

REP. J. R. Smith SUBMITS THE FOLLOWING:

Department of Transportation

PROVISO

**(DOT: Statewide Rail Planning) Pursuant to Act 206 of 2010, the Office of Railroads within the Division of Intermodal and Freight Programs of the Department of Transportation is directed to further implement a (a) state railroad corridor preservation and revitalization plan; and (b) a comprehensive state rail plan for passenger and freight railroads and infrastructure services in compliance with applicable federal laws, rules, and regulations.**

**Representative White**

**SUBMITS THE FOLLOWING NEW PROVISIO:**

**AGENCY NAME: Section 89.\_\_\_\_**

**NEW PROVISIO**

*(GP: Transfer SLED Aircraft Responsibility) For the current fiscal year, effective July 1, 2011, the duties, functions, responsibilities, personnel, funding, and physical assets assigned to aircraft operations for the State Law Enforcement Division and the Department of Natural Resources are transferred to the State Aeronautics Commission.*

**REP. G. MURRELL SMITH SUBMITS THE FOLLOWING:**

**AID TO SUBDIVISIONS, STATE TREASURER**

*86.scr. (AS-TREAS: Speed Camera Restriction) No political subdivision of this state shall collect any fines, fees or costs which result from the issuance of uniform traffic citations or any other form of traffic citation that is based or has relied on camera assisted evidence.*

*Any municipality which fails to comply with this provision during the Fiscal Year 2011-12 shall have its Fiscal Year 2011-12 distribution from the Local Government Fund under the State Aid to Subdivisions Act reduced by an amount equal to the amount of fines, fees or costs collected by the political subdivision through the issuance of camera assisted traffic citations.*

DRAFT PREPARED BY LEGISLATIVE COUNCIL

For: Rep. Limehouse

Attorney: Cushman

Stenographer: Downey

Date: February 15, 2011

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22. \_\_ (Moratorium on coal-ash landfill permits) During the current fiscal year, the Department of Health and Environmental Control may not grant any permit for coal-ash landfills in this State until the Environmental Protection Agency renders a finding as to whether or not coal-ash is a hazardous waste.

**REP. EDGE SUBMITS THE FOLLOWING:**

**FORESTRY COMMISSION**

**33.CP (FC: Compensatory Payment)** In the event a State of Emergency is declared by the Governor, exempt employees of the Forestry Commission may be paid for actual hours worked in lieu of accruing compensatory time, at the discretion of the Agency Director, and providing funds are available.

Rep. Limehouse introduces the following substitute to proviso 6.ri:

**6.ri. (CHE: Release of Information by Campus Police) A university or college must disclose to the local law enforcement agency that has jurisdiction over the institution's campus when a student has been determined to present an articulable and significant threat to the health or safety of a student or other individuals unless the sharing of information will be in violation of the student's rights through the Family Education Rights and Privacy Act. The college or university shall not be held liable for civil action when failing to report information that did not rise to the level of an articulable and significant threat.**

**REP. G. MURRELL SMITH SUBMITS THE FOLLOWING:**

**COMMISSION ON HIGHER EDUCATION**

**ADD NEW PROVISIO**

*6.tr. (CHE: Teaching Requirement for College Professors) From the funds appropriated and/or authorized for institutions of higher learning, all undergraduate college professors that are employed by an institution of higher learning shall teach at least nine credit hours per semester.*

**REP. MERRILL SUBMITS THE FOLLOWING**

**GENERAL PROVISIONS**

**DELETE 89.117**

~~89.117. (GP: General Fund Transfer to Conservation Bank) The Department of Revenue is directed to transfer to the South Carolina Conservation Bank, \$1,500,000 of the increased general fund revenue resulting from the motion picture wage rebate of fifteen percent as required by Section 12-62-50 of the 1976 Code, rather than twenty percent as authorized in prior appropriation acts.~~

**ADD 89.CBT2**

89.cbt2. (GP: BCB Transfer to Conservation Bank) For Fiscal Year 2011-12, the Budget and Control Board is directed to transfer to the South Carolina Conservation Bank, \$1,000,000 from Subfund 4154, Ordinary Sinking Fund. Transfer of these funds shall require State Budget and Control Board approval.



