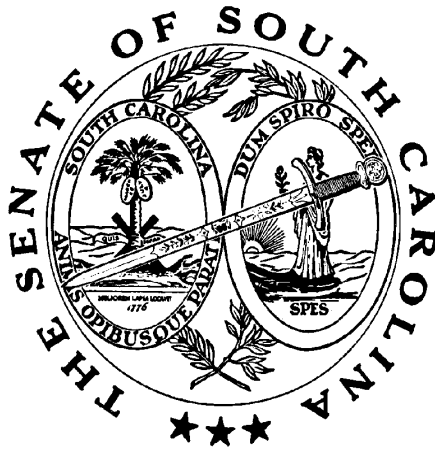


NO. 61

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009

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TUESDAY, MAY 19, 2009

**Tuesday, May 19, 2009**  
**(Statewide Session)**

~~Indicates Matter Stricken~~  
Indicates New Matter

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

In Matthew we read:

“The King will answer them, ‘Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me.’ ” (Matthew 25:40)

Please bow with me as we pray:

Indeed, O God, You have given each of Your servants in this place incredible responsibility to act on behalf of those who seem unable to act wisely for themselves. The poor and disadvantaged around us truly look to those in this Chamber to do what can prove to be right and fair and good. So lead these Senators, dear Lord. Guide them to act on what they know to be just and worthy. Bless them as You alone can, giving each the courage to do those things that are pleasing in Your sight. This we pray in Your loving name, O Lord.

Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

#### **MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Mark C. Sanford:

##### **Statewide Appointments**

Initial Appointment, South Carolina Board of Long Term Health Care Administrators, with the term to commence June 30, 2009, and to expire June 30, 2012

Nursing Home Consumer:

Martin A. Hyatt, 1775 Overbrook Dr., Rock Hill, SC 29732 *VICE*  
Brenna DeLaine

Referred to the Committee on Medical Affairs.

[SJ]

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**TUESDAY, MAY 19, 2009**

Initial Appointment, South Carolina Public Charter School District Board of Trustees, with the term to commence July 1, 2009, and to expire July 1, 2012

SC Association of Public Charter Schools:

Barbara S. Nielson, 11 Oketee Court, Hilton Head Island, SC 29926  
*VICE* David Church

Referred to the Committee on Education.

Initial Appointment, South Carolina State Commission on Higher Education, with the term to commence July 1, 2008, and to expire July 1, 2010

Research - MUSC:

Charles B. Thomas, Jr., 535 West Butler Road, Suite C, Greenville, SC 29607 *VICE* Louis Lynn

Referred to the Committee on Education.

#### **Local Appointment**

Initial Appointment, Oconee County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

Michael Todd Simmons, P. O. Box 130, Long Creek, SC 29658  
*VICE* Becky Gerrard

#### **MESSAGE FROM THE GOVERNOR**

State of South Carolina  
Office of the Governor

May 13, 2009

Mr. President and Members of the Senate:

I respectfully request withdrawal from your consideration the appointment listed below:

Respectfully,  
Mark C. Sanford

[SJ]

**TUESDAY, MAY 19, 2009**

**Withdrawal of Statewide Appointment**

Initial Appointment, South Carolina Real Estate Commission, with the term to commence June 30, 2006, and to expire June 30, 2010

Public Member:

Jonathan M. Robinson, 134 Saluda Ave., Columbia, SC 29205 *VICE*  
Mr. Daniel J. Ballou

**Appointment Withdrawn**

On motion of Senator L. MARTIN, the Senate acceded to the Governor's request and the Clerk was directed to return the appointment to the Governor.

**Doctor of the Day**

Senator SCOTT introduced Dr. Beverly Simons of Columbia, S.C., Doctor of the Day.

**Leave of Absence**

At 5:31 P.M., Senator RYBERG requested a leave of absence beginning at 6:00 P.M. until 9:00 P.M. this evening.

**Leave of Absence**

On motion of Senator ALEXANDER, at 5:45 P.M., Senator McCONNELL was granted a leave of absence from 6:00 - 8:00 P.M. this evening.

