WEAPONS PERMIT HOLDERS**

*STATUS: Signed by Governor (4/16).*

This legislation provides that SLED may release the list of concealable weapons permit holders only if the request is made by a law enforcement agency to aid in an official investigation, or if it is required to be released under a subpoena or court order. Otherwise, a person in possession of a list of permit holders obtained from SLED must destroy the list.

## **H. 3212 – HONORING OUT-OF-STATE CWP**

*STATUS: Signed by Governor (6/16)*

This bill requires that valid out-of-state permits to carry concealable weapons held by a resident of another state be honored by South Carolina.

## **S. 1039 – PROHIBITIONS ON THE REGULATION OF FIREARMS**

*STATUS: Vetoed by Governor on May 14. The veto was overridden.*

This legislation provides that counties and municipalities may not enact regulations to prohibit a landowner from discharging a firearm on his property to protect family members, employees, or the general public from animals posing a direct threat or danger on a parcel of land comprised of at least 25 contiguous acres. Any ordinance regulating the discharge of firearms that does not specifically provide for an exclusion pursuant to this item is unenforceable as it pertains to an incident described in this item; otherwise, the ordinance is enforceable.

## **H. 4470 – FIRE SPRINKLER SYSTEM TAX CREDITS AND INCENTIVES**

*STATUS: Override Veto (6/25)*

This bill provides a state income tax credit for the purchase, installation, or improvements equal to eighty percent of the costs of its purchase, installation, and retrofitting, not to exceed fifty thousand dollars. The legislation allows an exemption from county property taxes for five years for the first fifty thousand dollars of the cost of adding to and upgrades of fire sprinkler systems.

## **S. 1143 – SALES TAX EXEMPTION FOR ENERGY EFFICIENT APPLIANCES**

*STATUS: Override Veto (6/25).*

This bill establishes a sales tax holiday for energy efficient appliances and products, such as refrigerators, dishwashers, air conditioners, windows, and fluorescent light bulbs, that are purchased for home use.

## **S. 638 – “SOUTH CAROLINA PUBLIC INVOCATION ACT”**

*STATUS: Signed by Governor (5/27)*

This legislation outlines a procedure whereby a deliberative public body may adopt a policy to permit a public invocation before each meeting of the public body. The policy may allow for an invocation to be offered on a voluntary basis, at the beginning of the meeting, by:

- one of the public officials, so long as the opportunity for invocation duty is regularly rotated among all of that public body's officials;
- a chaplain elected by the public officials of the deliberative public body; or

an invocation speaker selected on an objective and rotating basis from among a pool of the religious leaders serving congregations in the local community.

## **S. 1329 – “I BELIEVE” SPECIAL LICENSE PLATES**

*STATUS: Became law without the Governor's signature (6/5).*

This legislation provides that the DMV may issue 'I Believe' license plates to owners of private motor vehicles registered in their names. The plate must contain the words 'I Believe' and a cross superimposed on a stained glass window.

## **S. 452 – ALLIGATOR MANAGEMENT PROGRAM**

*STATUS: Signed by Governor (2/19).*

This legislation requires DNR to establish an Alligator Management Program that allows for hunting and for selective removal of alligators to ensure the continued viability of the species. The department may establish an alligator hunting season. It establishes penalties for violating alligator hunting provisions and for the unlawful feeding, enticing, or molesting of alligators. All revenue relating to the legislation, including fines, forfeitures, sales, and fees, must be deposited in the Wildlife Protection Fund and used by the department to support the Alligator Management Program.

## **H. 4344 – DEER HUNTING PROVISIONS**

*STATUS: Signed by Governor (6/16)*

The legislation eliminates a provision authorizing DNR to establish deer hunting provisions in Game Zones 1 and 2 through regulations. It that in Game Zones 1 and 2 it is unlawful to pursue deer with dogs and to bait for deer. The legislation specifies the weapons that may be used during special primitive weapons seasons including bow and arrow, crossbow, certain muzzle-loading shotguns and certain rifles. The legislation revises bag limits on antlered deer so as to provide limits of: (1) Game Zones 1 and 2: not more than five for all seasons combined; (2) Game Zones 3, 4, 5, and 6: no daily or season limit.