**REP. MERRILL SUBMITS THE FOLLOWING:**

**GENERAL PROVISIONS**

89.da. (GP: Transfer Division of Aeronautics) For the current fiscal year, effective July 1, 2011, or as soon as practicable, the duties, functions, responsibilities, personnel, equipment, supplies, appropriated and authorized funds, carry forward funds and all other assets and resources of the Division of Aeronautics are transferred to the Department of Transportation.

The Division of Aeronautics shall operate under the purview of the Aeronautics Commission, must be administered separately from other programs within the Department of Transportation, and division funds must be expended for the exclusive use of the Division of Aeronautics. The Department of Transportation shall provide administrative support to the Division of Aeronautics as needed upon request.

**REP. MERRILL SUBMITS THE FOLLOWING:**

**GENERAL PROVISIONS**

*1.hlp. (SDE: High School League Participation) Any decision by the South Carolina High School League that affects a student, team, or program in a South Carolina public school may be appealed to the State Superintendent of Education or his designee. The State Superintendent shall serve as the final appellate authority and said school must adhere to the decision rendered.*

**REP. WHITE SUBMITS THE FOLLOWING:**

**DEPARTMENT OF REVENUE**

*81.apf. (DOR: Airline Property Tax) From the fund appropriated to and/or authorized for the Department of Revenue, the department shall report on the methodology used to determine the property tax collected on aircraft under Title 12, Chapter 37, Article 19 of the 1976 Code. In addition, the Department shall provide documentation of the previous year's collections. The department shall submit the report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee no later than January 10, 2012.*

**REP. WHITE SUBMITS THE FOLLOWING:**

**GENERAL PROVISIONS**

**ADD NEW PROVISIO TO TRANFER VETERAN'S NURSING HOMES FROM DEPARTMENT OF MENTAL HEALTH TO LIEUTENANT GOVERNOR'S OFFICE ON AGING**

89.hsp. (GP: Transfer DMH Veterans Services to Lt. Gov Ofc on Aging) For the current fiscal year, effective July 1, 2011, the duties, functions, responsibilities, personnel, funding, and physical assets of the Veteran's Services Program consisting of the Stone Pavilion, the Campbell Veterans Home and the Veterans' Victory House, located within the Department of Mental Health are transferred to the Lieutenant Governor's Office on Aging. These funds must be administered separately from other programs within the office and must be expended for the exclusive use of the Veteran's Services Program. However, until such time as the Office on Aging has issued an RFP and awarded a contract to oversee the Stone Pavilion, it shall remain under the purview of the Department of Mental Health.

**REP. WHITE SUBMITS THE FOLLOWING:**

**Department of Health & Human Services**

The Department shall develop and implement a reasonable and appropriate rate methodology for Medicaid services to reimburse a Pediatric Long Term Care Hospital designated under the 2010-2011 Department of Health and Environmental Control State Health Plan. The Department shall consider rates and methodologies utilized by other state Medicaid programs in developing this rate. The Department shall submit any necessary plan amendment to CMS no later than August 31, 2011.

**REP. WHITE SUBMITS THE FOLLOWING:**

**Department of Health and Environmental Control**

**22.34.** (DHEC: Beach Renourishment and Monitoring *and Coastal Access Improvement*) Funds allocated for beach renourishment may be spent for coastal access improvement and shall be spent in accordance with the priorities established by the department's Office of Coastal and Resource Management ~~all required state and federal permits and certifications~~. If state funds are made available from any general revenue, capital, surplus or bond funding appropriated to the department for beach renourishment and maintenance, the department shall be able to expend not more than \$100,000 of these funds annually to support annual beach profile monitoring coast wide to enable the department to determine erosion rates and to identify priority areas needing renourishment and maintenance to mitigate erosion and storm damage potential. Appropriations for beach renourishment projects that are certified by the department as excess to the final State share of project costs and the annual coast wide monitoring costs shall ~~may~~ be allocated by the department to other beach renourishment projects on a priority basis in accordance with R.30-18 *or spent for coastal access improvement*.