**RECALLED**

H. 3813 -- Rep. Harrison: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE THAT CROSSES GILLS CREEK ALONG SHADY LANE IN RICHLAND COUNTY "BURWELL D. MANNING, JR. BRIDGE" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THE WORDS "BURWELL D. MANNING, JR. BRIDGE".

Senator LOURIE asked unanimous consent to make a motion to recall the Bill from the Committee on Transportation.

The Bill was recalled from the Committee on Transportation and ordered placed on the Calendar for consideration tomorrow.

**TUESDAY, MAY 19, 2009**

**RECALLED**

H. 3749 -- Reps. J.E. Smith and Williams: A BILL TO AMEND SECTION 25-1-380, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ASSISTANT ADJUTANT GENERAL FOR THE ARMY, SO AS TO PROVIDE UPON NATIONAL GUARD BUREAU AUTHORIZATION, AN ADDITIONAL ASSISTANT ADJUTANT GENERAL WITH THE RANK OF MAJOR GENERAL.

Senator ALEXANDER asked unanimous consent to make a motion to recall the Bill from the General Committee.

The Bill was recalled from the General Committee and ordered placed on the Calendar for consideration tomorrow.

**RECALLED**

H. 3944 -- Reps. Jennings and Neilson: A BILL TO AMEND SECTION 56-3-8710, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF NASCAR SPECIAL LICENSE PLATES BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO PROVIDE THAT A PORTION OF THE FEES COLLECTED FROM THE SALE OF THESE LICENSE PLATES MUST BE DISTRIBUTED TO THE SOUTH CAROLINA ASSOCIATION OF CHILDREN'S HOMES AND FAMILY SERVICES AND NO LONGER TO THE SOUTH CAROLINA CHILDREN'S EMERGENCY SHELTER FOUNDATION.

Senator GROOMS asked unanimous consent to make a motion to recall the Bill from the Committee on Transportation.

The Bill was recalled from the Committee on Transportation and ordered placed on the Calendar for consideration tomorrow.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 843 -- Senator Leatherman: A CONCURRENT RESOLUTION TO CONGRATULATE MR. EMERSON F. GOWER, JR., UPON HIS RETIREMENT AND TO WISH HIM ALL THE BEST IN HIS FUTURE ENDEAVORS.

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[SJ]

**TUESDAY, MAY 19, 2009**

The Concurrent Resolution was adopted, ordered sent to the House.

S. 844 -- Senator Leatherman: A CONCURRENT RESOLUTION TO CONGRATULATE MR. CHARLES LEE YOUNG IN FLORENCE, SOUTH CAROLINA, UPON HIS RETIREMENT FROM CIRCLE PARK BEHAVIORAL HEALTH SERVICES.

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The Concurrent Resolution was adopted, ordered sent to the House.

S. 845 -- Senator Williams: A SENATE RESOLUTION TO CONGRATULATE MRS. EDNA ROGERS ON THE OCCASION OF HER RETIREMENT FROM THE MARION COUNTY COUNCIL ON AGING AND TO WISH HER MUCH HAPPINESS IN THE FUTURE.

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The Senate Resolution was adopted.

S. 846 -- Senators Grooms and Thomas: A JOINT RESOLUTION TO ESTABLISH A COMMISSION TO STUDY IMPLEMENTING A FAIR TAX TO REPLACE THE STATE INDIVIDUAL AND CORPORATE INCOME TAX.

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Read the first time and referred to the Committee on Finance.

S. 847 -- Senator Elliott: A BILL TO AMEND SECTION 48-39-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE COASTAL ZONE MANAGEMENT APPELLATE PANEL, SO AS TO CREATE THE COASTAL ZONE MANAGEMENT ADVISORY COUNCIL TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL'S OFFICE OF OCEAN AND COASTAL RESOURCES MANAGEMENT; TO PROVIDE CERTAIN FUNCTIONS OF THE COUNCIL, TO DELETE SPECIAL TERMS OF SERVICE FOR COUNCIL MEMBERS APPOINTED BASED ON RESIDENCE IN THE STATE'S CONGRESSIONAL DISTRICTS SO THAT THESE MEMBERS SERVE THE SAME TERMS AS ALL OTHER MEMBERS; TO PROVIDE THE COUNCIL SHALL MEET AT THE CALL OF ITS CHAIRMAN; TO PROVIDE ADVICE AND COUNSEL OF THE COUNCIL IS NOT BINDING ON THE DEPARTMENT; AND TO PROVIDE ON JULY 1, 2010, MEMBERS

[SJ]

**TUESDAY, MAY 19, 2009**

OF THE COASTAL ZONE APPELLATE PANEL BECOME MEMBERS OF THE COUNCIL FOR THE DURATION OF THEIR TERMS.