## **H. 4735 – BROADBAND SERVICE COMMISSION**

*STATUS: Signed by Governor (5/27).*

This resolution creates the SC Educational Broadband Service Commission for the purpose of obtaining and evaluating proposals for the South Carolina Educational Television Network that will become available following the federally required conversion to digital broadcast. The commission is composed of seven members from the private sector that have a background of substantial duration and expertise in business. The commission shall terminate six months after all agreements resulting from an approved proposal are finally executed or no later than June 30, 2010.

## **S. 1115 – IN-STATE TUITION FOLLOWING MILITARY DEPLOYMENT**

*STATUS: Signed by Governor (6/11).*

This bill provides that when armed services personnel are ordered away from the State, their dependents remain eligible to receive in-state tuition rates at the public university or college they are attending so long as they remain continuously enrolled at the institution.

## **H. 3159 – FOUNDATIONS OF AMERICAN LAW AND GOVERNMENT DISPLAY**

*STATUS: Signed by Governor (6/11).*

This legislation provides that each municipality, county, or other political subdivision of this State including school boards are authorized to post the Foundations of American Law and Government display in a public location in the public buildings of this State. The Foundations of American Law and Government display must include: The Ten Commandments as extracted from Exodus Chapter 20; The Magna Carta; The Mayflower Compact, 1620; The Declaration of Independence; The Preamble to the United States Constitution; The Bill of Rights of the United States Constitution; "The Star-Spangled Banner" by Francis Scott Key; The Pledge of Allegiance; The Pledge to the South Carolina Flag; The Preamble to the South Carolina Constitution; The national motto "In God We Trust"; and Martin Luther King, Jr.'s "I Have a Dream" speech.

## **S. 111 – RED LIGHTS**

*STATUS: Signed by Governor (5/27).*

The driver of a motorcycle, moped, or bicycle may proceed through an intersection on a steady red light only if the driver or rider (a) comes to a full and complete stop at the intersection for 120 seconds; and (b) exercises due care as provided by law, otherwise treats the traffic control device as a stop sign, and determines it is safe to proceed.

## **S. 880 – "THE SOUTH CAROLINA CDL DRUG TESTING ACT"**

*STATUS: Signed by Governor (5/21).*

This legislation requires reporting to employers a positive drug test or alcohol test, or a refusal to provide a specimen. Employers must report these items to the DMV within three business days and maintain records for three years. It further provides that a person is disqualified from driving a commercial vehicle if they have received a positive drug or alcohol test or refused to take the tests. The disqualification remains until the person undergoes a drug and alcohol test by a professional and has successfully completed a treatment program. A person who is disqualified more than three times in a five-year period is disqualified for life.

## **H. 4328 – ADMINISTRATIVE LAW COURT**

*STATUS: Vetoed by Governor on May 28. The veto was overridden on 6/3.*

This bill does not allow the automatic stay tactic to be used for delay on licensing issues that have already been decided. It sets a time certain in which the court must conduct a hearing on the issue of an automatic stay and a time after that hearing in which they must issue an order. This adds order to the process.

## **H. 4320 – SCHOOL ATTENDANCE WHEN A PARENT IS IN THE MILITARY**

*STATUS: Signed by Governor (6/16).*

This legislation provides that a child may attend the public schools of a school district free of charge if the child resides with an adult resident of that district as a result of the child's parent's or legal guardian's military deployment or call to active duty more than 70 miles from their residence for a period greater than 60 days. Also, if the child's parent or legal guardian returns from such military deployment or active duty prior to the end of the school year, the child may finish the school year in the school he attends without charge, even if they reside in another school district for the remainder of the school year due to his parent or legal guardian returning home.