**REP. WHITE SUBMITS THE FOLLOWING:**

**Department of Mental Health**

*23.MBC (DMH: Medicaid Beneficiary Choice) For any Medicaid covered community based rehabilitative behavioral health service for which the Department of Mental Health provides state identified matching funds, the Department must allow a Medicaid beneficiary to receive medically necessary community based rehabilitative behavioral health services from any qualified Medicaid provider enrolled by the Department of Health and Human Services as of July 1, 2011.*

**REP. MERRILL SUBMITS THE FOLLOWING:**

**AID TO SUBDIVISIONS, STATE TREASURER**

86.em. (AS-TREAS: Equivalent Millage and Local Government Fund Reduction) (A) If the boundaries of a municipality extend into more than one county and those counties implement required countywide appraisal and equalization programs on different schedules, then the governing body of the municipality shall set an equivalent millage to be used to compute municipal ad valorem property taxes. The equivalent millage to be set by the municipal governing body shall be determined by methodology established by the respective county auditors which shall be consistent with the methodology for calculating equivalent millage to be established by the Department of Revenue for use in such situations, the purpose of this provision being to equalize the tax burdens within the municipality.

(B) Any municipality which fails to implement the provisions of subsection (A) during the 2011-12 fiscal year shall have its 2011-12 distribution from the Local Government Fund under the State Aid to Subdivisions Act reduced by an amount equal to what the State Treasurer, upon consultation with the Department of Revenue, determines that taxpayers in the municipality collectively were overcharged in ad valorem property taxes by the municipality's failure to implement the provisions of subsection (A) during Fiscal Year 2011-12.



DRAFT PREPARED BY LEGISLATIVE COUNCIL

For: Rep. Limehouse

Attorney: Cushman

Stenographer: Downey

Date: February 15, 2011

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89.\_\_\_\_ (Opting out of provisions of the federal Patient Protection and Affordable Care Act (P. L. 111-148)): If federal law permits, the State of South Carolina opts out of the following provisions in the federal Patient Protection and Affordable Care Act (Public Law 111-148):

- (1) Subtitles A through C of title I (and the amendments made by such subtitles), except for sections 1253 and 1254.
- (2) Parts I, II, III, and V of subtitle D of title I (and the amendments made by such parts).
- (3) Part I of subtitle E of title I (and the amendments made by such part).
- (4) Subtitle F of title I (and the amendments made by such subtitle).
- (5) Section 1561 (and the amendment made by such section).
- (6) Sections 2001 through 2006 and subtitle C of title II (and the amendments made by such sections and subtitle).
- (7) Sections 10101 through 10107 (and the amendments made by such sections).

**REP. Limehouse SUBMITS THE FOLLOWING:**

**Department of Transportation**

**PROVISO**

(DOT Service Plazas) The Department is hereby authorized to pursue the development and placement of service plazas along eligible highways, including interstate routes, within the state. The placement of service plazas should focus on traveler needs, repurposing of existing facilities, financial concessions with public/private initiatives, and green technology.

M. Smith Proposes

89.gal. (GP: Transfer GAL to DSS) For the current fiscal year, effective July 1, 2011, the duties, functions, responsibilities, personnel, funding, and physical assets of the Guardian ad Litem Program located within the Governor's Office of Executive Policy and Programs are transferred to the Department of Social Services. The funds must be administered separately from other programs within the department and must be expended for the exclusive use of the Guardian ad Litem Program.

M. Smith Proposes

89.gsc. (GP: Guardian ad Litem Study Committee) For the current fiscal year, effective July 1, 2011, in order to bring accountability and transparency to the guardian ad litem process, a Guardian ad Litem Study Committee shall be established to determine:

1) the efficacy of administration of the volunteer Guardian ad Litem Program within the Department of Social Services. The study shall analyze the Guardian ad Litem Program's ability to advocate in a transparent and independent manner for abused and neglected children within the structure of the Department of Social Services.

