

State of South Carolina

Office of the Governor

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May 19, 2009

The Honorable Robert W. Harrell, Jr., Speaker
South Carolina House of Representatives
508 Blatt Building
Columbia, South Carolina 29211

Dear Mr. Speaker and Members of the House:

I am vetoing in its entirety and returning without my approval Part IA and Part III of H. 3560, R. 49, the Fiscal Year 2009-10 General Appropriations Bill. Additionally, I am returning Part IB with individual line-item vetoes detailed later in this message.

We've chosen this course for two main reasons. One, legislative budget writers spent \$348 million in State Fiscal Stabilization Funds while failing to pay down, or even address, an equal amount of state debt. Two, this budget misses a prime opportunity to take meaningful steps toward restructuring state government, eliminating waste, making tough choices, and setting the spending priorities needed to put our state on firmer financial footing for what we believe will be a protracted economic downturn. By vetoing effectively all \$5.7 billion in state funding, I am giving the General Assembly one more opportunity to start over and send me an appropriations bill that meets the above criteria that I think fits with where taxpaying South Carolinians really stand on the common sense notion of paying down debt when afforded the chance to do so. This is particularly the case given the American Recovery and Reinvestment Act does not require stimulus funds that have been certified, but not applied for, be immediately shipped off to some other state – and for the way taking a different course of action would enable our state to avoid a potentially \$920 million financial hole in two years that would come in dedicating these funds to recurring needs of this state.

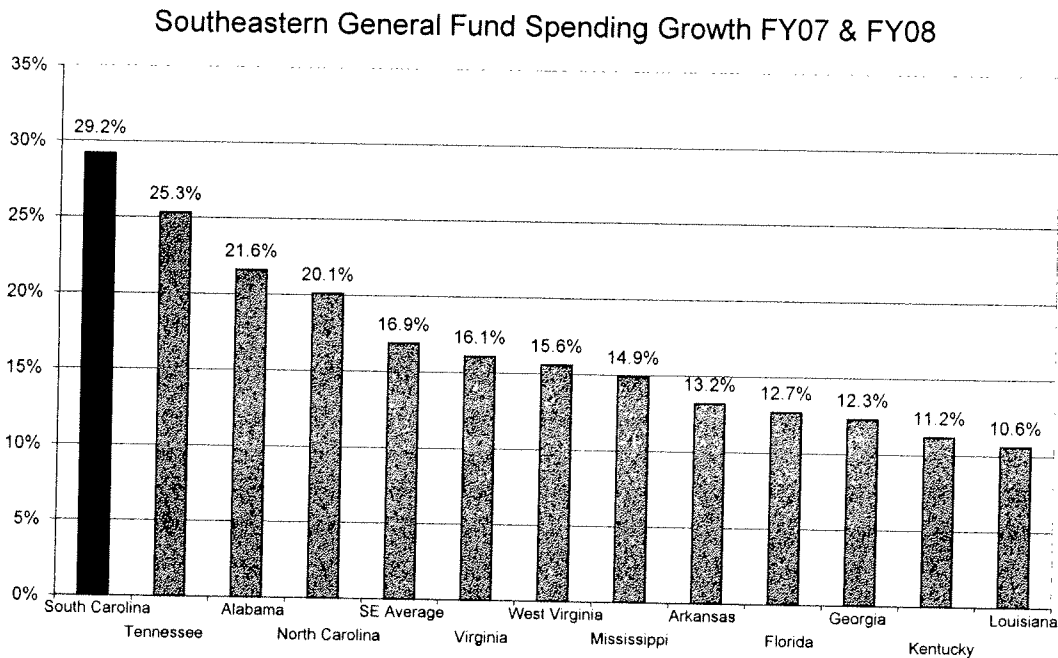
Before I go into further detail on these points, I think it is important to give some background that led me to my decision today.

I. Veto of Part IA and Part III

How We Got Here

South Carolina families are facing the most challenging economic times in recent memory. The collapse of the credit, housing, and stock markets, and in turn, the drop in tax revenues has negatively impacted government's ability to provide services. But even absent the global economic slowdown, let's be absolutely clear – the situation we find ourselves in was predictable, preventable, and guaranteed based on the run-up in government spending over the past several years.

Prior to the mid-year budget reductions in FY 2008-09, state government grew by 43 percent in just four years. In FY 2006-07 and FY 2007-08 combined, the General Assembly spent an additional \$1.3 billion in surplus revenues, *which does not include revenues dedicated to tax cuts* – leading the Southeast in state government spending growth at 29.2 percent. As far back as 2004, our administration pointed to the need for legislators to put a statutorily enforceable cap on government spending growth to counteract the political bias to spend every dime possible without heed for a rainy day. Given the business cycle that man has known about since Biblical times, a downturn was inevitable. Gravity always works, and what goes up must come down.



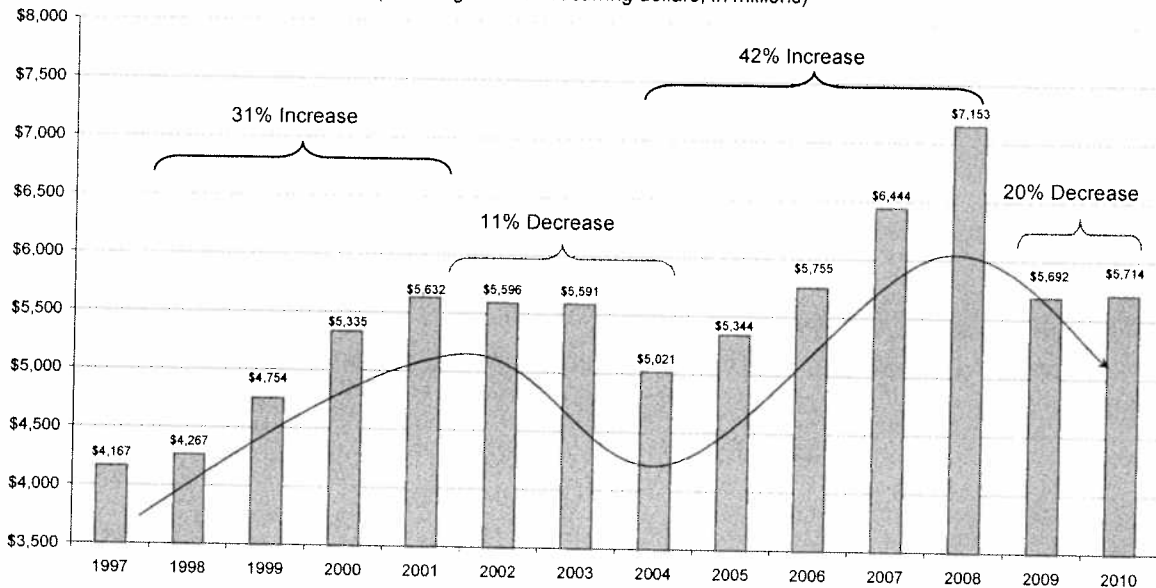
Source: National Association of State Budget Officers

What is happening to our budget matches what has happened before. In 1999 and 2000, spending grew by 11.4 percent and 12.2 percent respectively – almost 25 percent in two years. After that, when the tech bubble burst, the economy slowed, and state tax revenues could not keep pace with government spending already set in place. Consequently, in 2001 the Budget and Control Board had to make painful and incredibly disruptive mid-year budget cuts – hurting “the

very least of these” that agencies like the Department of Juvenile Justice and programs like Medicaid are called to serve.

Peaks and Valleys Approach to State Spending

(recurring and non-recurring dollars, in millions)



Had the Legislature adopted a population-plus-inflation spending cap, sustained more of the vetoes we have laid out, or adopted more of the cost-savings recommendations we have proposed, we may have been spared yet another budgetary roller-coaster ride. Still, we are where we are, and while nothing can undo what irresponsible budgeting and a souring economy has brought, we continue to believe that setting spending limits now – and sticking to them – can go a long way toward avoiding this very real pain now being endured by state government and will continue in future years.

Actions Have Consequences

It's a reasonable question to ask where the state would be now if the Legislature had set aside a large portion of the FY 2006-07 \$1 billion surplus and the FY 2007-08 \$1.5 billion in new money for a rainy day. In our 2006 veto message, responding to unprecedented 13 percent growth in state spending that year, we made the following points:

We have gone down this road before and paid the price. In 1999 and 2000, state government spending grew by 11.4 percent and 12.2 percent, respectively – an almost 25 percent increase in government spending over a two-year period. When the economy slowed, as it inevitably always does based on the business cycle, the revenues collected by the state could not keep pace with the needs of the government programs funded in the good years, and the Budget and Control Board had to make painful and incredibly disruptive mid-year budget cuts. ...

We will have failed the people of South Carolina if we head back down the road of unsustainable growth and increase the likelihood of future mid-year budget cuts – but that is precisely where the Budget takes us.

And it is precisely where we are today, but in far worse shape. Even the Senate Finance Chairman recognized – but did nothing to prevent – the harmful levels of spending in 2006 as discussed in our veto message:

On January 7, 2006, in a news story titled “Senate Finance panel chief envisions rivers of red ink,” it was reported that the Senate Finance Committee Chairman predicted that the full state coffers would “soon be replaced by years of deficits” and that “within three years, flat revenues will send the state's budget back into the red.” The chairman was further quoted as saying the prospect of having to deal with flat revenues in the future “scared the pants off of him.” The chairman concluded, according to that news story, by saying that “the looming lean times will force legislators to control spending.”

Regrettably, however, as the state's economy continued to improve throughout the legislative session and the hundreds of millions of unanticipated new taxpayer dollars poured into state coffers and were certified, the commitment of many legislators to a spending limit went out the window. Forced to choose between spending the new revenues or remaining true to their pledge to limit state government spending to a reasonable and sustainable level, most chose to spend. The “looming lean times” that the Senate Finance Chairman said would “force legislators to control spending” suddenly became irrelevant in the face of the chance to spend an unprecedented amount of new money.