## **PART III: ITEMS KILLED BY THE SENATE**

### **H. 4620 – RESTRUCTURING CONSTITUTIONAL AMENDMENT**

*STATUS: Passed the House on March 6. DIED IN SENATE.*

This bill proposes an amendment to the South Carolina Constitution that would revise the manner in which certain constitutional officers are selected. Under this, the Secretary of State and the Superintendent of Education would no longer be selected by popular election, but would instead be appointed by the Governor with the advice and consent of the General Assembly. It also provides for the joint election of the offices of Governor and Lieutenant Governor.

### **H. 3590 – "SOUTH CAROLINA RESTRUCTURING ACT"**

*STATUS: Passed the House on April 23. DIED IN SENATE.*

This legislation establishes the Department of Administration under the executive branch of state government. Fourteen existing agencies and offices are placed within the new department, including the: Division of General Services, Office of Human Resources, Veterans Affairs, Small and Minority Business, Procurement Services, the State Energy Office, and Division of State Chief Information Officer. In 2015, the Legislative Audit Council shall conduct a performance review of the provisions of this legislation to determine its effectiveness and achievements.

### **H. 4833 – "SOUTH CAROLINA FARM TO SCHOOL PROGRAM ACT"**

*STATUS: DIED IN SENATE.*

This bill creates a program that will foster a direct relationship between South Carolina farms and schools to provide schools with fresh and minimally processed foods to help children develop healthy eating habits, and to improve South Carolina farmers' incomes and direct access to markets.

## **H.3666 – RURAL INFRASTRUCTURE ACT**

*STATUS: Approved by the House (5/17). **DIED IN SENATE.***

This act establishes the SC Rural Infrastructure Authority, which is charged with assisting municipalities, counties, special purpose districts, and public works commissions in constructing and improving rural infrastructure.

## **H. 4725 – BALLOT STANDARDS AND SPECIFICATIONS**

*STATUS: Approved by House (4/10). **DIED IN SENATE.***

This legislation provides that the name of each candidate shall appear no more than once on the ballot. If a candidate has been nominated by multiple parties or petitions, the legislation further provides that the name of each party or petition nominating the candidate must be listed under the candidate's name. The legislation also provides that if a nonpartisan school election is held on the same day as another election, the entity charged by law with conducting the elections shall prepare one ballot for all elections conducted on that day.

## **H. 4892 – “ENERGY INDEPENDENCE AND SUSTAINABLE HOMES ACT”**

*STATUS: Passed the House (4/30). **DIED IN SENATE.***

The legislation establishes a \$1,000 state income tax credit for a residential builder who constructs a residence in this State that meets the green building standards for maximizing energy efficiency and minimizing environmental impact. The legislation also provides that a local government or homeowners association may not impose a greater requirement on a person wishing to install a solar energy heating or cooling system in a residential home than it otherwise would impose on a person wishing to install another heating, cooling, or similar mechanical system.

## **H. 3202 – CONSTITUTIONAL RIGHT TO HUNT AND FISH**

*STATUS: Approved by the House (1/31). **DIED IN SENATE.***

This resolution proposes to amend the State Constitution so as to provide that hunting, trapping, and fishing and the taking of wild animals, birds, and fish are a valued part of our heritage and shall be forever preserved for the people. The right of the people to hunt, fish, trap, and harvest game shall be subject only to such regulations and restrictions as the General Assembly may prescribe by general law.

## **H. 4942 – REAL PROPERTY VALUATION REFORM ACT REVISIONS**

*STATUS: **DIED IN SENATE.***

The legislation provides that if real property which has had no further improvement since the most recent reassessment undergoes an assessable transfer of interest, the implementation of the transfer value is postponed until the property tax year of implementation of the next assessment. This transfer value is the value to which the limit on increases in fair market value applies.

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