2) ways in which to monitor performance and establish accountability of guardians ad litem appointed in private actions before the family court in which custody or visitation of a minor child is an issue, including certification and oversight.

The Guardian ad Litem Study Committee shall be composed of the following members: Director of Social Services or her designee; Director of the Guardian ad Litem Program or her designee; a member of the Joint Legislative Committee on Children appointed by the Chairman of the committee; Director of the SC Bar or his designee; one volunteer guardian ad litem in good standing with the SC Guardian ad Litem Program, to be appointed by the Governor; and one private guardian ad litem in good standing with the family court, to be appointed by the Governor. Members appointed by the Governor must not be employees of the State of South Carolina. Members shall serve at the pleasure of the appointing authority. The Director of the Department of Social Services and the Director of the Guardian ad Litem Program shall serve as co-chairs. Members of the study committee shall serve without compensation.

The study committee shall provide a report on the status of their findings and recommendations to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee by January 10, 2012.

## REP. MERRILL SUBMITS THE FOLLOWING:

### GENERAL PROVISION

#### AMEND TO CORRECT CODE CITE

**89.25.** (GP: State Owned Aircraft - Maintenance Logs) Each agency having in its custody one or more aircraft shall maintain a continuing log on all flights, which in order to promote accountability and transparency shall be open for public inspection and shall also be posted online. Any and all aircraft owned or operated by agencies of the State Government shall be used only for official business. The Division of Aeronautics and other agencies owning and operating aircraft may furnish transportation to the Governor, Constitutional Officers, members of the General Assembly, members of state boards, commissions, and agencies and their invitees for official business only; no member of the General Assembly, no member of a state board, commission, or committee, and no state official shall use any aircraft of the Division of Aeronautics unless the member or official files within forty-eight hours after the time of departure of the flight with the Division of Aeronautics a sworn statement certifying and describing the official nature of his trip; and no member of the General Assembly, no member of a state board, commission or committee, and no state official shall be furnished air transportation by a state agency other than the Division of Aeronautics unless such agency prepares and maintains in its files a sworn statement from the highest ranking official of the agency certifying that the member's or state official's trip was in conjunction with the official business of the agency. Official business shall not include routine transportation to and from meetings of the General Assembly or committee meetings for which mileage is authorized.

All logs shall be signed by the parties using the flight and the signatures shall be maintained as part of the permanent record of any agency. All passengers shall be listed on the flight log by their legal name; passengers flying with an appropriate official of SLED or the ~~Division of State Development~~ *Department of Commerce* whose confidentiality must, in the opinion of SLED or the ~~division~~ *department*, be protected shall be listed in writing on the flight log as "Confidential Passenger SLED or the ~~Division of State Development~~ *Department of Commerce* (strike one)" and the appropriate official of SLED or the ~~division~~ *department* shall certify to the agency operating the aircraft the necessity for such confidentiality.

Violation of the above provisions of this section is prima facie evidence of a violation of Section ~~8-13-410(1)~~ 8-13-700(A) of the 1976 Code and shall subject a violating member of the General Assembly to the ethics procedure of his appropriate house and shall subject a violating member of a state board, commission or committee, or a state official to the applicable ethics procedure relating to them as provided by law. The above provisions do not apply to aircraft of the Division of Aeronautics when used by the Medical University of South Carolina, nor to aircraft of the athletic department or the educational foundations of any state-supported institution of higher education, nor to law enforcement officers when flying on state owned aircraft in pursuit of fugitives, missing persons, or felons or for investigation of gang, drug, or other violent crimes.

Aircraft owned by agencies of state government shall not be leased to individuals for their personal use.

