

May 4, 2010

2009-2010 Legislative Session

*Legislative News* is a publication prepared and distributed by the SCDMH Office of Public Affairs to keep you informed of bills introduced in the General Assembly that may affect DMH, mental health, health care issues, or employee issues. In addition, we will provide budget information and general news from the General Assembly. You can also access the complete bills online by clicking the link at the end of each description, OR visiting <http://www.scstatehouse.net>.

This publication is also available on the DMH Internet and Intranet sites. However, if you do not have access to the site and wish to receive a copy of the update, call us, and we will send you one in the mail. If at any time you have questions or need more information about bills or other legislative issues, contact Alyce McEachern in the Office of Public Affairs by email at [acm83@scdmh.org](mailto:acm83@scdmh.org), or by phone at (803) 898-8585.

## Budget Update

The Senate adopted its budget proposal on April 29th. The Department of Mental Health fared better in the Senate than the House, most significantly with regard to the reduction proposed for the agency's base. The House version would reduce the Department's recurring state appropriations by \$35.1 million, while the Senate version would reduce the base by \$23.5 million. Additionally, the Senate version includes a proviso in the Department of Health and Human Services' section that would require the Department to be held harmless in the disproportionate share (DSH) funding received for uncompensated care provided in the inpatient facilities; for FY 2010-11, this means nearly \$16 million ([see Proviso 21.45, page 2](#)).

## Comparison of House and Senate Budget Proposals

Funding			
House		Senate	
Base Reduction:	<b>-\$35,100,000</b>	Base Reduction:	<b>- \$23,543,572</b>
One-Time Appropriations:	\$37,143,742	One-Appropriations:	\$29,000,000
Net:	\$2,043,742	Net:	\$5,457,428

Provisos			
House		Senate	
Proviso 23.8, requiring the Department to transfer \$1 million to the Alzheimer's Association for respite services, was reduced to \$911,620 to reflect mid-year reductions received during the current fiscal year.		Senate Adopted House proposal.	
Proviso 23.10, specifying the allocation from any surplus for the construction of Colleton County Veterans Home (Veterans Victory House), was deleted.		Senate Adopted House proposal.	
Due to the Department's decision to renovate Hall Institute at its current location versus constructing a new child and adolescent hospital, provisos 23.10 and 23.11 were deleted. These provisos instructed the Department to construct a new child and adolescent (C&A) facility and provided the ability to seek pre-funding for a new C&A facility, respectively.		Senate Adopted House proposal.	

## Comparison of House and Senate Budget Proposals, cont.

Provisos, cont.	
House	Senate
A new proviso, 23.18, authorizes DMH employees to receive reimbursement for meals when they are required to work during emergencies and emergency simulations, when they are not permitted to leave their stations.	Senate Adopted House proposal.
No proviso	Proviso 21.45, Disproportionate Share – DMH was adopted by the Senate. This proviso requires the Department of Health and Human Services to make up any shortfall in disproportionate share funding received by DMH from the latest federal fiscal year. This would result in the DMH being ensured of approximately \$16 million that could be disallowed due to changes in federal guidelines relating to disproportionate share funding.
Proviso 80.109 would close the TERI program to new enrollees as of July 1, 2010.	Senate deleted this proviso, so the TERI program would continue. S. 242 free standing legislation that would eliminate the TERI program to new participants is on the contested calendar in the Senate.
Proviso 80.114 limits the salary that can be offered to retirees who return to work to 75% of the salary they received at the time of retirement. These employees would also need to possess unique skill-sets or institutional knowledge, which would be difficult to replace.	Senate amended this proviso to require agencies to realize 25% aggregate savings from classified positions left vacant due to a retirement. Agencies would be required to review each position prior to filling and to comply with rules governing the posting and advertising of positions.
An increase in the cigarette tax of thirty cents.	The Senate did not adopt this proviso. House 3584 has passed both bodies with a 50¢ cigarette tax. The bill has been returned to the Senate for its concurrence or non-concurrence of the House amendment.

## Senate Bills

### S 168 Medical Malpractice Insurance (Cleary and others)

A bill to amend Section 38-79-30 relating to medical malpractice insurance so as to provide that a licensed health care provider who renders medical services voluntarily and without compensation, and seeks no reimbursement from charitable and governmental sources, and provides notice to the patient or patient's provider in a non-emergency, is not liable for any civil damages for any act or omission unless the act or omission was the result of the health care provider's gross negligence or willful misconduct. Referred to Committee on Banking and Insurance. Senate read third time and sent to House. House referred to Committee on Labor, Commerce and Industry; favorable with amendment. Second reading Tuesday, May 4, 2010.