Those “looming lean times” are indeed no longer looming – and legislative leaders must to some degree be held accountable for the missed opportunities over the last five years to prepare for just this rainy day.

Today, with this appropriations bill, legislative leaders have failed once again to learn from past mistakes and have missed glaring opportunities to make long-lasting reforms. This lack of foresight and financial planning will continue to harm those working in state government and those served by it now and in future years.

All that said, I'd like briefly to offer five reasons why we feel compelled to veto Parts IA and III in their entirety and ask the General Assembly to start over and send me a new budget that takes these points into consideration.

1. Inclusion of State Fiscal Stabilization Funds Without Corresponding Debt Relief

For several months, I have laid out a clear marker for the General Assembly about where our administration is with regard to federal stimulus funds coming to our state: dedicate \$700 million of state revenue to pay down state debt and I will apply for the equivalent amount in

State Fiscal Stabilization Funds (SFS Funds). Unfortunately, the majority in the General Assembly failed to meet our marker, or for that matter, failed to even attempt to meet us part of the way. Instead, they have ignored the requirements of the American Recovery and Reinvestment Act (ARRA), opinions of the Obama Administration, the Congressional Research Service and our state Attorney General, which have upheld the Governor's discretionary authority to apply for SFS Funds, and now, with H. 3560, are unconstitutionally attempting to force me to apply for the funds.

This is not the case with the growing and vocal group of legislators who understand the gravity of the problems that lie ahead in spending money we don't have and actually *won't* have in 24 months. I commend them for their support.

Our administration has remained steadfast and consistent over the past six years on the need for fiscal restraint and prudence. Our message on the use of stimulus funds is no different: spending an unprecedented amount of one-time federal funds on core, recurring needs without making sustainable budgetary and financial reforms, including paying down our high state debt load, allows the General Assembly to avoid the responsibility of making tough decisions. For this reason, explained in detail below, I am vetoing Part III of H. 3560 – appropriation of the State Fiscal Stabilization Fund.

Taking a Measured Approach

I did everything within my power to impede the federal stimulus legislation as it moved through Congress because I, along with almost every Republican Member of Congress in Washington, was concerned with the disastrous long-term consequences that would come from spending money we don't have – and in issuing yet more debt to solve a problem that was created in the first place by too much debt. We lost that fight, and Congress passed the American Recovery and Reinvestment Act which would allow a total stimulus package of roughly \$8 billion to come to our state.

Out of this \$8 billion, we took what we believed was a reasonable and measured approach by asking both the Obama Administration and then the South Carolina General Assembly to use a small fraction – around 10 percent – to pay down our state's high debt load. Again, while some in the Legislature would prefer the public to forget this fact, 90 percent of stimulus funds are reaching South Carolina – going to tax relief, building roads, and supporting schools.

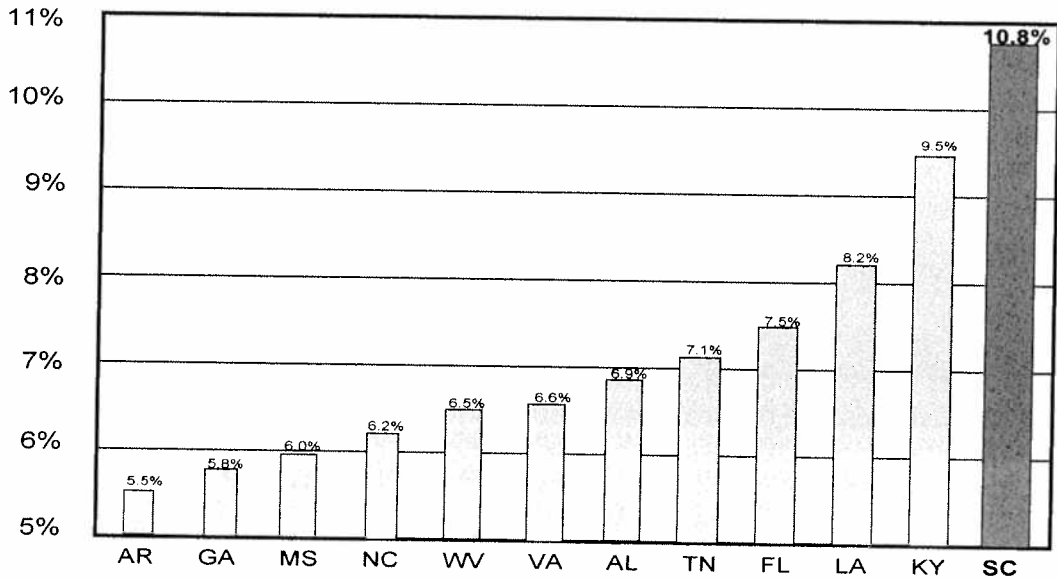
We think it makes sense that when you get a financial windfall, it's worth setting aside a small amount to pay down debt. If a prudent family were to win the lottery, the family wouldn't go out and spend every dollar, but instead likely dedicate a portion of their winnings to paying down credit card debt or their mortgage, or in fact setting some aside for a rainy day.

It should not be any different for a state – particularly in South Carolina's case where we are first in the Southeast, and fourth in the entire nation, in the percentage of tax revenue that goes *not* to teachers or health care, but debt repayment, according to a recent report by the American Legislative Exchange Council. *Eleven percent of every dollar* in yearly state tax revenue goes to paying down debt, and we have \$20 billion on top of that in unfunded long-term political

promises and commitments. Paying down debt would give us greater financial flexibility in 24 months when the federal gravy train runs out, at which time we could then use these saved funds to avert further cuts, increase spending on core functions, or set aside more for the tough times that are sure to come. In our case, it would also pay dividends well beyond the first 24 months because \$162 million would be saved in debt service during this time and another \$100 million in interest savings would occur over the next 13 years.

South Carolina vs. Southeastern States

Debt Service As Share of Tax Revenue



Source: American Legislative Exchange Council

Avoiding the Inevitable Questions

Part III of this bill appropriates \$348 million in non-recurring federal stimulus funds for core recurring needs – like the base student cost, higher education and public safety funding. *What happens in 24 months when this funding stream ends?* Will teachers and law enforcement officers lose their jobs then? These are questions that have not been answered by the General Assembly, and hoping things will have turned around by then is not a realistic or acceptable strategy. As United States Army General Gordon Sullivan tells us, ***hope is not a method.***

Our answers have been the same for the past six years – implement budgetary reforms like spending caps, restructuring, retirement limits, and prioritize spending so that frontline services provided by teachers and police officers are adequately funded. Doing this requires that cuts be made to other non-core governmental programs, which I have proposed in each of our administration’s executive budgets and which the General Assembly has time and again failed to adopt.

The tough decisions that should have been made in this unparalleled budget year will once again be put off for another time, or possibly not at all, in the hopes that the economy will suddenly

recover and our revenue stream will become flush with cash. This strategy has been used by the General Assembly time and again – the leadership waits for the Board of Economic Advisors to release a higher financial estimate or surprisingly finds a new, unsustainable revenue source and then they look like they have saved the day.

But this financial decline is much steeper and the recovery is likely to be much slower. Rather than continue the “let’s wait and see” method of appropriation, it is incumbent upon those of us in seats of responsibility to make wise – and sometimes tough – decisions to protect priority government services in the long term. On this front, I believe the Legislature has fallen far short yet again.

Pulling Back the Curtain

Some have argued that without federal stimulus funds, education and law enforcement will be severely cut, and no other way exists to replenish their funding. This has certainly resonated in terms of making a political point and scoring a public relations victory, as opponents to fiscal responsibility have chosen to perpetuate disingenuous doomsday scenarios as the result of dedicating a portion of the stimulus dollars to paying down debt.

The truth is less clear-cut and, perhaps, far less dramatic. Indeed, Part III of this appropriations bill dedicates the majority of State Fiscal Stabilization funds to education and law enforcement while at the same time gutting general fund expenditures for those areas so that, without this section of the budget, these core services will be drastically cut. As several more forthright legislators have pointed out, this strategy, by Senator Leatherman in particular, is meant to ensure that our administration is perceived as allowing draconian cuts to be made to these services by not applying for the last 10 percent of the stimulus monies. The doomsayers’ argument is disingenuous and without merit.

Budget writers in both the House and Senate could have done many things to sustain basic education, health care and law enforcement funding without using any of the \$348 million in stimulus funds by (1) heeding our six-year call for sustainable government spending growth; (2) heeding our six-year call to prioritize spending so that core government services are adequately funded and other nonessential services are cut – because not all spending is created equal; and (3) working from the Ryberg-Davis alternative budget which would have limited expansions in unsustainable health care spending and increased funding for teachers and law enforcement agencies.

Legislative budget writers clearly missed several opportunities to put our financial house on a more solid foundation. Now, the same budget writers have once again missed a critical opportunity to correct their previous missteps by failing to send me a budget and legislative reforms that could alleviate future budget crises. Paying down our state’s high debt load will save millions, \$162 million in the first two years alone; restructuring state government will remove duplicative costs; capping spending will reduce the high cost of government; and reforming the State Retirement System will lessen our liabilities. All of these reforms will help put our fiscal house in order, and not undertaking them represents a missed opportunity of monumental proportions.

Without these reforms or a down payment on our state's \$20 billion in unfunded liabilities, I cannot apply for State Fiscal Stabilization Funds, and I believe forcing me to do so with this legislation is legally invalid and unconstitutional. The General Assembly is taking this unprecedented step to undo federal law which clearly gives power only to governors to apply for SFS Funds and, in doing so, tramples on basic principles of separation of powers which requires the governor to carry out executive acts – in this case administering and applying for stimulus funds.