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Read the first time and referred to the Committee on Agriculture and Natural Resources.

S. 848 -- Senator Reese: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-49-15 SO AS TO PROHIBIT MOTOR VEHICLE PHYSICAL DAMAGE APPRAISERS TO LOCATE THEIR PLACES OF BUSINESS ON THE PREMISES OF, OR ADJACENT TO, A MOTOR VEHICLE REPAIR OR BODY SHOP.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 849 -- Senator Leatherman: A BILL TO AMEND SECTION 59-67-270 OF THE 1976 CODE, RELATING TO THE INSPECTION OF SCHOOL BUSES, TO PROVIDE THAT A SCHOOL DISTRICT OWNED SCHOOL BUS SHALL BE SUBJECT TO AN ANNUAL FEDERAL DEPARTMENT OF TRANSPORTATION INSPECTION.

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Read the first time and referred to the Committee on Education.

S. 850 -- Senator McGill: A BILL TO AMEND SECTION 12-6-5060 OF THE 1976 CODE, RELATING TO THE DESIGNATION ON AN INCOME TAX RETURN OF A VOLUNTARY CONTRIBUTION TO CERTAIN FUNDS, TO PROVIDE THAT A TAXPAYER MAY CONTRIBUTE TO THE SOUTH CAROLINA FORESTRY COMMISSION FOR USE IN THE STATE FOREST SYSTEM.

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Read the first time and referred to the Committee on Finance.

S. 851 -- Senator Ryberg: A BILL TO AMEND SECTION 8-13-1510 OF THE 1976 CODE, RELATING TO PENALTIES FOR LATE FILING OF OR FAILURE TO FILE A REPORT OR STATEMENT REQUIRED BY CHAPTER 13, TITLE 8 AND TO PROVIDE FOR CRIMINAL PENALTIES; AND TO AMEND SECTION 2-17-50,

[SJ]

**TUESDAY, MAY 19, 2009**

RELATING TO PENALTIES FOR FAILING TO ABIDE BY FILING REQUIREMENTS IN CHAPTER 17, TITLE 2, TO PROVIDE FOR CRIMINAL PENALTIES.

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Read the first time and referred to the Committee on Judiciary.

S. 852 -- Senator Bryant: A BILL TO AMEND SECTION 40-81-50 OF THE 1976 CODE, RELATING TO THE CREATION OF THE STATE ATHLETIC COMMISSION, TO PROVIDE THAT ONE AT-LARGE MEMBER OF THE COMMISSION MUST BE FROM THE MIXED MARTIAL ARTS COMMUNITY.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 853 -- Senator Anderson: A BILL TO AMEND SECTION 41-27-370, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "UNEMPLOYED" FOR PURPOSES OF THE SOUTH CAROLINA EMPLOYMENT SECURITY LAW AND THE REDUCTION OF UNEMPLOYMENT BENEFITS TO REFLECT PENSION AND OTHER PAYMENTS ATTRIBUTABLE TO WORK, SO AS TO ELIMINATE EMPLOYER-FILED CLAIMS; TO AMEND SECTION 41-27-380, RELATING TO THE DEFINITION OF "WAGES", SO AS TO INCREASE THE TAXABLE WAGE BASE BEGINNING DECEMBER 31, 2008; TO AMEND SECTION 41-27-510, RELATING TO REGULATIONS APPLICABLE TO UNEMPLOYED INDIVIDUALS, SO AS TO CONFORM THE SECTION TO THE AMENDMENTS TO SECTION 41-27-370; TO AMEND SECTION 41-29-170, AS AMENDED, RELATING TO THE DISCLOSURE OF CERTAIN INFORMATION TO ENSURE THAT A CLAIMANT, OR HIS LEGAL REPRESENTATIVE, BE SUPPLIED WITH RECORDS IN ORDER TO MAKE A CLAIM, SO AS TO ADD A PROVISION TO PROVIDE UNEMPLOYMENT INFORMATION NECESSARY FOR WORKFORCE IMPROVEMENT AND PROGRAM EVALUATION TO THE AGENCY ADMINISTERING THE WORKFORCE INVESTMENT ACT; TO AMEND SECTION 41-31-50, AS AMENDED, RELATING TO THE COMPUTATION OF RATES OF CONTRIBUTIONS BY EMPLOYERS, SO AS TO RESTRUCTURE THE COMPUTATION

