

Senator McConnell prepared the following informational papers to provide an overview and background for each issue under consideration by the Fiscally Fit subcommittee. Senate Judiciary Committee staff assisted in providing research and preparation of these papers; however, these informational papers reflect the opinions of Senator McConnell and not necessarily the opinions of all members of the Fiscally Fit subcommittee, the Senate Judiciary Committee, or the South Carolina Senate.

LET'S MAKE SOUTH CAROLINA "FISCALLY FIT"

By Senator Glenn McConnell

Deficit Prevention Act

In Washington, D.C., the federal deficit is estimated to be over \$1.6 trillion. Efforts have been made to amend the United States Constitution to require a balanced budget, but those efforts have been thwarted by Congress. In South Carolina, however, our constitution already requires a balanced budget. As such, the General Assembly must make difficult decisions every year about where state dollars will be spent because of the constitutional requirement that we pass a budget that is balanced.

Unfortunately, though, the South Carolina Code of Laws offers a way for state agencies to bypass the legislature and get additional money for taxpayer-funded programs. Section 1-11-495 requires all agencies to set quarterly budgets to help the agencies avoid running a deficit. The law also provides that the Comptroller General or the Office of State Budget must make reports to the Budget and Control Board (Board), which is a five-person, quasi-legislative body, if it is determined that an agency is spending at a rate that will result in an agency deficit. The Board must then require the agency to file quarterly budget plans. The Board may also

require the agency to reduce spending if the Board determines that a deficit may occur. The agency, in consultation with the Board, must then develop a plan to eliminate or reduce the deficit. If the Board then makes a finding that **the deficit is unavoidable due to circumstances that are outside the control of the agency,** the Board may, by a four-person vote, recognize the agency's deficit, meaning the Board authorizes giving the additional money to the agency. The Board must then notify the General Assembly of this determination. If the General Assembly does not act, then the Board's vote stands, and the agency is allowed to run a deficit. The Board then gives additional money to the agency to make up the deficit amount. The additional money is taken from surplus revenues or surplus funds and from funds available in the Capital Reserve Fund and General Reserve Fund.

This process has been used by several agencies in the past. In fact, last year, three agencies were prepared to ask the Board for permission to run deficits for a total of over \$250 million. By the end of fiscal year 2010-2011, two agencies were able to reassess their budgets, make spending cuts, and end the fiscal year without running a deficit. However, the other agency, the South Carolina Department of Health and Human Services (HHS), was not able to do so and was allowed by the five-person Board to run a deficit of over \$220 million. The agency was given this total amount of money over four meetings of the Board. The first time the Board discussed this deficit in public was on December 14, 2010. At this meeting,

evidence was presented that HHS was projecting a deficit, but the Board decided to not discuss those facts at that time and, instead, voted to carry over that issue. The next time the Board discussed HHS's deficit was at the meeting held on February 8, 2011. At that meeting, HHS's director testified about the deficit and asked the Board to recognize the total amount. Instead, the Board voted to recognize \$100 million and asked the director to try to cut the agency's spending to reduce the remaining deficit. However, no motion was made at that meeting to make a finding that the deficit was unavoidable.

On March 22, 2011, the Board met again and discussed HHS's deficit. Again, no motion was made to make a finding that the deficit was unavoidable, but the Board voted to recognize an additional \$100 million. Finally, HHS came before the Board on June 14, 2011. During that meeting of the Board, Comptroller General Richard Eckstrom said that HHS's costs were not unexpected and had been known about for over a year. Again, no motion was made to find the deficit unavoidable, but the Board voted to recognize another \$22,452,086 of HHS's deficit. In total, the Board gave HHS \$222,452,086 more than what the General Assembly appropriated to the agency in the 2010-2011 budget bill.

S. 13 and S. 372 both address modification of the above-mentioned state statute that allows for money to be handed out by the Board. Both are sponsored by Sen. McConnell. S. 13 would add Section 11-9-25 to the South Carolina Code

of Laws. The bill provides that an officer or State employee would not be able to make or authorize an expenditure that would exceed the amount available in the appropriation or allowed in the quarterly allocation plan and would not be able to employ personal services that would exceed what is authorized by law, unless an emergency arose. The bill further provides that if a State employee covered by the State Employee Grievance Protection Act is determined to have knowingly and willingly violated these provisions, the employee could be dismissed with or without pay. Sen. McConnell pre-filed this bill in December of 2010, and the bill was referred to the Senate Finance Committee.

S. 372 would add the State Agency Deficit Prevention and Recognition Act to Title 2 of the South Carolina Code of Laws. The bill provides that a state agency, department, or institution could not operate in a manner that would result in year-end deficit unless the deficit was recognized by the General Assembly. It also sets forth the manner in which the General Assembly could recognize a deficit. Sen. McConnell introduced this bill on January 18, 2011, and the bill was referred to the Senate Judiciary Committee. The bill was then sent to a subcommittee, which was chaired by Sen. Knotts. The bill was discussed at subcommittee meetings held on February 3, 2011, and February 24, 2011. At both meetings, the subcommittee members voted to carry over the bill. The bill was also on the subcommittee meeting agendas on the following dates: February 16,

2011; March 3, 2011; March 10, 2011; March 17, 2011; March 23, 2011; March 31, 2011; and April 7, 2011. On these dates, the subcommittee heard testimony from leaders and employees of various state agencies concerning the deficit of the Department of Health and Human Services, but no action was taken on S. 372.

Both of these bills, if enacted, could help to reduce the size of government in South Carolina. By only allowing the General Assembly to appropriate money and by taking away the ability of the five-member board to give extra money to agencies that are running deficits and spending more money than they are given in the annual budget, we will limit spending of taxpayer dollars. Therefore, we will limit the size of state government. We must know how much we are spending and determine what state programs are working. We need a government that only spends what it has and does not grow by allowing deficit spending.