2. **Core Functions of State Government are Inadequately Funded in Part IA**

We are vetoing Part IA in its entirety because – as a stand-alone – Part IA inadequately funds core functions of state government. For several of these functions, General Fund levels were dangerously cut and backfilled with stimulus funds that will run dry in two years.

The result of this purely political maneuver – the so-called “Chaos Budget” – served its purpose: to scare the general public into believing teachers would be fired, troopers would be taken off the road, and health care would be slashed. An honest and responsible budget, following along the lines of the Ryberg-Davis alternative budget, would have fully funded the base student cost as well as law enforcement, and found a way to pay down debt.

Inadequate Funding for K-12 Education

Let me emphasize once again: budget writers' purpose was seemingly to induce fear that would cause people to lobby our office to change its mind, and it's disappointing, yet not entirely surprising, that those holding the legislative purse strings would prefer fear-mongering to responsible budgeting.

Such is the case with education, since budget writers consistently said that education could not be properly funded without every last stimulus dollar. Yet the alternative budget proposed by Senators Ryberg and Davis, and a handful of House Members, demonstrated that it was indeed possible to adequately fund K-12 education without using \$348 million in State Fiscal Stabilization Funds while at the same time setting aside \$200 million to pay down debt. In fact, the Ryberg-Davis budget would not have forced one teacher to lose his or her job.

It's also important to remember that the debate over the 10 percent we believe should be dedicated to debt relief in no way impacts over \$200 million in stimulus funds that are already flowing directly to local school districts from the federal government, or the full flexibility that local districts were given in how they opt to utilize funds coming from Columbia.

Too few are asking what we believe to be a vital question: What happens to education funding in our state in two years when all of the stimulus funds are gone? At that point the state must find a way to plug the \$185 million hole that will exist on the Education Finance Act (EFA) line in the budget because, prior to supplementing the EFA line with \$185 million in SFS Funds, the General Assembly opted to cut \$85 million from the EFA budget. Having vetoed Part III of the

budget, we could not simply veto individual lines in Part IA because vital state functions – like K-12 education – would be underfunded.

Inadequate Funding for Law Enforcement Agencies

As part of the “Chaos Budget,” law enforcement agencies were also drastically cut before the addition of stimulus dollars. For example:

- The Department of Corrections would be left with a \$22 million deficit without the use of SFS Funds.
- SLED received a \$3 million cut before SFS Funds were added to its budget.
- The Department of Probation, Parole and Pardon Services received a \$3 million cut before SFS Funds were added to its budget.
- The Department of Public Safety received a \$12.7 million cut before SFS Funds were added to its budget.
- The Prosecution Coordination Commission received a \$1.9 million cut and received no SFS Funds to offset this reduction in funds. Interestingly, at the same time, the Commission on Indigent Defense received an increase in funding of \$3.3 million.

Since Day 1, we’ve put a priority on public safety as one of the core functions of state government and an integral part of quality of life in South Carolina. With the passage of this budget, our state’s public safety agencies have now seen their base budgets reduced by as much as 31 percent over the course of the last year. And just as with K-12 funding, the question becomes how these agencies are going to be funded in two years after the stimulus funds run dry?

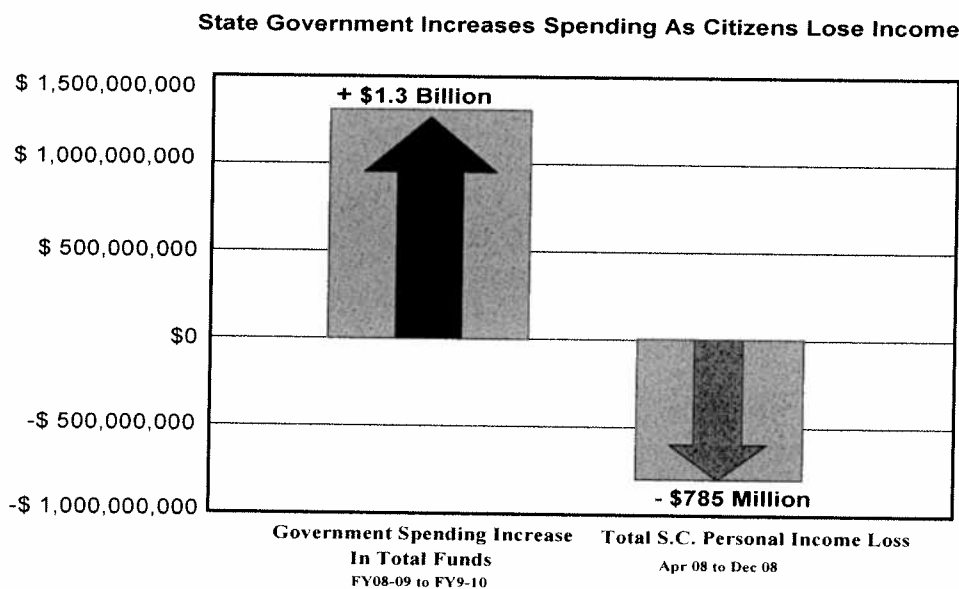
Also on the law enforcement front, this budget fails to adequately fund the South Carolina Illegal Immigration Act. Just last year we applauded the General Assembly for working with our administration to pass this important legislation. Many members of the Legislature called this legislation “the toughest illegal immigration bill in the country.” What a difference a year makes. While the Department of Labor, Licensing, and Regulation (LLR), the agency tasked with enforcing the new law, requested \$2 million to ensure that the agency has adequate funding to carry out its mandate once the law becomes fully effective, the General Assembly chose to provide merely \$750,000 in funding to the agency. The agency has been very clear that while this level of funding will allow them to do some enforcement, it falls well short of the funding needed to carry out the full mandate of the law when the Act becomes fully effective. We believe that this program needs to be fully funded in this year’s budget.

3. Budget wastes chance to make long overdue reforms

There has been much discussion about the roughly \$1 billion in budget reductions that state government has experienced over the past year. What has not been publicized nearly as much is the fact that the budget passed by the General Assembly includes over \$1 billion in federal stimulus funds. This \$1 billion in stimulus funds effectively removes any incentive for the

General Assembly to consider changes to the structural deficiencies that exist in our state's government or consider other cost savings that are long overdue. In fact, the budget passed by the General Assembly actually increases funding from the current budget from \$5.6 billion to \$5.7 billion.

However, when looking at the state budget it is important to focus not only on the general funds appropriated by the General Assembly, but also on the total funds (which include general funds, fees and federal funds) spent in the state each year. When one looks at total funds, there will be over a \$1 billion increase in the growth in the state's budget in FY 2009-10. *Not including SFS Funds*, total funds will increase from \$19.7 billion in FY 2008-09 to \$21 billion in FY 2009-10 – roughly a 7 percent increase. This increase occurred at a time when the people of the state have seen their personal incomes drop. Why should government grow faster than the incomes of the households that fund it?



Source: Office of State Budget, Bureau of Economic Analysis, U.S. Dept. of Commerce

Beyond the numbers, it's worth looking at this notion that tough decisions are often only made when times are indeed tough. For in the same way one could very reasonably argue that the restructuring essential to the long-term survival and prosperity of General Motors was only postponed by federal monies, I believe these stimulus monies – and subsequently, this budget – would postpone changes essential to South Carolina becoming more competitive in the global economy and thereby degrade the long-term economic prospects of our citizens. On this point it is interesting to note that though GM said federal money was key to its survival, it has now come back just months later laying out the choice of either bankruptcy or more federal aid from taxpayers. Though certainly well-intended to address real needs that do exist in this and other states, the debilitating thing about federal monies like these is the necessary, but hard, choices they forestall.

Need to Make Tough Decisions

When we released our Executive Budget in January, we included \$266 million in cost savings – a record total. While many of these savings required difficult belt-tightening in some areas of government bureaucracy, we believe government should ultimately make some of the same types of tough decisions that families and small businesses are making all across South Carolina.

For over six years now, our administration has advocated structural reforms that would make state government leaner, more productive, and better able to serve what the Bible calls “the least of these.” One example of a program we believe needs to be reformed, or indeed eliminated for new entrants, is the Teacher and Employee Retention Incentive (TERI) program. This program was initially created to encourage some outstanding teachers to remain in the classroom after they have met the threshold number of years of service to allow them to retire with full state benefits. After this program was implemented, a court decision changed the law and required that all employees in every agency of state government be allowed to participate. The result of this ruling is a program that costs the state over \$17 million per year that could have been sent to schools or law enforcement.

We’ve also consistently pointed out the need to restructure many of the agencies in our state government – with a potential \$21 million in savings. While we would give credit to the House of Representatives for passing the legislation creating a Department of Administration, the General Assembly has once again, barring some last minute heroics, allowed a session to slip by without moving forward on serious restructuring.

Just as we have seen the downturn in the economy force the automobile companies in Detroit to restructure and change the way they do business, the same should happen with our state government. The automobile companies have the potential to make some structural changes in their respective companies and emerge in a position that is more competitive in a global marketplace. Likewise, if South Carolina was to make long overdue changes in our structure of government, we could emerge from the current economic downturn better able to attract new industry to South Carolina.

Wasteful Spending Continues

In a year when most agencies have taken budget reductions or, in best case scenarios maintained their currently reduced budget levels, the General Assembly not only continues to ignore making tough decisions, but ignores the easy ones as well. A few examples are provided below.

In light of recent budget cuts, the Department of Commerce proposed downsizing the operations of the state plane and maintenance team to avoid cuts in airport planning or using one-time accounts to pay for ongoing services. The total savings associated with this proposal were \$363,503. Instead of realizing these savings, the General Assembly chose to block this proposal by moving the Aeronautics Commission out of the Department of Commerce to the Budget and Control Board.