[SJ]

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**TUESDAY, MAY 19, 2009**

FOR CERTAIN EMPLOYERS; TO AMEND SECTION 41-31-80, AS AMENDED, RELATING TO THE STATEWIDE RESERVE RATIO, SO AS TO ADJUST THE RATES OF CONTRIBUTION FOR CERTAIN EMPLOYERS; TO AMEND SECTION 41-35-50, RELATING TO THE MAXIMUM POTENTIAL BENEFITS OF AN INSURED WORKER, SO AS TO CHANGE THE FORMULA FOR CALCULATING THE BENEFIT; TO AMEND SECTION 41-35-120, AS AMENDED, RELATING TO DISQUALIFICATION OF BENEFITS, SO AS TO ADD A PROVISION PROVIDING FOR "GROSS MISCONDUCT" AND CONFORMING THE TERM "MOST RECENT BONA FIDE EMPLOYER" TO ITS DEFINITION IN SECTION 41-35-110(5), AND TO REQUIRE THE DEDUCTION OF SEVERANCE PAY FROM UNEMPLOYMENT COMPENSATION PAYMENTS.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 854 -- Senator McConnell: A BILL TO AMEND CHAPTER 23 OF TITLE 57 OF THE 1976 CODE, RELATING TO VEGETATION MANAGEMENT ALONG ROADSIDES, SO AS TO PERMIT THE DEPARTMENT OF TRANSPORTATION TO MAINTAIN AND MOW BEYOND THIRTY FEET FROM THE PAVEMENT ROADSIDE VEGETATION ADJACENT TO SAM RITTENBERG BOULEVARD IN CHARLESTON COUNTY.

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Read the first time and referred to the Committee on Transportation.

S. 855 -- Senator Campsen: A CONCURRENT RESOLUTION TO RECOGNIZE THE CITY OF NORTH CHARLESTON'S CONTRACTUAL RIGHT TO LIMIT RAIL ACCESS TO THE CHARLESTON NAVAL COMPLEX AND TO DECLARE THAT NO ACTIONS MAY BE TAKEN TO IMPAIR THE CITY'S ABILITY TO EXERCISE ANY OF ITS CONTRACTUAL RIGHTS CONCERNING THE COMPLEX.

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The Concurrent Resolution was introduced and referred to the Committee on Transportation.

[SJ]

**TUESDAY, MAY 19, 2009**

S. 856 -- Senator Campsen: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO ARTICLE III, SECTION 9 OF THE CONSTITUTION OF THIS STATE AND SECTION 2-1-180 OF THE 1976 CODE, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, MAY 21, 2009, NOT LATER THAN 5:00 P.M., EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES NO LATER THAN JUNE 30, 2009, FOR A PERIOD NOT TO EXCEED THREE STATEWIDE LEGISLATIVE DAYS FOR THE CONSIDERATION OF CERTAIN MATTERS, TO PROVIDE THAT WHEN EACH HOUSE ADJOURNS AFTER THIS THREE-DAY PERIOD NOT LATER THAN 5:00 P.M. ON THE THIRD LEGISLATIVE DAY, EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES UPON CERTAIN OCCURRENCES AND FOR THE CONSIDERATION OF SPECIFIED MATTERS, AND TO PROVIDE THAT UNLESS ADJOURNED EARLIER, THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE NO LATER THAN NOON ON TUESDAY, JANUARY 12, 2010.

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The Concurrent Resolution was introduced and referred to the Committee on Judiciary.