**REP. MERRILL SUBMITS THE FOLLOWING:**

**DEPARTMENT OF PARKS, RECREATION AND TOURISM**

**39.6.** (PRT: Regional Tourism) Of the funds appropriated to, authorized for, and/or carried forward by the department, the department shall provide ~~the same level of recurring and non-recurring funds disbursed to \$225,000 for disbursement among~~ the eleven Regional Tourism groups ~~as they received in Fiscal Year 2007-08.~~ *In the event the department receives a general fund reduction in the current fiscal year, the department is prohibited from reducing the amount funded to the eleven Regional Tourism groups.*

**REP. WHITE SUBMITS THE FOLLOWING:**

**Department of Health and Environmental and Control**

**Further Amend Proviso 22.10 (Rape Violence Prevention Contract) to add a line at the end stating, "For the Fiscal Year 2011-2012, the department shall not reduce these contracts below the current funding level."**

REP. Bingham SUBMITS THE FOLLOWING:

State Department of Education

PROVISO 1.66

1.66. (SDE: Residential Treatment Facilities Student Enrollment and Funding) Each South Carolina resident of lawful school age residing in licensed residential treatment facilities (RTFs) for children and adolescents as defined under Section 44-7-130 of the 1976 Code, ("students") shall be entitled to receive educational services from the school district in which the RTF is located ("facility school district") or the RTF may choose to provide to parents/guardians of students residing in the RTF the option to enroll their child in a virtual charter school authorized by the South Carolina Charter School District. Should the parent/guardian choose to enroll their child in a virtual charter school, the South Carolina Charter School District shall assume the responsibilities of the facility school district for each child enrolled in a virtual charter school. Prior to the enrolling in a virtual charter school, the RTF and the parent/guardian must identify a learning coach for each student enrolled. The individual to serve as the learning coach will be identified in collaboration with the South Carolina Charter School District. The learning coach shall be responsible for monitoring and assisting in the child's educational experience with the virtual charter school. The responsibility for providing appropriate educational programs and services for these students, both with and without disabilities, who are referred or placed by the State is vested in the facility school districts.

A facility school district must provide the necessary educational programs and services directly to the student at the RTF's facility, provided that the RTF facility provides and maintains comparable adequate space for the educational programs and services consistent with all federal and state least restrictive environment requirements. Adequate space shall include appropriate electrical support and Internet accessibility. Unless the parent or legal guardian of the student seeks to continue the student's enrollment in the resident school district under a medical homebound instruction program and the district approves, if appropriate, then, under these circumstances, the facility school district shall enroll the student and assume full legal and financial responsibility for the educational services including enrolling the student, approving the student's entry into a medical homebound instructional program, if appropriate, and receiving and expending funds, unless the resident school district undertakes to carry out its educational responsibilities for the student directly. When appropriate, the facility school district is encouraged to utilize course offerings provided by the Department of Education through its South Carolina Virtual School Program.

Alternatively, a facility school district may choose to provide the necessary educational programs and services by contracting with the RTF provided that the RTF agrees to provide educational services to the student at the RTF's facility. Under these circumstances, the facility school district must enroll the student and pay the RTF for the educational services provided. If the facility school district determines the educational program being offered by the RTF does not meet the educational standards outlines in the contract, the facility district shall be justified in terminating the contract.

~~The State shall appropriate one hundred percent of the base student cost to provide for the education of the students referred or placed by the State in an RTF.~~ The facility school

districts are entitled to receive the base student cost multiplied by the appropriate Education Finance Act pupil weighting *for Homebound pupils of 2.10*, as set forth in Section 59-20-40 of the 1976 Code and any eligible *categorical and* federal funds. These funds may be retained by the facility school districts for the purpose of providing the educational programs and services directly to students referred or placed by the State or the facility school districts may use these funds to reimburse RTF's for the educational programs and services provided directly by the RTFs. A facility school district is entitled to reimbursement from a resident school district for the difference between (1) the reasonable costs expended for the educational services provided directly by the facility school district or the amount paid to the RTF and (2) the aggregate amount of federal and state funding received by the facility school district for that student. However, the reimbursement rate may not exceed \$45 per student per day. Should the facility school district be unable to reach agreement with the resident school district regarding reasonable costs differences, the facility school district shall notify the Department of Education's Office of General Counsel. The Department of Education shall facilitate a resolution of the dispute between the facility school district and the resident school district. If the issue of reasonable cost differences should remain unresolved, the case shall be referred to the Administrative Law Court for a final decision. Should a resident school district fail to distribute the entitled funding to the facility school district by the 135 day count, the Department of Education is authorized to withhold the equivalent amount of EFA funds and transfer those funds to the facility school district.

