**South Carolina General Assembly**

119th Session, 2011-2012

**S. 716**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Rose, Davis, Ford and Cleary

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Companion/Similar bill(s): 715, 783, 784

Introduced in the Senate on March 22, 2011

Currently residing in the Senate Committee on **Finance**

Summary: Exemptions Repeal Committee created

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/22/2011 Senate Introduced and read first time ([Senate Journal‑page 11](file:///h:\sj%20archive\2011\03-22-11.docx))

3/22/2011 Senate Referred to Committee on **Finance** ([Senate Journal‑page 11](file:///h:\sj%20archive\2011\03-22-11.docx))

**VERSIONS OF THIS BILL**

[3/22/2011](file:///p:\pprever\2011-12\716_20110322.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2‑1‑270 SO AS TO CREATE THE EXEMPTIONS REPEAL COMMITTEE, A JOINT COMMITTEE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, TO REQUIRE THE OFFICE OF ECONOMIC RESEARCH TO DIVIDE THE SALES TAX EXEMPTIONS INTO FIVE GROUPS AND RANDOMLY SELECT AN ORDER FOR THE REPEAL OF ONE GROUP A YEAR UNTIL ALL GROUPS ARE REPEALED, TO PROVIDE THAT THE EXEMPTIONS REVIEW COMMITTEE SHALL HOLD HEARINGS ON THE EXEMPTIONS AND MAY AMEND THE CONTENTS OF SALES TAX EXEMPTION GROUPS AND THE ORDER FOR REPEAL, TO PROVIDE THE PROCEDURE BY WHICH THE GENERAL ASSEMBLY MAY ENACT THE RECOMMENDATIONS; BY ADDING SECTION 12‑6‑3760 SO AS TO CREATE THE TAXPAYER REBATE FUND, TO PROVIDE FOR A REFUNDABLE INDIVIDUAL INCOME TAX CREDIT RESULTING FROM INCREASED SALES TAX COLLECTIONS, AND TO PROVIDE THE MANNER IN WHICH THE CREDIT IS CALCULATED; AND BY ADDING SECTION 12‑36‑2121 SO AS TO PROVIDE THAT IF THE GENERAL ASSEMBLY DOES NOT ENACT A LAW SETTING FORTH A SCHEDULE FOR THE REPEAL OF THE SALES TAX EXEMPTION GROUPS, THE SALES TAX EXEMPTIONS ONLY APPLY TO EIGHTY PERCENT OF THE GROSS PROCEEDS OF SALES, AND TO REDUCE THE PERCENTAGE BY TWENTY PERCENT ANNUALLY UNTIL THE SALES TAX EXEMPTIONS ARE REPEALED ON JULY 1, 2016.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 2 of the 1976 Code is amended by adding:

“Section 2‑1‑270. (A) There is created the Exemptions Repeal Committee, a joint committee of the Senate and the House of Representatives. The committee shall be composed of eight members as follows: the Chairman of the Senate Finance Committee and three members of the Senate appointed by the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee and three members of the House appointed by the Chairman of the House Ways and Means Committee.

(B)(1) By February 15, 2012, the Office of Economic Research, Budget and Control Board, shall divide all sales tax exemptions contained in Section 12‑36‑2120 into five groups. The Office of Economic Research shall allocate the exemptions into groups so as to maximize diversity among the groups in terms of items and to have a similar revenue impact on the State.

(2) After formation of the five groups, the Office of Economic Research randomly shall select the order of each group within which the repeal of the exemptions within the groups will occur. The first group shall be repealed effective July 1, 2013, and each remaining group shall be repealed every July first thereafter until all five groupings have been repealed.

(C) Upon conclusion, the Office of Economic Research, Budget and Control Board, shall report the groupings to the Exemptions Repeal Committee, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.

(D)(1) At any time following the report of the groupings pursuant to subsection (C), the Exemptions Review Committee shall hold public hearings on the contents of the exemption groups and the order of repeal. The committee shall accept testimony and written justification from any person, as defined in Section 12‑2‑20, seeking to have all or part of the exemptions removed from the group. The committee also shall accept testimony from any person regarding the order of repeal.