S. 857 -- Senators Rose, Grooms and Matthews: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE PINWOOD PREPARATORY SCHOOL BASEBALL TEAM FOR CAPTURING ITS FIRST BASEBALL STATE CHAMPIONSHIP AND TO HONOR THE TEAM'S EXCEPTIONAL PLAYERS, COACHES, AND STAFF.

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The Senate Resolution was adopted.

S. 858 -- Senator Setzler: A SENATE RESOLUTION TO CONGRATULATE KATHARINE H. WILSON OF LEXINGTON COUNTY ON THE OCCASION OF HER ONE HUNDREDTH

**TUESDAY, MAY 19, 2009**

BIRTHDAY, AND TO WISH HER A JOYOUS BIRTHDAY CELEBRATION AND CONTINUED HEALTH AND HAPPINESS.

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The Senate Resolution was adopted.

S. 859 -- Senator Bright: A SENATE RESOLUTION TO RECOGNIZE DR. JAMES A. LITTLEFIELD AND THANK HIM FOR HIS THIRTY-EIGHT YEARS OF SERVICE TO SPARTANBURG COUNTY SCHOOL DISTRICT ONE.

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The Senate Resolution was adopted.

S. 860 -- Senator Knotts: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR SERGEANT SILLER ANDERSON, UPON THE OCCASION OF HIS RETIREMENT, AFTER TWENTY-FIVE YEARS OF FAITHFUL SERVICE TO THE COUNTY OF LEXINGTON, AND TO WISH HIM SUCCESS AND HAPPINESS IN ALL HIS FUTURE ENDEAVORS.

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The Concurrent Resolution was adopted, ordered sent to the House.

S. 861 -- Senators Nicholson and O'Dell: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE MEMBERS OF THE GREENWOOD HIGH SCHOOL TENNIS TEAM FOR ITS OUTSTANDING SEASON, AND TO CONGRATULATE THE PLAYERS AND COACH FOR CAPTURING THE 2009 CLASS AAAA STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 862 -- Senators Fair and Shoopman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 4 TO CHAPTER 53, TITLE 59 SO AS TO CREATE THE GREENVILLE TECHNICAL COLLEGE AREA COMMISSION AND TO PROVIDE FOR ITS MEMBERSHIP.

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Read the first time and, on motion of Senator FAIR, S. 862 was ordered placed on the Local and Uncontested Calendar.

[SJ]

**TUESDAY, MAY 19, 2009**

H. 3845 -- Reps. T. R. Young, Allen and Kelly: A BILL TO AMEND SECTION 22-3-1000, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TIME FOR A MOTION FOR NEW TRIAL AND APPEAL IN MAGISTRATES COURT, SO AS TO INCREASE THE TIME PERIOD IN WHICH A MOTION FOR A NEW TRIAL MAY BE MADE FROM FIVE TO TEN DAYS.

Read the first time and referred to the Committee on Judiciary.

H. 4058 -- Rep. Clemmons: A CONCURRENT RESOLUTION TO MEMORIALIZE THE SECRETARY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, THE HONORABLE RAY H. LAHOOD, TO SET ASIDE THE FUNDS NECESSARY TO ACQUIRE THE RIGHT OF WAY AND BUILD THE APPROXIMATELY SIX-MILE PORTION OF INTERSTATE 73 FROM "THE INTERSECTION OF HOPE" AT ITS INTERSECTION WITH INTERSTATE 95 TO ITS INTERSECTION WITH UNITED STATES HIGHWAY 501 WHICH CONSTITUTES THE FIRST PHASE OF CONSTRUCTION OF INTERSTATE 73 IN SOUTH CAROLINA, AND SET ASIDE ADDITIONAL FUNDS TO COMPLETE THE REMAINING PORTION OF THIS INTERSTATE HIGHWAY AS THESE FUNDS BECOME AVAILABLE.

