



# State of South Carolina

## Office of the Governor

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GOVERNOR

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June 18, 2003

The Honorable David H. Wilkins, Speaker  
South Carolina House of Representatives  
508 Blatt Building  
Columbia, South Carolina 29211

Dear Mr. Speaker and Members of the House:

I am returning H.3749, R.127, the fiscal year 2003-04 General Appropriations Act, with the following vetoes:

### Part IA

**Veto 1** Part 1A, Section 5N, Technical and Comprehensive Education Board, page 67, Motorcycle Safety Program, \$118,675

Although it is my understanding this is an effective program, I am vetoing this item because it should be funded through tuition or general operating funds as would be the case with other technical college programs.

**Veto 2** Part 1A, Section 56C, Governor's Office – Executive Policy & Programs, page 240, Poet Laureate, \$1,200

I am vetoing this item because a Poet Laureate has been appointed who has agreed to serve in this position without honorarium.

**Veto 3** Part 1A, Section 56C, Governor's Office – Executive Policy & Programs, page 240, Litter Control, \$321,949

I am vetoing this item because Palmetto Pride receives over \$2.5 million in court fines annually. It is no longer necessary to appropriate general funds to the program.

**Veto 4** Part 1A, Section 56C, Governor's Office – Executive Policy & Programs, Item III. A. 3., page 243, Commission on Women, \$99,955

I am vetoing the appropriations for this commission, but the commission will remain intact. I will assign personnel assigned elsewhere in the Governor's office to provide part-time support.

**Veto 5** Part 1A, Section 63, Budget and Control Board, page 264, S.C. Leadership, \$60,045

I am vetoing this item because I believe a leadership program such as this should be funded exclusively by the participants and/or their organizations.

#### **Part IB**

**Veto 6** Part 1B, Section 8.34, Department of Health and Human Services, page 326, DHHS: Prescription Reimbursement Payment Methodology

I am vetoing this section because it unduly restricts the agency's ability to set prescription rates competitively.

**Veto 7** Part 1B, Section 8.38, Department of Health and Human Services, page 326, DHHS: Medicaid Fiscal Impacts

I am vetoing this section because the reporting requirements are unduly cumbersome. However, I will instruct the agency director to issue an annual report to legislative leadership on the changes addressed in the section.

**Veto 8** Part 1B, Section 8.40, Department of Health and Human Services, page 327, DHHS: Medication Exemptions

I am vetoing this section because it reduces the efficacy of an important health and human services reform and cost-saving initiative.

**Veto 9** Part 1B, Section 8.47, Department of Health and Human Services, page 328, DHHS: SCRIPTS; Prescription Savings

I am vetoing this section because H.3586, R125 has been signed into law with a more realistic effective date, which renders this section unnecessary.

**Veto 10** Part 1B, Section 19.6, State Museum, page 344, MUSM: Across-the-Board Cut Exemption

I am vetoing this section because it is inconsistent with the manner with which across-the-board cuts are administered within other agencies.

**Veto 11** Part 1B, Section 19.9, State Museum, page 344, MUSM: Foundation Office Rent

I am vetoing this section because it is inconsistent with the manner with which other foundations are expected to reimburse the state for the use of facilities.

**Veto 12** Part 1B, Section 19.10, State Museum, page 344, MUSM: Admissions Tax Exemption

I am vetoing this section because it is inconsistent with the manner in which other entities collect and remit the admissions tax.

**Veto 13** Part 1B, Section 22.6, Department of Agriculture, page 346, AGRI: Commissioners' Funding

I am vetoing this section because the Commissioners' per diem rate should be subject to the same prioritization process as other expenditures when an agency is forced to reduce its budget.

**Veto 14** Part 1B, Section 36.1, Department of Public Safety, page 361, DPS: Special Events Traffic Control

I am vetoing this section because I believe that the Department of Public Safety, at its discretion, should be able to assess reasonable fees for support provided to special events.

**Veto 15** Part 1B, Section 36.27, Department of Public Safety, pages 364-365, DPS: Ten Year Driver's License

I am vetoing this section because S.342, R116 has been signed into law, which renders this section unnecessary.

**Veto 16** Part 1B, Section 63.2, Budget and Control Board, page 395, BCB: Performance Excellence

I am vetoing this section as I am concerned that techniques such as Baldrige, and its antecedents TQM and MBO, too often emphasize process to the exclusion of substantive knowledge. Moreover, these techniques cultivate reliance upon a "one size fits all" management approach irrespective of the size or function of the agency. I would much prefer that agency management devote their time and attention acquiring advanced education in business, public administration or law. This is a better way of ensuring they possess the conceptual understanding to run dynamic organizations and serve the public effectively.

**Veto 17** Part 1B, Section 63.40, page 400, BCB: Capitol Complex Rent Exemption

I am vetoing this section because it is inconsistent with the manner with which across-the-board cuts are administered within other agencies.