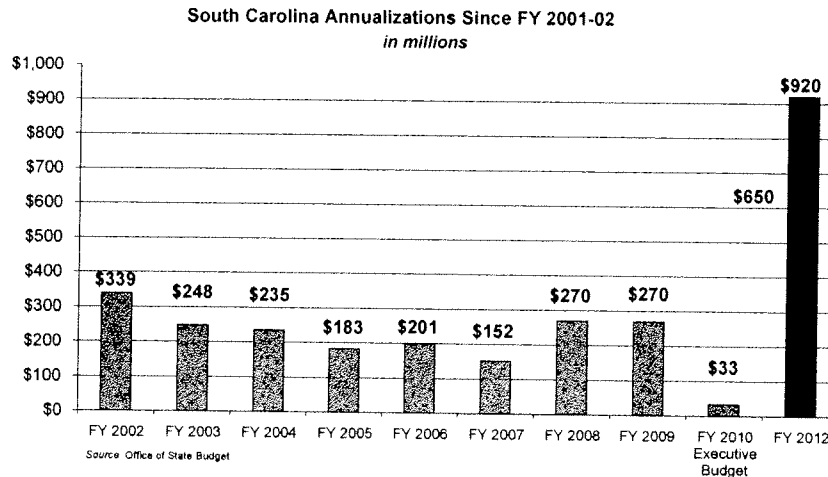
The Department of Public Safety spent \$983,133 last year on taxpayer-funded traffic control for football games and horse races. Rather than the General Assembly allowing the Highway Patrol to recoup its costs from event organizers and the universities, which reap millions in revenue from broadcast contracts, each year it costs the taxpayers nearly \$1 million to provide this service for special events across the state. When events like these produce big profits, does it make sense for one arm of government – and by extension taxpayers – to subsidize another arm of government reaping a windfall as a result of the event?

Another example is the \$500,000 per year that the state spends to maintain two golf courses, when South Carolina has over 460 golf courses. The private sector has demonstrated that it is perfectly capable of maintaining golf courses in this state, so why should the taxpayers be asked to subsidize two of them?

Finally, the Budget and Control Board has managed to receive an increase in funding of \$823,993. Part of this funding is for repayment of a hydrogen loan and part of it is for “deferred maintenance.” It is perplexing that the General Assembly would opt to fund “deferred maintenance” at the Budget and Control Board, but not increase funding for some of the law enforcement agencies or other vital activities. This just doesn’t seem like the right year to be funding maintenance projects, no matter how worthy the projects may be. However, even if the maintenance is necessary, we feel confident the Budget and Control Board can find the resources in the massive amount of carry forward funds retained by the agency to cover the costs of any needed maintenance. The General Assembly had no problem raiding LLR’s carry forward funds for nearly \$10 million, why should we not ask the Budget and Control Board to contribute \$1.8 million for maintenance?

4. Annualizations at Highest Levels Ever

The level of annualizations in this budget have passed the point of being troublesome and become truly mind-boggling. For years we have talked about the need to put our state’s fiscal house in order by putting an end to the practice of annualizations – using one-time money to fund recurring needs. Annualizations represent borrowing from Peter to pay Paul and, ultimately, serve only to delay tough decisions by putting off budget pain for another year. Never have we seen annualization totals anywhere close to the record levels seen in this budget. The Office of State Budget estimates the annualization total for FY 2010-11 to be \$270 million – a difficult scenario that we will be facing this time next year. However, the challenge that this figure presents is small, relative to the potential **\$920 million** in annualizations that the state will confront in FY 2011-12 after all stimulus funds have stopped flowing from Washington.



We recognize that, to some degree, annualizations are inevitable when incorporating over \$650 million in increased FMAP rate funds from Washington that the state will have access to during FY 2009-10. However, when these funds are spent to fund, expand, or in some cases create new programs, a monumental hole is left to fill in the future. What is even more troubling is that nearly all of this money was appropriated for health programs that our state's most vulnerable citizens will come to rely upon – even though the Centers for Medicare and Medicaid Services (CMS) said that these funds could be used in other parts of state budgets. Next year, after citizens have come to rely upon these new programs, the General Assembly will be forced to make some tough choices when, instead of having \$657 million in increased FMAP rate funds to appropriate, they are left with only \$200 million. Unless the economy picks up dramatically – which no one is predicting – the Legislature will be forced to cut these health programs once again, redirect funds from other parts of the budget, or raise taxes to fund the difference. We do not find any of these options palatable – especially when this scenario is preventable. We would encourage the General Assembly to take another look at how the FMAP stimulus funds are appropriated in the budget and the impact that will be felt next year when the state has \$450 million less coming in from Washington to fund health care expansions created this year.

As previously discussed, the SFS Funds also create an annualizations problem in two years when these funds have likewise stopped flowing from Washington. One of the reasons that we have been adamant in our request for a corresponding amount of debt repayment before we accept these funds is the havoc that these funds will have on our budget if they are spent on recurring items. Our fears were confirmed and the General Assembly chose to spend nearly all of the \$348 million on recurring items.

Finally, not only did the Legislature rely upon stimulus funds to balance this budget, but they also raided reserve accounts. The General Assembly shifted \$15 million from the Unclaimed Property Fund at the Treasurer's Office to, among other things, pay off Hydrogen Fuel Station Loans at the Budget and Control Board. The budget also takes \$37 million from the Insurance Reserve Fund – money that would be needed should a catastrophic event, such as a hurricane, hit South Carolina. As the Chairman of Senate Finance pointed out on the Senate floor during the budget debate a couple of weeks ago, raiding these reserve funds does not represent sound

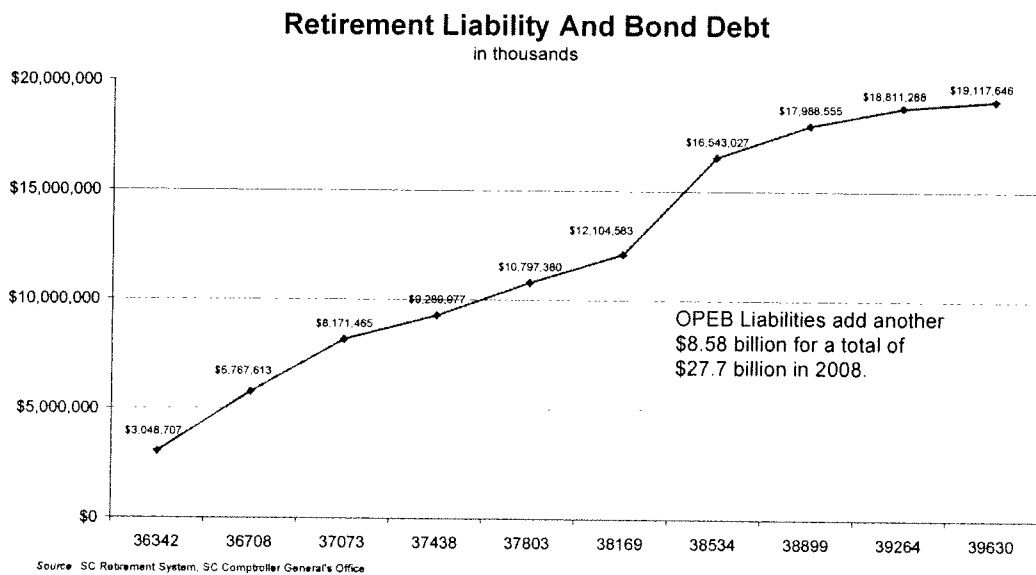
budgeting practices. We agree and encourage the General Assembly to reconsider the use of these funds in the budget.

The FMAP stimulus funds were going to inevitably present a difficult annualization scenario for future state budgets. Had a corresponding amount of general funds been set aside for debt repayment to offset the inclusion of SFS Funds, and not relied on one-time funds raided from trust funds, in two years the state would not need to dig itself out of an even larger hole. As it stands now, future budget writers will potentially confront a \$920 million time bomb in two years.

5. Budget Does Not Provide Debt Relief or Sufficiently Address Unfunded Liabilities

At the end of the day, we believe legislative budget writers missed a tremendous opportunity this year to not only enact substantive reforms, but considerably reduce our state’s debt load. It is plain and simply foolish to unsustainably grow government without first paying down debt, and it’s equally foolish to make yet more political promises to increase retiree benefits that later must be paid for through tax increases.

The most notable debt that we have incurred is the over \$20 billion in unfunded retiree pension benefits and health care costs. The Retirement System’s unfunded liability has grown in the past 10 years from \$178 million in 1999 to \$10.964 billion in 2008, which means that our Retirement System’s funding level has decreased from 99 percent to 69 percent in ten years. These numbers do not even reflect the huge losses – over \$16 billion – that our retirement investments have suffered during the past year.



We’ve proposed changes to significantly reduce our liabilities, but these reforms have been largely rejected by the Legislature. For example, eliminating the TERI program would have not only generated \$17 million in recurring savings for the general fund, but according to the Retirement System’s actuary, could have also reduced our unfunded liability by up to \$550 million. Other proposals include increasing the amount of service years for retirement and

taking a longer salary period for determining benefit payments would lead to annual savings. In our Executive Budget, we proposed reducing the employer surcharge for retiree health care costs and increasing retiree contributions for their insurance costs. Our proposal would have freed up to \$62 million annually that could have been allocated to the retiree health care unfunded liability, lowering it by \$2 billion. We believed that this was a reasonable measure given the fact that South Carolina taxpayers pay an average of \$348 per month for retiree health care costs while the state of Florida pays a maximum of only \$150 per month for their retiree health care costs.

We'd be remiss to not give legislators some credit for committing \$3.2 million to the OPEB trust fund in this year's budget. Unfortunately, this down payment falls significantly short of the \$314 million that we needed to keep our unfunded liabilities from growing even larger.