On motion of Senator MCGILL, with unanimous consent, the Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

H. 4081 -- Reps. Allen, Dillard, Agnew, Alexander, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires,

[SJ]

**TUESDAY, MAY 19, 2009**

Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR THE REVEREND FLORA JOHNSON WINESTOCK, OF GREENVILLE COUNTY, AND TO CONGRATULATE HER FOR HER SERVICE AS PRESIDENT OF THE BAPTIST MINISTERS FELLOWSHIP OF GREENVILLE AND VICINITY.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 4084 -- Reps. Barfield, Clemmons, Hearn, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Dellaney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR EDWARD M. "DICK" SINGLETON, COASTAL CAROLINA UNIVERSITY CHANCELLOR EMERITUS, FOR HIS MANY YEARS OF SERVICE AND DEDICATION TO HIS BELOVED UNIVERSITY.

The Concurrent Resolution was adopted, ordered returned to the House.

**TUESDAY, MAY 19, 2009**

**REPORTS OF STANDING COMMITTEES**

Senator LEATHERMAN from the Committee on Finance polled out H. 3148 favorable:

H. 3148 -- Reps. Clyburn, G.M. Smith, H.B. Brown, Branham, Ott, Agnew, R.L. Brown, Hayes, Battle, Miller, Weeks, J.R. Smith, D.C. Smith, Parks, Rice, Littlejohn, Hosey, Jefferson, Cobb-Hunter, Howard, Cooper, Gunn, McLeod, T.R. Young, Kennedy, Vick, Edge, J.E. Smith, Harrell, A.D. Young, Alexander, Neilson, Lucas, Merrill, Barfield, Bales, Allen, Hodges, Knight and Funderburk: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 50 TO TITLE 11 SO AS TO ENACT THE "SOUTH CAROLINA RURAL INFRASTRUCTURE ACT", TO ESTABLISH THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, AND TO PROVIDE FOR ITS GOVERNANCE, POWERS, AND DUTIES; TO AUTHORIZE THE AUTHORITY TO PROVIDE LOANS AND OTHER FINANCIAL ASSISTANCE TO A MUNICIPALITY, COUNTY, SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICT, AND A PUBLIC WORKS COMMISSION TO FINANCE RURAL INFRASTRUCTURE FACILITIES; TO ALLOW STATE APPROPRIATIONS, GRANTS, LOAN REPAYMENTS, AND OTHER AVAILABLE AMOUNTS TO BE CREDITED TO THE FUND OF THE AUTHORITY; TO AUTHORIZE LENDING TO AND BORROWING BY ELIGIBLE ENTITIES THROUGH THE AUTHORITY.

**Poll of the Finance Committee  
Polled 23; Ayes 20; Nays 1; Not Voting 2**

**AYES**

Leatherman	Land	Setzler
Leventis	Peeler	Courson
Matthews	McGill	O'Dell
Reese	Hayes	Ryberg
Alexander	Fair	Grooms
Pinckney	Cromer	Anderson
Elliott	Jackson	

**Total--20**

[SJ]

**TUESDAY, MAY 19, 2009**

**NAYS**

Bryant

**Total--1**

**NOT VOTING**

Thomas

Verdin

**Total--2**

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance polled out H. 3882 favorable:

H. 3882 -- Labor, Commerce and Industry Committee: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-11-55 SO AS TO PROVIDE THE STATE BUDGET AND CONTROL BOARD SHALL DEVELOP A WEB-BASED APPLICATION FOR THE SUBMISSION OF QUESTIONS AND CONCERNS ABOUT STATE AGENCY LICENSING, PERMITTING, AND REGULATION OF ECONOMIC ACTIVITY, AND TO PROVIDE A STATE AGENCY THAT PROMULGATES REGULATIONS, ISSUES PERMITS OR LICENSES, AND HAS A WEBSITE ON THE INTERNET SHALL PLACE ON ITS WEBSITE HOMEPAGE A HYPERLINK OR UNIFORM RESOURCE LOCATOR THAT PROVIDES DIRECT ACCESS TO THIS WEB-BASED APPLICATION; BY ADDING SECTION 48-39-155 SO AS TO PROVIDE A CERTIFICATION OF CONSISTENCY WITH THE COASTAL ZONE MANAGEMENT PLAN MUST BE MADE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL WITHIN THIRTY DAYS AFTER THE DATE THE REQUEST IS SUBMITTED TO THE DEPARTMENT FOR THIS CERTIFICATION, AND IF THE DEPARTMENT FAILS TO ISSUE A WRITTEN DECISION WITHIN THIS THIRTY-DAY PERIOD, THE PROPOSED ACTIVITY OR LICENSE IS CONSIDERED CONSISTENT WITH THE COASTAL ZONE MANAGEMENT PLAN AND PROGRAM; AND TO AMEND SECTION 33-41-1110, RELATING TO A RENEWAL APPLICATION FOR A REGISTERED LIMITED LIABILITY COMPANY, SO AS TO PROVIDE THIS

