

## Session 114 - (2001-2002)

### H 5028 General Bill, By Vaughn and Kirsh

#### Summary: Comprehensive Tax Bill

A BILL TO AMEND SECTION 12-2-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "PERSON" FOR TAXATION PURPOSES, SO AS TO PROVIDE THAT THE DEFINITION APPLIES NOT ONLY IN TITLE 12, BUT ALSO IN OTHER TITLES WHICH PROVIDE FOR TAXES THAT ARE ADMINISTERED BY THE DEPARTMENT OF REVENUE; TO AMEND SECTION 12-2-25, AS AMENDED, RELATING TO DEFINITIONS PERTAINING TO LIMITED LIABILITY COMPANIES AND SINGLE-MEMBER LIMITED LIABILITY COMPANIES, SO AS TO PROVIDE THAT THE DEFINITIONS APPLY NOT ONLY IN TITLE 12, BUT ALSO IN OTHER TITLES WHICH PROVIDE FOR TAXES THAT ARE ADMINISTERED BY THE DEPARTMENT OF REVENUE; TO AMEND SECTION 12-6-3310, RELATING TO GENERAL PROVISIONS RELATING TO STATE INCOME TAX CREDITS, SO AS TO PROVIDE THE METHOD WHEREBY CREDITS ARE USED IN THE CASE OF A SUBCHAPTER "S" CORPORATION, LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP, AND A PARTNERSHIP; TO REDESIGNATE SECTION 12-6-3365, RELATING TO THE CORPORATE INCOME TAX MORATORIUM AS SECTION 12-6-535 AND AMEND THE REDESIGNATED SECTION TO CLARIFY THE CALCULATION OF THE UNEMPLOYMENT DATA NECESSARY FOR ELIGIBILITY FOR THE MORATORIUM, AND TO REPEAL SECTION 12-10-35 RELATING TO A SIMILAR STATE CORPORATE INCOME TAX CREDIT; TO AMEND SECTION 12-6-3910, RELATING TO ESTIMATED TAX PAYMENTS SO AS TO CHANGE THE FIRST QUARTER INSTALLMENT PAYMENT DUE DATE FOR CALENDAR YEAR CORPORATIONS AND TO PROVIDE FOR THE INCLUSION OF LICENSE FEES IN THE ESTIMATED TAX PAYMENTS; TO AMEND SECTION 12-6-4980, RELATING TO EXTENSIONS OF TIME FOR FILING TAX RETURNS SO AS TO REMOVE THE REQUIREMENT THAT A CORPORATE TAXPAYER SEPARATELY APPLIES TO THE DEPARTMENT OF REVENUE FOR AN EXTENSION OF TIME TO FILE A STATE RETURN EVEN THOUGH IT IS NOT REQUIRED TO MAKE A TAX PAYMENT AT THE TIME OF THE EXTENSION AND HAS BEEN GRANTED AN EXTENSION OF TIME TO FILE A FEDERAL RETURN; TO AMEND SECTION 12-20-20, RELATING TO CORPORATE EXTENSIONS OF TIME TO FILE ANNUAL REPORTS, SO AS TO MAKE A TECHNICAL CORRECTION; AND TO AMEND SECTION 12-54-55, RELATING TO INTEREST ON UNDERPAYMENT OF DECLARATION OF ESTIMATED TAX, SO AS TO DELETE DUPLICATIVE PROVISIONS; TO AMEND SECTION 12-8-580, AS AMENDED, RELATING TO STATE INCOME TAX WITHHOLDING ON PROCEEDS OF THE SALE OF REAL PROPERTY BY NONRESIDENTS, SO AS