This budget also does nothing to reduce our bonded indebtedness. According to ALEC, we rank fourth highest in the nation with regard to annual debt service as a percentage of state tax revenue. This is an important figure because it not only accounts for our state's general obligation debt but also includes the total amount of local government and school district debt that must be paid by taxpayers in the form of property and local option taxes. Given the sizable amount of debt that we owe on a state and local basis, we believe that it is the responsible approach to use just 10 percent of the federal stimulus funds that South Carolina will receive to pay down outstanding bonds. One of our proposals would have reduced our state's debt service by \$162 million over the next two years and saved over \$100 million in interest payments over the next thirteen years. This proposal would have freed up millions of dollars that could have been spent on essential government services on a recurring basis.

We believe we have laid out several reasonable and compelling arguments upon which to ask the General Assembly to take a second look at crafting a responsible budget. I urge legislators to limit the costly effects to state services and taxpayers that will inevitably come in one, two or even ten years by acting responsibly now. Let's not miss another opportunity to get it right.

For the reasons set forth in the above sections, I am vetoing the following parts of the FY 2009-10 General Appropriations Bill:

- Veto 1** Fiscal Year 2009-10 General Appropriation Act Part IA Funding, in its entirety, pages 1 - 281.
- Veto 2** Part III Fiscal Year 2009-10 State Stabilization Fund, in its entirety, pages 484 - 487.
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II. Vetoes of Part IB Temporary Provisos

We have taken a targeted approach to Part IB by using our line-item veto authority on the following provisos because, unlike Part IA, provisos typically contain one specific purpose and do not roll up large blocks of money used for many purposes on one line. The General Assembly's practice of making large appropriations on individual lines for general rather than specific purposes makes it impossible to veto individual items in a targeted way. In contrast, provisos include the necessary details regarding spending that are needed for accountable budgeting. Accordingly, we are able to use our veto pen on those provisos that we disagree with most.

We would also point out one common theme throughout many of these objectionable provisos is that most are permanent laws that blatantly violate not only the original purpose and intent of a proviso - to be related to funding matters and have a temporary effect - but also violate a Senate Rule that prohibits a proviso from temporarily or permanently changing the general permanent laws of the state. If the General Assembly wants to pass a law that is clearly intended to be permanent, then it should go through the deliberative process in both bodies so that the public has reasonable notice and opportunity to voice their opinion. We object to the following provisos not only for specific policy reasons, but also because many of these provisos are clearly permanent in nature and did not receive the needed deliberation afforded to permanent laws of this state.

Finally, this year we have chosen not to veto some items we have historically vetoed in the past in an effort to focus our objections on those truly flawed items that generally fall into the following egregious categories: (1) violating the state constitution; (2) permanently altering state government by temporary proviso; (3) raiding trust funds; and (4) unnecessarily micromanaging executive branch functions.

Veto 3 Part IB; Section 21.11; Page 342; Department of Health and Human Services; Chiropractic Services.

This proviso directs the Department of Health and Human Services (HHS) to provide coverage for chiropractic services. While there are obvious merits to chiropractic care, we are vetoing this proviso because in its present form we believe this coverage is abused at the younger end of the scale and thereby reduces the agency's flexibility to provide more crucial medical care.

Under federal rules, this proviso forces HHS to provide chiropractic coverage to literally every beneficiary regardless of age. Last year, HHS spent almost \$221,000 to provide chiropractic services to nearly 1,500 children younger than the age of 12 even though there is not medical research supporting the benefits of those treatments for young children.

Veto 4 Part IB; Section 21.13; Page 342; Department of Health and Human Services; Medically Fragile Children's Programs.

This proviso requires that only the Children's Hospitals in South Carolina can provide the Medically Fragile Children's Program (MFCP). We are vetoing this proviso, as requested by HHS, because MFCP no longer exists. As of December 31, 2008, Centers for Medicare and Medicaid Services terminated MFCP and replaced it with a new Medically Complex Children's Waiver that serves the same participants in the MFCP.

Veto 5 Part IB; Section 21.36; Page 346; Department of Health and Human Services; Prior Authorization -Formulary Changes.

This proviso requires HHS to fund certain mental health medications without the patient receiving prior authorization. We are vetoing this proviso for two reasons. First, mental health drugs were "carved out" of the preferred drug list – which was originally set up by the General Assembly to encourage responsible prescribing and to allow HHS to negotiate supplemental rebates with drug manufacturers. If all mental health drugs are available, there is no reason for a company to provide a supplemental rebate.

Second, we believe that the HHS director should have flexibility to determine the best way to administer drug coverage without being restricted by the demands of special interests. Additionally, the State Health Plan and other commercial plans in South Carolina are not legally required to waive prior authorization for more expensive drugs as this proviso directs HHS. In contrast to our neighboring states, Georgia and North Carolina do not allow this special carve-out.

Veto 6 Part IB; Section 22.49; Page 355; Department of Health and Environmental Control; Rural Hospital Grants.

This proviso directs DHEC to administer rural hospital grants to areas whose largest town has a population of less than 25,000. We are vetoing this proviso for two reasons.

First, these grants are not equitably distributed to all of the state's rural hospitals because only 13 of the 23 designated rural hospitals in our state receive them. This creates the perception that the receipt of these grants is more dependent on political influence than need. Accordingly, we cannot support the continued disbursement of these grants without more objective criteria for grant eligibility.

Second, the program does not have any standards for determining whether the grants are effectively implemented. These grants are awarded without accounting for how the funds are

spent, and therefore, we cannot continue to support this program without checks to ensure that taxpayer money achieves quality health care.

It comes as no surprise this proviso was moved from HHS to the Department of Health and Environmental Control after this administration imposed standards on the grants awarded. In FY 2008-2009, HHS required that hospitals submit grant applications based on criteria and made awards based on the merits of the proposal. This left some of the hospitals without taxpayer support, so the former HHS director, who has lobbied to keep this in the budget throughout the years, convinced budget writers that DHEC would simply cut checks and not ask for accountability.

Veto 7 **Part IB; Section 37.1; Page 371; Department of Natural Resources; County Funds.**

Veto 8 **Part IB; Section 37.2; Page 371; Department of Natural Resources; County Game Funds/Equipment Purchase.**

These provisos allow the Department of Natural Resource's county funds and equipment to be spent or sold only upon approval of the respective county delegation. We are vetoing these two provisos because in *Knotts v. SCDNR* the Supreme Court found similar legislative involvement by county delegations in executive matters to be unconstitutional. The Founding Fathers' governmental philosophy was in large measure based on the separation of powers. These two provisos ignore that principle by having a legislative body execute the laws. In *Knotts*, the Supreme Court found that the legislature "may not undertake both to pass laws and to execute them by bestowing upon its own members functions belonging to other branches of government." But that is exactly what this proviso requires by granting county legislative delegations executive approval authority.

Veto 9 **Part IB; Section 37.15; Page 373; Department of Natural Resources; Sale of Existing Offices.**

This proviso gives the Joint Bond Review Committee, rather than the Budget & Control Board, ultimate authority over approving the sale of the Department of Natural Resource's property. We are vetoing this proviso because it unconstitutionally gives a legislative committee the executive authority to approve and veto property transactions. This is not a proper legislative function and constitutes a violation of the separation of powers doctrine. In *State ex rel. McLeod v. McInnis* and *Knotts v. DNR*, the South Carolina Supreme Court ruled that vesting this type of executive power in a legislative committee is unconstitutional. Therefore, we must veto yet another usurpation of executive authority by the General Assembly.

Veto 10 Part IB; Section 39.4; Page 373-374; Parks, Recreation and Tourism; State Park Privatization Approval.

This proviso prohibits the Department of Parks, Recreation and Tourism (PRT) from privatizing any portion of Cheraw State Park or Hickory Knob State Park without the General Assembly's approval. We are vetoing this proviso because it restrains PRT from pursuing public-private partnerships that will save taxpayers money. This is especially troublesome because the parks in question have continually been unprofitable. For example, Cheraw State Park lost \$293,008 in FY 2007-08, and Hickory Knob State Park lost \$204,095 in FY 2007-08.

Given the substantial losses incurred by these parks, we're surprised that a Republican-controlled legislature is resisting the idea of privatization, particularly considering the positive results it has yielded in other cases. For instance, PRT outsourced the state parks' reservation system to a private contractor who vastly improved services, lowered costs for taxpayers, and generated higher revenue. We strongly believe that officials at PRT should be free to pursue other similar arrangements to provide better services at lower costs without having to go through the timely and politically-driven legislative process.

Veto 11 Part IB; Section 40.37; Page 379; Department of Commerce; Aeronautics Assets and Funds.

Veto 12 Part IB; Section 80A.63; Page 436; Budget and Control Board; Carry Forward Sale of Aircraft Proceeds.

Veto 13 Part IB; Section 80A.64; Page 436-437; Budget and Control Board; Aviation Grants.

Veto 14 Part IB; Section 89.127; Page 473; General Provisions; Transfer Division of Aeronautics.

These provisos transfer the Division of Aeronautics from the Department of Commerce to the Budget and Control Board and prohibit Commerce from selling or transferring any property belonging to the Aeronautics Division. These provisos were apparently intended to prevent Commerce's attempt to save money at the Aeronautics Division by cutting pilots, relocating operations, and contracting out maintenance work – which would have saved over \$360,000 annually. Disappointingly, we have seen a pattern of this type of thing from the legislative body as the executive branch will come up with a cost saving – only to have the function taken from the executive branch after change has been proposed.