[SJ]

**TUESDAY, MAY 19, 2009**

APPLICATION ANNUALLY MUST BE RENEWED BEFORE  
APRIL FIRST.

**Poll of the Finance Committee  
Polled 23; Ayes 19; Nays 0; Not Voting 2**

**AYES**

Leatherman	Land	Setzler
Peeler	Courson	Matthews
Thomas	McGill	O'Dell
Reese	Hayes	Alexander
Fair	Grooms	Pinckney
Verdin	Cromer	Anderson
Jackson		

**Total--19**

**NAYS**

**Total--0**

**NOT VOTING**

Leventis	Bryant
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**Total--2**

Ordered for consideration tomorrow.

**Message from the House**

Columbia, S.C., May 19, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has returned the following Bill to the Senate with amendments:

S. 116 -- Senators Knotts and McConnell: A BILL TO AMEND SECTION 11-35-310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE CONSOLIDATED PROCUREMENT CODE, SO AS TO DELETE THE DEFINITION FOR "OFFICE"; TO AMEND SECTION 11-35-1524, AS AMENDED, RELATING TO VENDOR

[SJ]

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PREFERENCES, SO AS TO PROVIDE FOR PREFERENCES FOR END PRODUCTS FROM SOUTH CAROLINA AND FROM THE UNITED STATES AND FOR CONTRACTORS AND SUBCONTRACTORS WHO EMPLOY INDIVIDUALS DOMICILED IN SOUTH CAROLINA, TO DEFINE CERTAIN TERMS, PROVIDE FOR ELIGIBILITY REQUIREMENTS FOR THE PREFERENCES, PROVIDE FOR APPLICATION FOR THE PREFERENCES AND PENALTIES FOR FALSE APPLICATION, AND TO MAKE EXCEPTIONS TO THE PREFERENCES; TO AMEND SECTION 11-35-40, AS AMENDED, RELATING TO COMPLIANCE WITH FEDERAL REQUIREMENTS, SO AS TO PROVIDE FOR COMPLIANCE WITH THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTION 11-35-3215, RELATING TO CONTRACTS FOR DESIGN SERVICES, SO AS TO PROVIDE FOR A RESIDENT PREFERENCE; AND TO REPEAL SECTION 11-35-3025 RELATING TO APPROVAL OF CHANGE ORDERS IN CONNECTION WITH CERTAIN CONTRACTS.

Respectfully submitted,  
Speaker of the House  
Received as Information

The Bill was ordered placed on the Calendar for consideration tomorrow.

**Message from the House**

Columbia, S.C., May 19, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has returned the following Bill to the Senate with amendments:

S. 593 -- Senator S. Martin: A BILL TO AMEND SECTION 16-23-430 OF THE 1976 CODE, RELATING TO THE CARRYING OF WEAPONS ON SCHOOL PROPERTY, TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO A PERSON WHO IS AUTHORIZED TO CARRY A CONCEALED WEAPON WHEN THE WEAPON IS INSIDE A MOTOR VEHICLE.

Respectfully submitted,  
Speaker of the House  
Received as Information

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The Bill was ordered placed on the Calendar for consideration tomorrow.

**Message from the House**

Columbia, S.C., May 14, 2009

Mr. President and Senators:

The House respectfully informs your Honorable Body that it refuses to concur in the amendments proposed by the Senate to:

H. 3572 -- Rep. Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50-5-1707 RELATING TO SHARK CATCH LIMITS.

Very respectfully,  
Speaker of the House

Received as information.

**H. 3572--SENATE INSISTS ON ITS AMENDMENTS  
APPOINTS CONFERENCE COMMITTEE**

H. 3572 -- Rep. Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 50-5-1707 RELATING TO SHARK CATCH LIMITS.

On motion of Senator CROMER, the Senate insisted upon its amendments to H. 3572 and asked for a Committee of Conference.