If a child from out of state is placed in a RTF by an out-of-state school district or agency, the child's home state remains responsible for the educational services. The facility school district may choose to provide the educational program to the child and, upon choosing to do so, shall contract with the appropriate entity for payment of educational serviced provided to the child. Out-of-state students provided educational services by a facility school district shall not be eligible for funding through the Education Finance Act.

If a child is placed in a RTF by the child's parent or guardian, the facility school district may choose to provide the educational program to the child, and upon doing so, must negotiate with the resident school district for services through medical homebound procedures. A facility school district is responsible for compliance with all child find requirements under Section 504 of the Rehabilitation Act of 1973 and IDEA.

All students enrolled in the facility school districts shall have access to the facility school districts' general education curriculum, which will be tied to the South Carolina academic standards in the core content areas. All students with disabilities who are eligible for special education and related services under the Individuals with IDEA, as amended, and the State Board of Education (SBE) regulations, as amended, shall receive special education and related services in the least restrictive environment by appropriately certified personnel. Students in an RTF will at all times be eligible to receive the educational credits (e.g., Carnegie Units) earned through their educational efforts.

With respect to students enrolled in the facility school districts, for accountability purposes, the assessment and accountability measures for students residing in RTFs shall be attributed to a specific school only if the child physically attends the school. The performance of students residing in a RTF who receive their educational program on site at the RTF must be reflected on a separate line on the facility school district's report card and must not be included in the overall performance ratings of the facility school district. The Department of Education shall examine the feasibility of issuing report cards for RTFs. For the 2010-11 school year, a facility school district shall not have the district's state accreditation rating negatively impacted by deficiencies related to the delivery of an educational program at a RTF.



RTFs shall notify the facility school district as soon as practical, and before admission to the RTF if practical, of a student's admission to the RTF. RTFs, the facility school districts and the Department of Education shall use their best efforts to secure and/or exchange information, including documents and records necessary to provide appropriate educational services and/or related services as necessary to assist the facility school district in determining the resident school district. The Department of Education, in collaboration with state placing agencies, RTFs, facility school districts, and resident school districts, shall implement a system to follow the release of students from a RTF and re-enrollment in public, private, or special schools to ensure these students, when appropriate, are not recorded as dropouts.

~~The Department of Education shall convene a task force to research and make recommendations to the State Superintendent of Education by December 1, 2010, regarding oversight of the educational programs provided to students residing in a RTF. Recommendations may include, but not be limited to, implementing a system of state oversight, state standards for an appropriate educational program for students residing in a RTF, and requirements for collaboration between the Department of Health and Environmental Control and the Department of Education regarding educational program requirements when new RTFs are licensed. The task force shall include, but not be limited to, representation of the following groups: state placing agencies, RTFs, facility school districts, resident school districts, Department of Health and Environmental Control, and other interested entities. The report shall be made available to the General Assembly no later than January 1, 2011.~~

**REP. MERRILL SUBMITS THE FOLLOWING:**

**ETHICS COMMISSION**

**ADD NEW PROVISIO**

*82.co. (ETHICS: Confidentiality) The Ethics Commission shall be precluded from publicly commenting on any investigation that is currently before the commission for investigation, or on any case or issue for which the commission has knowledge of a pending investigation until such time as the commission has issued its final report regarding such matter.*

**REP. WHITE PROPOSES DELETION OF THE FOLLOWING:**

**Department of Health and Human Services**

~~21.16. (DHHS: Franchise Fees Suspension) Franchise fees imposed on nursing home beds and enacted by the General Assembly during the 2002 session are suspended July 1, 2002.~~