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### S 416 Health Care Accessibility for Young Americans Act (Lourie and others)

A bill to enact the "Health Care Accessibility for Young Americans Act" to provide health insurance coverage under a parent's policy for certain military personnel on termination of active duty status, among other things. Passed by Senate and Referred to Committee on Labor, Commerce and Industry May 12, 2009.

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### S 467 Optional Alcohol Exclusion Provisions (Hayes)

A bill to add Section 38-71-380 so as to provide that the Optional Alcohol Exclusion Provision contained in certain insurance policies that require the replication of exact language as provided in Section 38-71-370 does not apply to a medical expense policy, and to define medical expense policy. Referred to Committee on Banking and Insurance February 24, 2009.

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## Senate bills, cont.

### **S 486 Commission on Disabilities and Special Needs (Peeler and others)**

A bill to amend Section 44-20-210 specifically relating to the creation and responsibilities of the Department of Disabilities and Special Needs, so as to delete the provision transferring the responsibility for Autistic Services from the Department of Mental Health to the Department of Disabilities and Special Needs. Referred to Committee on Medical Affairs. Passed Senate March 26, 2010, and sent to House Judiciary Committee March 31, 2010.

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### **S 931 Sexually Violent Predators 931 (Companion Bill H 4199) (L. Martin)**

A bill to amend Section 44-48-40 relating to the effective date of parole or conditional release of sexually violent predators, to provide that written notice must be given 275 days rather 100 days. Passed by Senate, sent to House and referred to Committee on Judiciary March 9, 2010. House read 3<sup>rd</sup> time April 22, 2010, and enrolled for ratification.

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### **S 1239 Joint Resolution to Create the Suzanne Kirsh Task Force on Long Term Care in SC (Alexander)**

To create the Suzanne Kirsh Task Force on Long Term Care in South Carolina to be composed of ten voting members, including the Director of the Department of Mental Health or his designee, to serve as ex-officio and non-voting members. Introduced in the Senate and referred to Committee on Judiciary March 2, 2010.

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### **S 1272 Filing Fees for Petitions for Judicial Commitments (Mulvaney)**

A bill to amend Section 8-21-770, as amended, relating to Probate Court fees and costs, so as to provide that a filing fee may not be charged in emergency admission procedures and petitions for judicial admission of a person for care and treatment for mental illness, chemical dependency, or mental retardation. Referred to Committee on Judiciary March 1, 2010. Referred to Subcommittee March 23, 2010.

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### **S 1373 Mental Illness Advocacy Day (Alexander)**

A Senate Resolution to designate Wednesday, April 21, 2010, as Mental Illness Advocacy Day in South Carolina. Senate introduced and adopted April 20, 2010.

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## House Bills

### **H 3147 Restructuring Act (Companion Bill S 208) (G.R. Smith and others)**

A bill to enact the South Carolina Restructuring Act relating to the agencies of the executive branch of State Government by adding the Department of Administration as an agency of the executive branch to be headed by a director appointed by the governor upon advice and consent of the Senate, and to transfer to this newly created department certain offices and divisions of the State Budget and Control Board. Passed the House April 1, 2000. Sent to Senate and referred to Committee on Judiciary April 1, 2009. Referred to Subcommittee January 13, 2010. Senate Version, S 208 referred to Subcommittee on Judiciary April 6, 2010.

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## House bills, cont.

### **H 3170 Creation of the Joint Electronic Health Information Study Committee (Gunn and others)**

A Joint Resolution to create the Joint Electronic Health Information Study Committee to examine the feasibility of increasing the use of health information technology and electronic personal health records. Referred to Committee on Medical, Military, Public and Municipal Affairs. Passed the House, February 27, 2009. Sent to Senate and referred to Committee on Medical Affairs March 3, 2009. Senate read third time and returned to House with amendments March 18, 2010. House concurred in Senate amendment and enrolled March 24, 2010. Signed by Governor March 31, 2010.

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### **H 3192 Sunset Commission (Rice and others)**

A bill to add Chapter 24 to Title 1 to establish the SC Sunset Commission and a Sunset Review Division of the Legislative Audit Council, to establish procedures providing for the manner in which programs of certain agencies and departments of state government must be evaluated to determine if they should be continued, modified, or terminated. Passed the House February 26, 2010. Sent to Senate and referred to Committee on Judiciary; referred to Subcommittee March 5, 2010.

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### **H 3199 Behavioral Health Services Act of 2009 (Harrison and others)**

A bill to amend Section 1-30-10 relating to the departments in the executive branch of state government to add the Department of Behavioral Health Services, delete the Department of Alcohol and Other Drug Abuse Services and the Department of Mental Health, and transfer them to the Department of Behavioral Health Services. Referred to Committee on Judiciary. Passed House May 20, 2009. Sent to Senate Committee on Medical Affairs May 20, 2009. The Restructuring Subcommittee has recommended that the Department of Alcohol and Other Drug Abuse Services (DAODAS) and the Continuum of Care not become a part of the Behavioral Services Department, and that DMH alone become a Cabinet agency. The Full Medical Affairs Committee met on January 21, 2010, and carried over the bill for future consideration.