**Veto 18** Part 1B, Section 63.47, page 401, BCB: McEachern Parking Facility

I am vetoing this section because it unduly micromanages an administrative function. It affords no flexibility to deviate from specific hours of operation for the statehouse parking garage for special events, holidays, weekends or disasters. The Budget and Control Board, under the direction of its five members, is the appropriate entity to set policy for the parking garage's hours of operation.

**Veto 19** Part 1B, Section 64.14, Department of Revenue, page 405, DOR: County Allocation Adjustments

I am vetoing this section because S.550, R96 has been signed into law, which renders this section unnecessary.

**Veto 20** I am vetoing the following distinctly labeled items from Part 1B, Section 73.2, Statewide Funding Requirements, pages 428-430, relating to transfers from subfunds and restricted accounts to the

general fund, and the appropriation of such funds from the general fund:

Transfers to the general fund on page 428:

E16-State Treasurer's Office: \$617 from Subfund 4066 Disaster Trust Fund

E16-State Treasurer's Office: \$1,086 from Subfund 4732 General Ser Ds – Ins Res Fund

E16-State Treasurer's Office: \$1,780 from Subfund 4895 Confiscated Cash

E23-Commission on Indigent Defense: \$47,374 from Subfund 4313 Indigent Def Services Fund

F03-Budget and Control Board: \$451 from Subfund 4153 Funded Debt-Sinking Fund

F03-Budget and Control Board: \$12,142 from Subfund 4154 Ordinary Sinking Fund

F03-Budget and Control Board: \$33,306 from Subfund 4202 State Life & Ltd.

F03-Budget and Control Board: \$295,431 from Subfund 4343 SC Infrastructure Loan Fund

J04-Dept. of Health & Environmental Control: \$193,983 from Subfund 4545 Waste Tire Grant Trust Fund

Transfers to the general fund on pages 428-429:

J04-Dept. of Health & Environmental Control: \$84,335 from Subfund 4546 Petroleum Fund

Transfers to the general fund on page 429:

J04-Dept. of Health & Environmental Control: \$458,305 from Subfund 4641 Haz Waste-Permitted Site Fd

J04-Dept. of Health & Environmental Control: \$50,602 from Subfund 4865 Solid Waste Mgmt Trust Fund

J04-Dept. of Health & Environmental Control: \$9,210 from Subfund 4971 Infectious Waste Contingency Fd

J04-Dept. of Health & Environmental Control: \$468,008 from Subfund 4984 SUPERB Account

K05-Dept. of Public Safety: \$23,641 from Subfund 4547 Uninsured Enforcement Fund

P24-Dept. of Natural Resources: \$6,781 from Subfund 4189 SC Aquatic Plant Man Tr Fd

P24-Dept. of Natural Resources: \$4,962 from Subfund 4373 Nongame Wildlife & Natural Areas

P24-Dept. of Natural Resources: \$185,843 from Subfund 4395 Mitigation Trust Fund

P24-Dept. of Natural Resources: \$48,338 from Subfund 4520 Heritage Land Trust Fund

P28-Dept. of Parks, Recreation & Tourism: \$124,859 from Subfund 4126 PRT Development Fund

P28-Dept. of Parks, Recreation & Tourism: \$82,176 from Subfund 4278 Recreation Land Trust

R12-State Accident Fund: \$3,200 from Subfund 4168 Escrow Funds

Y08-Public Railways Commission: \$13,046 from Subfund 4816 Capital Improvement

Appropriations from the general fund on page 429

H03-Commission on Higher Education: Leadership Center Annualization \$50,000

H03-Commission on Higher Education: Lottery Scholarship Administration \$100,000

Appropriations from the general fund on page 430

F30-Budget and Control Board, Employee Benefits: Non-recurring  
Employee Benefits Operating Expenses \$2,000,000

I am vetoing these items because they improperly strip funds from trust funds or restricted accounts, and transfer them to the general fund for purposes other than their dedicated purposes. While I appreciate the financial difficulty the state is currently experiencing, we should, and I hope we will together in the future, honor commitments previously made to utilize trust funds and restricted accounts for their intended purposes.

An example of the impropriety of stripping trust funds and restricted accounts for general fund purposes is the Nongame Wildlife and Natural Areas Fund. This fund is comprised of dollars voluntarily donated by South Carolina citizens. Permanent law requires that both principal and earnings from this fund be utilized for conservation purposes, which serves as the inducement for such voluntary donations. We breach our trust with the citizens of South Carolina if we expend these donated funds or their earnings for purposes other than that for which they were donated.

**Veto 21** I am vetoing the following distinctly labeled items from Part 1B, Section 73.2, Statewide Funding Requirements, page 430, relating to appropriations of funds that are contingent upon receiving more than \$5 million in abandoned property from the demutualization of insurance companies:

A17-Legislative Printing & Information Technology Systems:  
Licenses \$500,000

E28-Election Commission: \$700,000 for HAVA Federal Match

F03-Budget and Control Board: \$2,000,000 for Operating Expenses

H71-Wil Lou Gray Opportunity School: Operating Expenses  
\$117,657

J16-Department of Disabilities and Special Needs: Special  
Olympics \$50,000

K05-Department of Public Safety: Operating Expenses \$1,000,000

L04-Department of Social Services: \$2,300,000 for Operating  
Expenses for Child and Adult Services

L12-John De La Howe School: Operating Expenses \$150,000

N12-Department of Juvenile Justice: \$500,000 for Operating Expenses

P24-Department of Natural Resources: Operating Expenses \$1,000,000

The items listed above are important expenditures. The HAVA appropriation, for example, would be utilized to secure a substantial federal match to modernize our voting machines and processes. The Special Olympics is certainly laudable, and the Department of Juvenile Justice is in need of funding to maintain services and address federal court mandates.