We are vetoing these provisos because they will prevent Commerce from implementing cost-saving measures and will further weaken the executive branch by taking power away from the Governor's cabinet. This move makes no sense because the Budget and Control Board has no expertise or experience in managing our state's aerial resources. Rather, these provisos only

reinforce our state's antiquated structure that prevents us from making real changes that save taxpayer money. Accordingly, we must veto these provisos to ensure that the Aeronautics Division remains accountable for its spending and operations.

Veto 15 Part IB; Section 40.38; Page 379-380; Department of Commerce; Railway Transfer.

This proviso requires all railroad tracks, structures, and equipment on the Old Navy Base site in North Charleston to be transferred to the Division of Public Railways within the Department of Commerce. This transfer is to facilitate the development of an intermodal transportation facility that will provide CSX and Norfolk Southern railroad companies with access to transporting port cargo to and from the new State Ports Authority (SPA) terminal planned for the Base.

First, I am vetoing this proviso because it undermines the Memorandum of Agreement between the SPA and the City of North Charleston, in which those two parties agreed that the SPA would not grant railroad access on the northern section of the Base. The principle here is a simple one, your word is your bond – and this proviso would break with the words given that facilitated the SPA move from Daniel Island to North Charleston. Were it not for that agreement the port would likely have never come to this site in the first place. It isn't right to some years later and try and change the deal that got you where you are.

This agreement seems to have been sloppily arranged as from a legal standpoint, and the SPA had no legal authority to bind the Department of Commerce, Division of Public Railways or other areas of state government. This, however, does not change the spirit of the agreement – particularly since the same legislative principals like Senator Leatherman or McConnell who were there in negotiating this original agreement are now party to this proviso that would change it.

There is also an especially troubling pattern in the SPA seemingly not negotiating in good faith. This is evidenced in the heirs' property belonging to long-time families on the Cainhoy Peninsula still being held by the SPA, or in the disingenuous email from an employee of the SPA with regard to this contemplated rail line. These kinds of dealings highlight the lunacy of making the SPA board protected – as it would move it from what some would consider an arrogant or pushy entity to an imperial one.

Second, I am vetoing this proviso because we have doubts over whether the Division of Public Railways could enter into a public-private partnership for the operation of any intermodal facility that was built on property obtained through condemnation as this proviso potentially directs. The railroads that this proviso seeks to transfer is claimed to be private property and is the subject of pending litigation. If a court ruled that these railroads were private property, then the state would have to use the power of eminent domain to obtain them. In *Georgia Dept. of Transport. v. Jasper County*, the South Carolina Supreme Court held that the taking of private property to build a port facility that would be financed, designed, and operated by a private

company was impermissible because our Constitution forbids the taking of private property by the state for private use without the owner's consent. Thus, in this case, the Division of Public Railways would likely be prohibited from entering into a public-private partnership for the operation of an intermodal facility on property that was obtained through eminent domain.

Although we are vetoing this proviso, let me be equally clear that we support the development of an intermodal facility that provides access to both CSX and Norfolk Southern. From a business perspective, northern access probably makes the most sense and is, therefore, important for the way it could enhance the new port terminal and lower the cost of doing business in the port. From a taxpayer standpoint, we also think it makes the most sense to use what we have in the old Navy Base to create a world-class port operation. We are squandering the blessing of deepwater access with frivolous pursuits like Clemson's so called "restorative institute," and we believe we would be far better off using lands like this for port operations. I just don't think we should use edict from state law to get there. We think it is important that the interested parties pursue options in good faith. We believe a compromise workable to the people of North Charleston, the state and the SPA can be found when they know they don't have state law there to obviate the need for negotiation.

Veto 16 Part IB; Section 49.1; Page 390; Department of Public Safety; Special Events Traffic Control.

This proviso prohibits the Department of Public Safety (DPS) from charging fees for traffic control at special events, such as college football games, NASCAR and horse races, fairs, and golf tournaments. We are vetoing this proviso because colleges, universities, and other entities that use these services from DPS should pay for the costs from the revenue generated by the respective events. DPS will spend more than \$980,000, including \$567,450 for football games, in the next fiscal year on providing traffic control. DPS's budget has already been cut by \$26 million, or 16 percent, since last year, and the agency should not be forced to subsidize traffic control for the entities that use this service, especially since the universities are achieving record revenue from the television broadcasts of athletic games. For example, the University of South Carolina will be using its additional television revenue to finance a \$49.9 million athletic facilities project. If USC and other colleges can afford to begin multi-million dollar athletic infrastructure projects, then they can certainly afford to pay for the traffic control at the events that bring in this substantial revenue.

Veto 17 Part IB; Section 49.15; Page 391; Department of Public Safety; Hunley Security.

This proviso requires DPS to provide two officers for security services for the H. L. Hunley. We are vetoing this proviso because we believe that the Hunley Commission should be a self-

sustaining entity that can provide for its own private security with private donations and admission fees rather than using taxpayer funded DPS officers. Furthermore, this proviso includes no requirement that the Hunley Commission pay DPS for the security that it provides. While we are aware that the Hunley Commission currently pays for DPS's security services, nothing prevents it from completely stopping payments – in which case DPS could be required to provide security for the Hunley for free.

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- Veto 18** Part IB; Section 48.11; Page 389; State Law Enforcement Division; Detective/Security Fee.
- Veto 19** Part IB; Section 49A.1; Page 391-392; Capitol Police Force; Retention of Private Detective Fees.
- Veto 20** Part IB; Section 49A.2; Page 392; Capitol Police Force; Commissioned Officers' Physicals.
- Veto 21** Part IB; Section 49A.3; Page 392; Capitol Police Force; Meals in Emergency Operations.
- Veto 22** Part IB; Section 49A.4; Page 392; Capitol Police Force; Carry Forward Authority.
- Veto 23** Part IB; Section 49A.5(D); Page 393; Capitol Police Force; Dispositions if Agency Not Established.
- Veto 24** Part IB; Section 68A.13; Page 409-410; Department of Transportation; Shop Road Farmers Market Bypass Carry Forward.
- Veto 25** Part IB; Section 89.131; Page 474; General Provisions; Capitol Police Force Training.
- Veto 26** Part IB; Section 89.132; Page 474; General Provisions; Capitol Police Force Storage and Maintenance.

These provisos relate to the operations (Provisos 49A.1-4 and 89.131-132) and funding (Provisos 48.11, 49A.5(D), and creation 68A.13) of a Capitol Police Force that would perform the security functions currently performed by the Bureau of Protective Services (BPS) within the Department of Public Safety. We are vetoing these provisos, as well as the permanent legislation that authorizes the creation of the Capitol Police Force, for two reasons.

First, we are vetoing these provisos because a Capitol Police Force that is accountable to a committee of legislators and judges will further erode the executive authority in this state without doing anything to make the State House and Capitol grounds safer. The proposed Capitol Police Force is just another example of the General Assembly's unrelenting contempt for the doctrine of

separation of powers. There is no doubt that the provision of security is an executive function, and this new police entity will effectively allow legislators and judges on the Capitol Police Force Committee to execute the law. This is particularly troubling since the Capitol Police Force will have all of SLED's police powers, including the power to arrest. This means that the legislature and judicial branches will control their own police force without any check from another branch of government. By usurping the authority of the Governor to appoint and manage the security of the State House and Capitol grounds and giving it to a legislatively controlled committee, the General Assembly has further consolidated power for itself at the expense of liberty. As James Madison wrote in *The Federalist No. 47*, "The accumulation of all powers, legislative, executive, and judiciary, whether of one, a few, or many, and whether self-appointed, or elective, may justly be pronounced the very definition of tyranny." This attempt by the General Assembly to aggrandize executive police power for itself must be opposed, and we are, therefore, vetoing the above provisos.

Second, we are vetoing these provisos because it would effectively eliminate the BPS by transferring much of its resources and manpower to the Capitol Police Force. We believe the debate around the creation of the Capitol Police Force has been incredibly insulting to the law enforcement officers who have always been effective and professional in securing the State House and capitol grounds. The men and women in the BPS have served the state well and deserve better than to be denigrated by the General Assembly merely because legislators disagree with some of the decisions made by this administration regarding security measures in and around the State House. Given the commendable service by the BPS force, we are willing to stand by them by vetoing these provisos.

Finally, it is important to remember the origin of this push for a separate police force. In the view of this administration the General Assembly wasted more than \$6 million in the State House security upgrades of several years ago. When confronted with the possibility of putting more good money into a faulty security system that would have required BPS officers to man remote guard shacks rather than actually patrol the state house grounds, we objected and in attempting to administer the optimal amount of security with limited dollars simply said we would not man these stations. This seemed to greatly offend several senior level legislators and they originated this legislation.

Veto 27 Part IB; Section 49A.5(B); Page 392; Capitol Police Force; Dispositions if agency not established - Amending Part IB; Section 89.89; General Provisions; Lt. Governor Security Detail.

This proviso requires SLED to provide security detail for the Lieutenant Governor if the legislation creating the Capitol Police Force is not enacted. We are vetoing this proviso because we continue to believe that money directed to the Lt. Governor's Office would be better spent on core functions of the Office on Aging, such as Meals on Wheels. Using this money for that purpose would be a small but important step toward ensuring the program's future funding.

We also have concerns as to whether the Lt. Governor's Office will reimburse SLED for the security services mandated under this proviso. According to various media reports, SLED has been effectively footing the bill for the Lt. Governor's security because the Lt. Governor has failed to reimburse SLED for its security services over the past two years. During tough budget times like these, we believe that SLED should be focused on its essential role of law enforcement rather than subsidizing the personal security of the Lt. Governor.

Veto 28 Part IB; Section 65.3; Page 405; Department of Labor, Licensing and Regulation; POLA – 110%, Other Funds.