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### **H 3314 Disabilities and Special Needs Department (Harrison)**

A bill specifically relating to Section 44-20-240, which states: There is created the South Carolina Department of Disabilities and Special Needs, which has authority over all of the state's services and programs for the treatment and training of persons with mental retardation, related disabilities, head injuries, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute. The department must be comprised of a Mental Retardation Division, an Autism Division, and a Head and Spinal Cord Injuries Division. The department may be divided into additional divisions and named as may be determined by the director. Responsibility for all autistic services is transferred from the Department of Mental Health to the Department of Disabilities and Special Needs. Passed the House March 27, 2009. Sent to Senate and referred to Committee on Medical Affairs. Reported out of Committee favorable with amendment. Committee report adopted January 28, 2010. On Contested Calendar in Senate.

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### **H 3488 Issues Affecting Veterans (J.E. Smith and others)**

A Joint Resolution to establish a committee to study certain issues affecting veterans and provide for related matters including, but not limited to, committee membership and duties, filling of vacancies, committee meetings, and staffing. House read third time; introduced in the Senate; Senate read third time and enrolled for ratification January 19, 2010. House concurred in Senate amendment and enrolled for ratification February 17, 2010; signed by Governor February 24, 2010.

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## House bills, cont.

### **Tobacco Tax Bills - H 3584 (Harrell and others); H 3470 (Skelton); H3471 (Chalk); H 3486 (J.E. Smith)**

A bill to impose a surtax on each cigarette (amount varies per Bill) and provide the crediting of the revenue from the surtax to the Smoking Prevention and Cessation Trust Fund as well as creating other Trust Funds to receive the credit. H. 3471 creates the Community Mental Health Fund for the SCDMH and provides its sources of revenue to provide for the uses of fund revenues, to provide a tax credit for an individual who maintains a qualifying health savings account. All referred to Committee on Ways and Means. House Bill 3584 passed House April 2, 2009, and sent to Senate on April 3; referred to Committee on Finance April 4; favorable with amendment on May 7, 2009. Senate read third time on April 14, 2010, and sent to House with amendments. House debate adjourned April 21, 2010, and House returned to Senate with amendments.

[House 3584 - View full text.](#)

[House 3470 - View full text.](#)

[House 3471 - View full text.](#)

[House 3486 - View full text.](#)

### **H 4199 Sexually Violent Predators (Companion Bill S 931) (Harrison and Kirsch)**

A bill to amend Section 44-48-40 relating to the effective date of parole or conditional release of sexually violent predators, to provide that written notice must be given 275 days rather 100 days. Referred to Committee on Judiciary January 12, 2010. Companion Bill S 931 enrolled for ratification April 22, 2010.

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### **H 4341 Joint Resolution (Hutto and others)**

A Joint Resolution to create The Autism Spectrum Disorder Study Committee on Early Intervention, and provide for its purpose, members, and duties, and to provide that the Study Committee must submit its findings and recommendations no later than December 1, 2011 at which time the Study Committee is abolished. The Director of Mental Health or his designee is a member of this Study Committee. Referred to Committee on Medical, Military, Public and Municipal Affairs, January 14, 2010. House read 3<sup>rd</sup> time and sent to Senate April 15, 2010. Senate introduced and referred to Committee on Medical Affairs April 20, 2010.

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### **H 4413 Licensure of In-Home Care Provider Act (Similar H 3186) (Chalk and others)**

A bill to amend the Code of Laws of SC by adding Chapter 70 to Title 44 to enact the "Licensure of In-Home Care Provider Act" so as to require a business to be licensed to provide, or to make provisions for in-home care services through its employees or agents or through contractual arrangements; to provide that DHEC shall promulgate regulations for licensure. Referred to Committee on Medical, Military, Public and Municipal Affairs January 26, 2010. Committee report majority favorable with amendment, minority unfavorable March 24, 2010. House read second time April 27.

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### **H 4538 South Carolina Health Information Exchange Council (SCHIEX) (Crawford)**

A bill to amend the Code of Laws of South Carolina by adding Chapter 140 to Title 44 so as to establish the South Carolina Health Information Exchange (SCHIEX) to establish the South Carolina Health Information Exchange Council as the governing body of SCHIEX to oversee and govern the exchange of health-related information among health care organizations, to provide for the council's powers and duties, and to further provide for the electronic movement of health-related information among health care organizations in the state. Referred to Committee on Labor, Commerce, and Industry February 4, 2010. House read third time April 23, 2010, and sent to Senate. Senate referred to Committee on Medical Affairs April 27, 2010.

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