TO CONFORM THE CALCULATION OF AMOUNTS SUBJECT TO WITHHOLDING TO THE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 ALLOWING THE EXCLUSION FROM TAXABLE INCOME OF A PORTION OF THE GAIN ON THE SALE OF A PRINCIPAL RESIDENCE AND TO ALLOW THE DEPARTMENT OF REVENUE TO REVOKE EXEMPTIONS FROM WITHHOLDING ALLOWED FOR CERTAIN TRANSACTIONS IF THE DEPARTMENT DETERMINES THE NONRESIDENT IS NOT COOPERATING IN THE DETERMINATION OF THE TAXPAYER'S SOUTH CAROLINA INCOME TAX LIABILITY; TO AMEND SECTION 12-8-2020, RELATING TO THE LIABILITY OF A STATE INCOME TAX WITHHOLDING AGENT TO WITHHOLD AND PAY OVER TAX, SO AS TO DELETE A PROVISION ALLOWING A TAXPAYER TO APPLY FOR A REFUND OF AN OVERPAYMENT OF WITHHOLDING; TO AMEND SECTION 12-60-470, RELATING TO THE CLAIMS FOR REFUNDS FOR STATE TAXES, SO AS TO REVISE PROVISIONS APPLICABLE TO THE ASSIGNMENT OF CLAIMS FOR REFUND; TO AMEND SECTION 12-13-50, RELATING TO EXCEPTIONS FROM THE BUILDING AND LOAN ASSOCIATION INCOME TAX, SO AS TO PROVIDE THAT PAYMENT OF THE INCOME TAX PROVIDED IN CHAPTER 13, TITLE 12 SHALL NOT BE IN LIEU OF DEED RECORDING FEES; TO AMEND SECTIONS 12-13-70, 12-20-150, 12-28-940, 12-43-210, AND 12-43-230, RELATING TO THE ADMINISTRATION OF THE DEPARTMENT OF REVENUE, THE COMPUTATION OF MOTOR FUEL TAXES, THE ESTABLISHMENT OF UNIFORM AND EQUITABLE TAX ASSESSMENTS, AND THE PROMULGATION OF DEFINITIONAL REGULATIONS TO FACILITATE THE ESTABLISHMENT OF UNIFORM TAX ASSESSMENTS, SO AS TO CHANGE THE DEPARTMENT'S DUTY TO PROMULGATE REGULATIONS FROM MANDATORY TO PERMISSIVE, TO CLARIFY THE DEPARTMENT'S AUTHORITY TO ISSUE ADVISORY OPINIONS, AND TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 12-6-540, RELATING TO THE STATE INCOME TAX RATES APPLICABLE TO EXEMPT ORGANIZATIONS AND COOPERATIVES, SO AS TO PROVIDE A SPECIFIC REFERENCE TO THE TAX RATE APPLICABLE TO HOMEOWNERS' ASSOCIATIONS; TO AMEND SECTION 12-6-3415, RELATING TO THE STATE INCOME CREDIT FOR RESEARCH AND DEVELOPMENT EXPENSES, SO AS TO CLARIFY THE EXPENSES QUALIFYING FOR THE CREDIT; TO AMEND SECTION 59-20-20, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE EDUCATION FINANCE ACT, SO AS TO REVISE THE DATE THE DEPARTMENT OF REVENUE FURNISHES THE PRELIMINARY INDEX OF TAXPAYING ABILITY; TO AMEND SECTION 12-56-20, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE SET-OFF DEBT COLLECTION ACT, SO AS TO EXTEND THE