This proviso transfers \$5.3 million from the Department of Labor, Licensing and Regulation's (LLR) Professional and Occupational Licensing Division to the general fund. We are vetoing this proviso because it will take away funds that LLR needs to implement the Immigration Reform Act that was enacted last year. Immigration reform was a priority for this administration and many in the legislature, and we must maintain last year's commitment to ensure that LLR has the necessary funds to enforce our immigration laws. Currently, the budget appropriates only \$750,000 for immigration enforcement, which will only be enough to hire temporary employees. LLR needs \$2 million to hire the necessary staff to fully enforce the new law, and before the General Assembly approved a total raid of \$10 million on this agency, it would have been able to meet this need with the funding provided. Accordingly, we ask that the legislature stand by its commitment to adopt meaningful immigration reform by sustaining this veto, which will ensure that LLR has sufficient funding for immigration enforcement.

Veto 29 Part IB; Section 65.14; Page 406; Department of Labor, Licensing and Regulation; Transfer to General Fund.

This proviso directs LLR to transfer \$4,362,265 in non-recurring dollars to the general fund to support "cultural agencies." We are vetoing this proviso because it is only a temporary funding solution for our disjointed, uncoordinated cultural agencies which urgently need to be consolidated. In our Executive Budget, we proposed consolidating the State Library, State Museum, Department of Archives and History, and the Arts Commission in order to realize an estimated \$1.3 million in annual savings. This would have achieved longer lasting cost savings that cannot be achieved by merely taking money from one agency to give to others.

Also, as stated above, the General Assembly has failed to provide sufficient funds for LLR to fully enforce the Immigration Reform Act. Overall, this budget robs LLR of over \$9.6 million that are needed for the agency's operations and full implementation of immigration reform.

Veto 30 Part IB; Section 67.1; Page 407; Employment Security Commission; Salary Level.

This proviso states that salaries for the Commissioners of the Employment Security Commission shall be no less than the amount agreed to by the United States Department of Labor. We are vetoing this proviso because the ESC Commissioners have been setting their six-figure salaries for years and the United States Department of Labor neither approves nor authorizes the salaries of the ESC Commissioners. The ESC Commissioners' practice of setting their own salaries without oversight from the legislature, who happens to elect them, reflects the flagrant irresponsibility and unaccountability that has plagued the ESC. It is time that the General Assembly finally exert command over the agency and implement salary controls that prevent the agency heads from determining their own salaries. Therefore, we are vetoing this proviso that tacitly allows the ESC Commissioners to set their own pay.

Veto 31 Part IB; Section 72.23; Page 418-419; Governor's Office; OEPP Administration of Cabinet Agencies.

This proviso requires cabinet agency directors to report to the Chairmen of Senate Finance and House Ways and Means Committees on a monthly basis about any time spent away from their main offices during business hours if that time is not related to their agency's mission. It also requires the Governor's Office of Executive Policies and Programs to create a new entity called the Cabinet Agency Administration which must consolidate administrative functions of only cabinet agencies. We are vetoing this proviso because it forces 14 agencies and directors in our cabinet to live by special rules that will not apply to **any other agency** in state government.

While we are pleased that the General Assembly is finally recognizing the need for restructuring, it is absurd that legislators limit this proviso to our cabinet agencies that have already made numerous internal reforms that have created long-term efficiencies and produced millions in cost savings. Our Department of Motor Vehicles has even returned over \$40 million to the general fund that has been re-appropriated to other state agencies. Our newest cabinet agency, the Department of Transportation, has already realized over \$26 million in cost savings. Yet, we haven't seen this level of cost savings in non-cabinet agencies.

It is also remarkably absurd that the General Assembly expects only cabinet agency directors to report to Chairmen Leatherman and Cooper on a monthly basis on their whereabouts, and yet gives a pass to all other state agency directors. What rationale could possibly defend this proviso's intent to treat cabinet agency heads differently from other state agency heads? If legislators want to know what cabinet heads are doing outside of their agency's mission during work hours, then shouldn't they also want to know what other agency heads are doing? Based on this bizarrely selective treatment of cabinet agency heads, it is fair to assume that this proviso is motivated more by ire towards this administration than enacting meaningful reform.

Veto 32 Part IB; Section 80A.7; Page 427-428; Budget and Control Board; Compensation – Agency Head Salary.

This proviso gives the legislatively controlled Agency Head Salary Commission final approval authority over all salaries for state agency heads and technical and community college presidents by eliminating the Budget and Control Board's oversight. We are vetoing this proviso because it represents another example of the legislature's unconstitutional usurpation of executive power. Because of this proviso the executive branch members of the Board will have no role in overseeing agency head salaries and providing a check to the legislative appointees that comprise a majority of the Agency Head Salary Commission. The approval authority exercised by the Agency Head Salary Commission is an executive function, and the vesting of such authority in a legislatively-dominated commission is an unconstitutional violation of the separation of powers doctrine.

Veto 33 Part IB; Section 80A.25; Page 430; Budget and Control Board; Lawsuit Funding.

This proviso forgives over \$2 million in interagency loans that the House of Representatives and the Senate obtained from the Insurance Reserve Fund (IRF) for legal costs relating to the Abbeville school funding litigation. We are vetoing this proviso because it effectively raids the IRF of funds that the General Assembly promised to repay. The IRF is a necessary reserve fund that the state maintains to insure losses arising from unforeseen events like natural disasters and state employee negligence. It is not intended to be a slush fund for legislators to tap when they run out of money to pay their own debts. We find it shocking and hypocritical that the budget writers in the House and Senate have ridiculed our attempts to provide debt relief to state government with stimulus funds while they've knowingly raided trust funds to absolve their respective bodies' own debt. These actions would suggest to many that the chairmen of the House Ways and Means and Senate Finance Committees are more concerned about protecting their own legislative fiefdoms than looking out for current and future generations of taxpayers.

- Veto 34** **Part IB; Section 80A.27; Page 430; Budget and Control Board; Competitive Grants.**
- Veto 35** **Part IB; Section 22.39; Page 354; Department of Health and Environmental Control; Competitive Grants.**
- Veto 36** **Part IB; Section 39.3; Page 373; Department of Parks, Recreation and Tourism; Competitive Grants.**
- Veto 37** **Part IB; Section 40.20; Page 377; Department of Commerce; Competitive Grants.**

This proviso allows agencies to transfer competitive grant funds to local governments or non-profit organizations upon approval of the now-defunct Competitive Grants Committee. We are vetoing these provisos to finalize the long-deserved abolishment of the Competitive Grants program. It is no secret that this administration has strongly opposed this program, which was arguably nothing more than a politically-driven slush fund for legislators to deliver pork to their districts. We are pleased that the General Assembly finally ended the Competitive Grants program in last year's Rescission Act, but we fear that leaving these provisos in the budget could prolong the possibility that this program might be revived. Accordingly, we must veto these provisos to ensure that the Competitive Grants program is ended once and for all.

- Veto 38** **Part IB; Section 86.6; Page 442; Aid to Subdivisions, State Treasurer; Legislative Delegations.**

This proviso directs county councils to fund their respective counties' legislative delegation budgets at a certain level or face deductions in their state-funded aid. We are vetoing this proviso because it is an affront to the principle of home rule. This administration has consistently argued that the government that is best is the one closest to the people. This proviso violates this principle by having the state legislature mandate that county governments fund their state legislative delegations even if the counties either do not have the resources to provide proper funding or do not think that funding their legislative delegation is a priority, especially when their budgets have already been cut significantly. If legislators think their county delegations deserve funding, then they should find the funds without putting the funding obligations on the backs of the county governments.

- Veto 39** **Part IB; Section 89.96; Page 468-469; General Provisions; Flexibility.**

This proviso allegedly gives state agencies flexibility in determining its funding priorities and transfer funds appropriately to meet those priorities. While we support giving agencies

flexibility, we are vetoing this proviso because its application is anything but uniform and it actually hamstring a number of agencies by making exceptions for certain programs and local interests at the expense of other worthwhile programs.

One of the most absurd parts of this proviso is the prohibition imposed on PRT from closing or reducing full-time employees at the State House Gift Shop and the Santee Welcome Center. This prohibition represents the worst example of legislative micro-management of an executive agency in this budget. Even more egregious is the fact that Proviso 39.12 requires PRT to close the Governor's Mansion Gift Shop even though it has lost less revenue than the State House Gift Shop. In response to our request for agencies to submit recommended cuts for non-essential programs, PRT offered potential cuts to the Mansion Gift Shop, the State House Gift Shop, and the Santee Welcome Center. The Mansion Gift Shop employs one full-time employee and lost roughly \$35,000 last year. The State House Gift Shop has two full-time employees and spends approximately \$40,000 on temporary employees. In FY 2007-08 it lost approximately \$125,000.

The Santee Welcome Center is duplicative and is the least productive welcome center on I-95. For example, the Santee Welcome Center had 126,494 visitors and made 832 accommodations during FY 2007-08. By comparison, the Dillon Welcome Center had 222,183 visitors and made 5,246 accommodations and the Hardeeville Welcome Center had 265,065 visitors and made 7,402 accommodations during the same period.

While we are not opposed to PRT closing the Mansion Gift Shop to manage its budget reductions, we find it unbelievable that the General Assembly would give special protection to two other less productive shops in an effort to reward political patronage rather than make responsible budget cuts.

Perhaps the most disturbing example of a carve-out that ties the hands of an agency is the Medicaid program in serving the state's most needy citizens. This proviso prohibits HHS from making any cuts to Medicaid Adolescent Pregnancy Prevention Services (MAPPS) despite the fact that there are no conclusive evaluations showing that MAPPS is effective in delaying or preventing teen pregnancy. In addition, HHS found that the program is in non-compliance with Medicaid standards. While MAPPS's intent to prevent teen pregnancy is important, holding this program, as well as provider rates harmless, will not give HHS the flexibility it needs to absorb future cuts – that will inevitably come once FMAP money dries up in two years – without resorting to cutting people from the rolls or cutting services. We find it disturbing that, once again, a political agreement would force the protection of a *counseling* program and potentially cause the reduction in *medical services* to our state's most needy citizens.