(2) After public evaluation, the committee may recommend that all or part of a group shall be excluded, the committee may set forth a different order for repealing groups, but the order must be determined randomly. The committee shall submit its recommendations and the order for repeal to the General Assembly by January 15, 2013.

(E) The Exemption Review Committee’s report pursuant to subsection (D) must be forwarded to the Code Commissioner who must take steps to prepare the substance of the report to be enrolled and engrossed in the Code of Laws with the provisions of the report to take effect July 1, 2013, if the report is approved by enactment of a joint resolution which deals exclusively with the single subject and question of approval of the report in its entirety. The legislation containing the amendment to enact the recommendations of the report made by the committee must be introduced in both houses by the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. An amendment is germane to legislation recommended by the committee only if the amendment seeks to make a technical change necessary to effectuate the purpose of the particular provision to be amended. An amendment that seeks to add, delete, or substantively change a recommendation or other provision affecting state revenue included in any legislation recommended by the committee may only be adopted or concurred in by a two‑thirds majority of those present and voting in each respective legislative body.”

SECTION 2. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding

“Section 12‑6‑3760. (1) There is created in the State Treasury a fund separate and distinct from the general fund of the State, the Capital Reserve Fund, and all other funds entitled the Taxpayer Rebate Fund. By September first of each year, the Office of Economic Research, Budget and Control Board, shall estimate the amount of sales tax that would have been collected in the immediately preceding fiscal year if Section 12‑36‑2120 existed as it existed on June 30, 2012. The Office of Economic Research shall subtract the estimate from the amount of sales tax collected in the immediately preceding fiscal year, and that amount must be credited to this fund. Revenues in this fund may be appropriated or used as offsets only for the purposes provided in item (2) of this subsection.

(2)(a) If the balance in the general reserve fund established pursuant to Section 36, Article III of the Constitution of this State and Section 11‑11‑310 is less than the required balance, there must be appropriated to it all amounts in the Taxpayer Rebate Fund up to the total necessary to replenish the general reserve fund. This amount does not replace or supplant the minimum replenishment amount otherwise required to be made to the general reserve fund.

(b) After the appropriation of amounts required pursuant to subitem (a) of this item, any remaining balance may be appropriated for or used to offset revenue reductions for expenses incurred by this State as a result of natural or other disasters declared by the President of the United States.

(c) Beginning in tax year 2015, after the appropriations or offsets required pursuant to subitems (a) and (b) of this item, any remaining balance must be issued to individual taxpayers via a refundable individual income tax credit. By September 1, 2015, and each September first thereafter, the Department of Revenue shall estimate the number of individuals that will file a return, for the current tax year. Every individual listed on a return, that is not or could not be listed as a dependent on another individual’s return shall be included in the estimate. The amount of the credit must be equal to the amount in the fund divided by the estimated number of individuals filing a return. The department must display the amount of the credit on its website and in other publications it deems appropriate. If the department awards more in credits than there are monies in the fund, the excess credits must be paid from the general fund the State; however, the fund must repay the general fund from the next year’s fund revenues.”

SECTION 3. Article 21, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12‑36‑2121. (A) If the General Assembly does not enact a law that meets the requirements of Section 2‑1‑270(D), then, notwithstanding any other provision of law and to the extent allowed by the Constitution of this State and the United States Constitution:

(1) Effective July 1, 2012, the exemptions provided in Section 12‑36‑2120 only apply to eighty percent of the gross proceeds of sales.

(2) Effective July 1, 2013, the exemptions provided in Section 12‑36‑2120 only apply to sixty percent of the gross proceeds of sales.

(3) Effective July 1, 2014, the exemptions provided in Section 12‑36‑2120 only apply to forty percent of the gross proceeds of sales.

(4) Effective July 1, 2015, the exemptions provided in Section 12‑36‑2120 only apply to twenty percent of the gross proceeds of sales.

(5) Effective July 1, 2016, Section 12‑36‑2120 is repealed.

(B) This section only applies to the state sales tax imposed pursuant to Sections 12‑36‑910 and 12‑36‑1110.”

SECTION 4. This act takes effect upon approval by the Governor.

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