DEFINITIONS OF "CLAIMANT AGENCY" TO OTHER STATES AND POLITICAL SUBDIVISIONS OF THOSE STATES AND TO THE UNITED STATES; TO AMEND SECTIONS 12-36-910, AND 12-36-1310, BOTH AS AMENDED, RELATING TO THE SPECIAL IMPOSITION OF THE SALES ON LAUNDRY SERVICES, COMMUNICATIONS SERVICES, ELECTRICITY, AND MANUFACTURER-CONSUMED GOODS AND IMPOSITION OF THE USE TAX, SO AS TO CLARIFY THE IMPOSITION OF THE TAX ON PREPAID WIRELESS CALLING ARRANGEMENTS AND TO REVISE THE DATE FOR SOURCING MOBILE TELECOMMUNICATIONS SERVICES UNDER THE MOBILE TELECOMMUNICATIONS SOURCING ACT; TO AMEND SECTION 12-36-2510, RELATING TO THE CERTIFICATE ISSUED BY THE SOUTH CAROLINA DEPARTMENT OF REVENUE FOR A BUSINESS WHICH BY ITS NATURE, IN THE DEPARTMENT'S OPINION, MAKES IT IMPRACTICABLE TO ACCOUNT FOR SALES AND USE TAX AT THE TIME OF PURCHASE, SO AS TO PROVIDE FOR ADDITIONAL EXEMPTION CERTIFICATES IN THE CIRCUMSTANCES AND PROVIDE THE METHOD FOR THE USE OF THESE CERTIFICATES; TO AMEND SECTION 12-37-970, RELATING TO THE ASSESSMENT AND RETURN OF MERCHANTS' INVENTORIES, MACHINERY, EQUIPMENT, FURNITURE AND FIXTURES, COMMERCIAL BOATS, AND MANUFACTURERS' REAL AND PERSONAL PROPERTY TO THE DEPARTMENT OF REVENUE, SO AS TO MAKE A TECHNICAL CORRECTION; TO AMEND SECTION 12-37-2840, AS AMENDED, RELATING TO PROPERTY TAX RETURNS FOR PURPOSES OF THE PROPERTY TAX ON MOTOR CARRIERS, SO AS TO PROVIDE A DUE DATE FOR PENALTIES ASSESSED AND TO DELETE OBSOLETE REFERENCES TO METHODS OF PAYMENT; BY ADDING SECTION 12-54-124 SO AS TO PROVIDE THAT ACCRUED TAXES ON A BUSINESS ARE A LIEN ON THE ASSETS OF THE BUSINESS IN THE HANDS OF A PURCHASER OR TRANSFEREE OF A MAJORITY OF THE NONCASH ASSETS OF THE BUSINESS, TO PROVIDE THAT THE DEPARTMENT OF REVENUE MAY NOT ISSUE A LICENSE TO CONTINUE THE BUSINESS UNTIL ALL TAXES ARE PAID AND MAY REVOKE A LICENSE ISSUED IN VIOLATION OF THIS SECTION, AND TO PROVIDE THAT THIS SECTION DOES NOT APPLY IF THE PURCHASER RECEIVES A CERTIFICATE OF COMPLIANCE FROM THE DEPARTMENT OF REVENUE WITHIN A PERIOD BEGINNING THIRTY DAYS BEFORE THE SALE; BY ADDING SECTION 12-54-270 SO AS TO PROVIDE THAT ALL TAXES ARE DUE AT THE TIME OF THE SALE OF A BUSINESS, TO PROVIDE FOR A LIEN ON THE BUSINESS TANGIBLE PROPERTY IN THE AMOUNT OF TAXES DUE, AND TO DEFINE "SALE OF BUSINESS"; TO AMEND SECTION 12-54-110, RELATING TO THE POWER OF THE DEPARTMENT OF REVENUE TO SUMMON A TAXPAYER OR OTHERS, SO AS TO INCLUDE TAX MATTERS AND OTHER MATTERS ADMINISTERED BY THE DEPARTMENT; TO AMEND SECTION 12-54-122, RELATING TO NOTICE OF A TAX LIEN, SO AS TO PROVIDE FOR A CENTRAL FILING OF STATEWIDE TAX LIENS WITH THE DEPARTMENT, WITH ACCESS TO THE PUBLIC; TO AMEND SECTION 12-54-195, RELATING TO THE REMITTANCE BY A RESPONSIBLE PERSON OF A TAX COLLECTED FOR THE DEPARTMENT, SO AS TO PROVIDE FOR A PENALTY AND INTEREST ASSESSMENT AGAINST A RESPONSIBLE PERSON WHO FAILS TO REMIT A LOCAL OR STATE SALES OR USE TAX TO THE DEPARTMENT; TO AMEND SECTION 12-54-227, AS AMENDED, RELATING TO OUT-OF-STATE COLLECTIONS, SO AS TO CHANGE THE PERIOD FOR A DELINQUENCY FROM SIX MONTHS TO THREE MONTHS; TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO PROHIBITION OF DISCLOSURE OF RECORDS AND REPORTS FILED WITH THE DEPARTMENT, SO AS TO PROVIDE EXCEPTIONS FOR DISCLOSURE OF AN ASSESSMENT AND FOR INFORMATION TO DEPARTMENT EMPLOYEES, COLLECTION AGENCIES, AND DEPARTMENT CONTRACTORS, AND TO CORRECT CROSS REFERENCES; TO AMEND SECTION 12-36-530, SO AS TO DELETE REFERENCES TO TAXES DUE UPON THE SALE OF BUSINESS; TO AMEND SECTION 12-37-2810, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE PROPERTY TAX ON MOTOR CARRIERS, SO AS TO CLARIFY THAT THE DEFINITION OF MOTOR VEHICLE ALSO EXTENDS TO OTHERWISE QUALIFYING VEHICLES THAT TRANSPORT PERSONS AND TO VEHICLES AVAILABLE FOR USE; AND TO AMEND SECTION 12-37-2830, RELATING TO THE DETERMINATION OF VALUE FOR PURPOSES OF THE PROPERTY TAX ON MOTOR CARRIERS, SO AS TO PROVIDE THAT A VEHICLE WITH NO INCREASE IN MILEAGE FROM THE PRECEDING YEAR AND WHICH IS AVAILABLE FOR USE IS DEEMED TO HAVE INCURRED ALL MILEAGE IN THIS STATE.

**04/04/02 House Introduced and read first time HJ-43**

**04/04/02 House Referred to Committee on Ways and Means HJ-48**