Veto 40 Part IB; Section 89.118; Part 471-472; General Provisions; ARRA Oversight.

This proviso establishes a committee, co-chaired and organized by the State Treasurer and Comptroller General, to oversee the spending of federal stimulus dollars in South Carolina. We

are vetoing this proviso because this oversight committee is unnecessary, duplicative, and will lead to greater confusion regarding stimulus spending.

In our Executive Order 2009-03, we established the South Carolina Stimulus Oversight, Accountability, and Coordination Task Force (Task Force), which is chaired by the Comptroller General, includes the State Treasurer, has all the power of the oversight committee created by this proviso, and includes every state agency head that will receive significant stimulus funding. The Task Force has already begun working, and under the leadership of the Comptroller General, it has created a website, located at www.stimulus.sc.gov, to track stimulus spending in South Carolina. Importantly, the federal government's website created for stimulus transparency and oversight provides a link to the Task Force's website. The creation of another oversight committee with the same participants and powers will only make it more confusing for our citizens to find the information they need to ensure that their government is spending stimulus funds responsibly. Accordingly, we must veto this proviso.

**Veto 41 Part IB; Section 89.136; Page 474; General Provisions; Economic Activity
Web-Based Applications.**

This proviso requires the Department of Commerce to transfer \$75,000 to the Budget & Control Board to support a web-based application for public concerns about whether state agency regulations overly burden economic activity. We are vetoing this proviso because it unnecessarily transfers valuable funds from Commerce to the Board for functions that are similar to those currently performed by the Small Business Regulatory Review Committee.

The Small Business Regulatory Review Committee, housed within Commerce, has an established process for reviewing the economic impact and burden of state agency regulations, and it is more than capable of handling the web-based applications required by this proviso. Accordingly, the General Assembly should keep these funds at Commerce to support the Small Business Regulatory Review Committee rather than establishing a new bureaucracy within the Budget and Control Board for reviewing agency regulations.

Furthermore, H. 3882, the bill which would authorize the Board to develop the economic activity web-based applications, will not become law in this fiscal year. Thus, this proviso would effectively force Commerce to transfer its funds to the Board to fund a program that does not exist. However, if these funds remain at Commerce we will work with the agency and Small Business Regulatory Review Committee to implement the web-based application program to provide our citizens and small businesses with a more accessible forum to express concerns about heavy-handed state regulations.

Veto 42 Part IB; Section 89.137; Page 474-475; General Provisions; South Carolina Research Authority Officers.

This proviso states that the Governor's appointee to the South Carolina Research Authority (SCRA) board of trustees may not serve as the Chairman of that board during FY 2009-10. Instead the executive committee of the SCRA will appoint the positions of chairman and vice-chairman. We are vetoing this proviso because it removes our administration's appointee to this board from his current position of Chairman, and thereby, limits his ability to bring needed reform to the SCRA.

We believe that our appointee has served the state very well during the short time that he has been Chairman of the SCRA. While serving on this and other boards, he has been a strong advocate for ensuring that taxpayer dollars are spent on legitimate state government functions in an open, transparent manner. This is nothing less than an attempt by the General Assembly to remove an individual from a position of authority because he has willingly challenged the status quo and asked the tough questions about how the SCRA spends taxpayer money.

A few years ago our administration's appointee served as the Chairman of the DOT Commission. After asking tough questions about how taxpayer money was being spent in that agency, millions of dollars in waste were uncovered and the structure of the DOT was eventually overhauled. Most agree that this was a positive development, but it would not have occurred if the General Assembly had removed our appointee from the position of Chairman a few months into his term. In like manner, the current chairman of the SCRA deserves the full opportunity to direct the course of this agency without being undermined by this proviso.

Veto 43 Part IB; Section 90.15; Page 479; Statewide Revenue; State Budget Stabilization Fund.

Veto 44 Part IB; Section 90.16; Page 480; Statewide Revenue; ARRA Fund Authorization.

These provisos express the General Assembly's intent to accept and authorize the expenditure of all State Fiscal Stabilization (SFS) stimulus funds provided under the American Recovery and Reinvestment Act of 2009 (ARRA). We are vetoing this proviso because the General Assembly has no authority to accept or authorize the expenditure of SFS funds. As explained more fully in Veto 2 of Part III of the Appropriations Act, ARRA grants the governor the exclusive authority to apply for and accept SFS funds. Accordingly, this proviso expresses an intent to violate federal law, and it should not be enacted.

Veto 45 Part IB; Section 90.19; Page 480-481; Statewide Revenue; Nonrecurring Revenue.

This proviso raids the Insurance Reserve Fund (IRF) of nearly \$37 million that it keeps in reserve to insure losses arising from events like natural disasters and state employee negligence. We are vetoing this proviso because the IRF is not intended to be a rainy day fund that legislators can tap whenever tax revenues fall. It is the height of fiscal irresponsibility for the General Assembly to use the IRF, a trust fund dedicated for damages resulting from unforeseen events, like hurricanes, to plug a revenue shortfall that was almost certain to happen after rapidly expanding government spending over recent years. Despite our repeated calls to reign in spending and implement spending caps, the Legislature has ignored our appeal for responsible budgeting and instead has chosen to expose our state to financial calamity in the unfortunate event of multiple devastating disasters by raiding this trust fund.

As appalling as this action it is, it is worsened by the abandonment of supposed fiscally conservative budgeting principles espoused by the lead Senate budget writer. During the budget debate on the floor of the Senate, the Senate Finance Committee Chairman vowed that he could not condone raiding the IRF as the House did in its budget. In a not-so-stunning reversal, he agreed in closed door meetings with the House Ways and Means Committee Chairman to raid the IRF, and he even voted to shut down debate when other Senators questioned this practice during the Senate's consideration of whether to concur with the House's amendments to the Senate version of the budget. If the Senate Finance Chairman is sincere in his opposition to raiding the IRF, we will welcome his efforts to sustain this veto.

Veto 46 Part IB; Section 90.13; Page 477; Statewide Revenue; Health and Human Services FMAP Funding; Item X; MUSC Transplant Services; \$100,000.

This proviso item directs \$100,000 in FMAP stimulus funds to MUSC for transplant services. Historically, these funds have been used for administrative services related to transplants provided to Medicaid recipients. We are vetoing this line item because MUSC has chosen not to provide these administrative services. They are currently provided by HHS. Accordingly, these funds should stay at HHS and not be directed to MUSC.

Veto 47 Part IB; Section 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item BB; MUSC Rural Dentist Program; \$250,000.

This proviso item is a pass-through from MUSC to the Area Health Education Consortium, which attempts to create incentives to increase the number of dentists serving rural South Carolina. We are vetoing this proviso because although attracting dentists to rural areas is a worthwhile goal, we doubt that the roughly \$5,000 per county this program allows for would

have little if any impact on dentists' professional locales. Additionally, we'd like to point to the fact that a year ago, more than half of the six dentists receiving these rural grants to repay loans were MUSC dental school faculty members with state salaries averaging more than \$110,000.

Veto 48 Part IB; Proviso 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item R; Rural Hospital Equipment and Facilities; \$2,000,000.

This proviso item is a \$2 million pass-through from HHS to DHEC for rural hospital equipment and facilities. Hospitals receiving these funds are the same ones that are selected to receive a different grant through the Rural Hospital Grants proviso (22.49), which we vetoed. We are vetoing this proviso for the same reasons we vetoed 22.49.

This budget increases the Rural Hospital Grant program by 33 percent, going from \$3 million to \$4 million. In addition, the General Assembly proposes starting an entirely new program with an additional \$2 million in the toughest budget year this state has seen in recent history. While scaring the public with threats of teachers and police being laid off, some in the legislature doubled funding for rural hospitals in this year's budget, while so many other front line services were left cut.

As previously stated, these grants are not equitably distributed to all of the state's rural hospitals since only 13 of the 23 designated rural hospitals in our state receive them. This creates the perception that the receipt of these grants is more dependent on political influence than need. Accordingly, we cannot support the continued disbursement of these grants without more objective criteria for grant eligibility.

Second, the program does not have any standards for determining whether the grants are effectively implemented. These grants are awarded without accountability for how the funds are spent, and, therefore, we cannot continue to support this program without checks to ensure that taxpayer money achieves quality health care.

Veto 49 Part IB; Section 90.13; Page 478; Statewide Revenue; Health and Human Services FMAP Funding; Item S; USC Rural Health Clinics; \$3,000,000.

This proviso item is a \$3 million pass-through from HHS to DHEC who, in turn, must forward to USC's School of Medicine, Rural Primary Care Center Network. This network trains physicians who serve the state's underserved population in three rural clinics. We are vetoing this line item because we believe this disproportionately funds three rural health clinics and does not provide equal funding to the more than 100 health clinics in our state that may have similar needs.

Additionally, we encourage the USC Rural Primary Care Center Network to work with the South Carolina Office of Rural Health. For little or no cost, the South Carolina Office of Rural Health, according to their website, will help financially strapped rural practices and facilitate low-interest loans.

III. Conclusion

It is for the reasons above that I'd respectfully offer the vetoes of Parts IA, III, and the line-items individually detailed in Part IB for your consideration. I'd further ask, with current and future taxpayers' interests at heart and in the spirit of responsible budgeting, that you sustain these vetoes and work to craft a prioritized budget that both funds core government services and pays down debt. It's in this hope, and indeed with the knowledge that with great challenges come great opportunities, that I submit to you the position of this administration for your sincere consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mark Sanford', written in a cursive style.

Mark Sanford