The problem with these items, however, is that they are not really funded. In essence, these appropriations are "wish list" spending in contravention of Section 11-11-140 (A) (2) which states, "In any bill or joint resolution appropriating general fund revenues, no surplus general fund revenue may be appropriated in excess of amounts officially recognized as such by the Board of Economic Advisors." Because these items are being funded with demutualization funds in excess of the \$5 million the Board of Economic Advisors estimates demutualization will generate, I am vetoing them.

It is important that the integrity of our budgeting practices and compliance with Section 11-11-140 not be compromised. Items that merit funding should be funded with real dollars, not placed on a "wish list". This practice creates unrealistic expectations and avoids the prioritization and hard decisions that are necessary in our current budget environment. In the future I hope that items such as these, because of their merit, will be made priorities and funded as such in Part IA with Board of Economic Advisors certified revenue.

This inappropriate method of budgeting was once a regular practice, but to the credit of the General Assembly and the budget committees, it has subsided in recent years. We should resist the temptation to fall back into this poor budgetary practice because of the difficult budget situation confronting us. In difficult times it is imperative that we even more vigorously adhere to budgetary discipline rather than abandon it. Let us not head down the path of "wish list" spending once again after having come so far. We simply cannot afford to count on money we likely will never have, to fund important items of state government.

**Veto 22** I am vetoing the following distinctly labeled item from Part 1B, Section 73.2, Statewide Funding Requirements, page 430, relating to appropriations of funds that are contingent upon receiving more than \$5 million in abandoned property from the demutualization of insurance companies:



Any additional revenues realized from demutualization shall be used to fund the State Employee Health Plan.

I am vetoing this item for the same reasons given for Veto 20.

For the reasons stated above, and pursuant to the authority granted to the Office of the Governor by Article IV, Section 21 of the South Carolina Constitution, I am vetoing the specific sections and items of H.3749, R.127, the fiscal year 2003-04 General Appropriations Act, as indicated.

In conclusion, a major concern regarding the budget this year is the manner in which the General Assembly rolled up multiple and often unrelated items in single Part 1A lines or Part 1B provisos. In exercising my veto power I have acted within the parameters of Article IV, Section 21 of the South Carolina Constitution and vetoed distinct items or sections. However, as I analyze the budget, at times whether a provision is a distinct item or section as envisioned by Article IV, Section 21 has been blurred.

Vetoes 20, 21 and 22 are consistent with Article IV, Section 21 of the South Carolina Constitution, which requires the General Assembly to appropriate money in "distinct items and sections", and authorizes the Governor to veto "items or sections" in appropriations bills. In Drummond v. Beasley 331 S.C. 559, 503 S.E.2d 455 (1998), the South Carolina Supreme Court construed Article IV, Section 21 and concluded the Governor can veto "those parts labeled by the legislature as items or sections" in an appropriations bill. Black's Law Dictionary defines an "item" in an appropriation as "an indivisible sum of money dedicated to a stated purpose".

The items I have vetoed are distinct items for the purposes of Article IV, Section 21 in that they are clearly labeled as distinct and specific funds from which specific sums of money are transferred to the general fund, and the purposes for which these transferred funds are appropriated are likewise distinct and specifically labeled.

I would remind the General Assembly that while my veto power is limited by our Constitution to distinct sections or items, the General Assembly has a constitutional mandate to "specify the objects and purposes for which [appropriations] are made, and appropriate to them respectively their several amounts in distinct items and sections." Article IV, Section 21.

I respect the legislative function and appreciate the hard work that goes into writing a budget. However, I would ask the General Assembly to address this issue next year by passing a budget that is itemized or divided into sections that more explicitly address specific objects and purposes as called for by the

Constitution. Such a budget practice is the only way the proper balance between legislative and executive power can be achieved, and the constitutional mandate of Article IV, Section 21 be honored.

Forty-three other governors in this nation possess the authority to veto specific sections or items in appropriations bills, and we are heading down a path that severely undermines this authority in South Carolina. We cannot afford to alter this essential component of the balance of powers doctrine that is central to our constitutional form of government.

An unfortunate consequence of continuing to budget like this will inevitably be the veto of large items or sections that include meritorious provisions, just to address objectionable matters. I do not suspect any of us desire that outcome.

I look forward to working together in a spirit of cooperation and mutual respect toward the goal of disciplined budgetary practices and cooperative service to the citizens of South Carolina.

Respectfully submitted,

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

Mark Sanford

cc: Jeff Gossett, Clerk of the Senate