Whereupon, Senators MCGILL, CLEARY and KNOTTS were appointed to the Committee of Conference on the part of the Senate and a message was sent to the House accordingly.

**HOUSE CONCURRENCES**

S. 792 -- Senators Scott, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Mulvaney, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO DECLARE THE MONTH OF OCTOBER 2009 AS GANG AWARENESS MONTH IN SOUTH CAROLINA IN ORDER TO RAISE PUBLIC AWARENESS OF THE INCREASING PROBLEM OF CRIMINAL GANG ACTIVITY IN OUR STATE.

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Returned with concurrence.  
Received as information.

S. 839 -- Senators Scott, Jackson, Matthews and Williams: A CONCURRENT RESOLUTION TO DECLARE THE MONTH OF SEPTEMBER 2009 YOUTH AWARENESS MONTH IN SOUTH CAROLINA AND TO ENCOURAGE ALL CITIZENS OF THIS GREAT STATE TO PROMOTE STRONG FAMILIES AND PARENTING ALONG WITH YOUTH PROGRAMS AND JOBS.

Returned with concurrence.  
Received as information.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

**ORDERED ENROLLED FOR RATIFICATION**

The following Bills were read the third time and, having received three readings in both Houses, it was ordered that the titles be changed to that of Acts and enrolled for Ratification:

H. 3678 -- Reps. D.C. Moss, Whipper, Anthony, Herbkersman, Merrill, Nanney, G.M. Smith, Thompson and Weeks: A BILL TO AMEND SECTION 56-5-4140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAXIMUM ALLOWABLE GROSS WEIGHTS OF VEHICLES THAT MAY BE OPERATED ALONG THE STATE'S HIGHWAYS, SO AS TO MAKE A TECHNICAL CHANGE.

**H. 3678--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

H. 3118 -- Reps. Kirsh, J.E. Smith, Funderburk, Weeks and Hutto: A BILL TO AMEND SECTION 63-11-530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS AND DUTIES OF GUARDIANS AD LITEM IN CHILD ABUSE AND NEGLECT CASES, SO AS TO PROVIDE THAT THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM HAS THE RIGHT TO INTERVENE IN A PROCEEDING TO PETITION TO HAVE THE GUARDIAN AD LITEM REMOVED IF THE GUARDIAN AD

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LITEM IS NOT IN COMPLIANCE WITH STATE LAW OR IS NOT ACTING IN THE BEST INTEREST OF THE CHILD; AND TO AMEND SECTION 63-11-550, RELATING TO CONFIDENTIALITY OF REPORTS AND INFORMATION MAINTAINED BY THE GUARDIAN AD LITEM PROGRAM, SO AS TO ALSO PROVIDE THAT REPORTS AND INFORMATION MAINTAINED BY A GUARDIAN AD LITEM IS CONFIDENTIAL.

H. 3134 -- Reprs. Bowers and Long: A BILL TO AMEND SECTION 56-3-9910, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF GOLD STAR FAMILY SPECIAL LICENSE PLATES, SO AS TO REDUCE THE FEE FOR THIS SPECIAL LICENSE PLATE.

**H. 3134--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

**HOUSE BILLS RETURNED**

The following House Bills were read the third time and ordered returned to the House with amendments:

H. 3018 -- Reprs. E.H. Pitts, Huggins, Gunn, Bales, Limehouse, Barfield, Hardwick, Hearn, Edge, Gambrell, Thompson, Bowen, Harrison, Umphlett, Sandifer, Herbkersman, G.M. Smith, Lowe, Vick, H.B. Brown, R.L. Brown, Viers, Clemmons, Ballentine, Mitchell and M.A. Pitts: A BILL TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT FROM PROPERTY TAX THE VALUE OF IMPROVEMENTS TO REAL PROPERTY CONSISTING OF A NEWLY CONSTRUCTED DETACHED SINGLE FAMILY HOME THROUGH THE EARLIER OF THE PROPERTY TAX IN WHICH THE HOME IS OCCUPIED, OR THE SECOND PROPERTY TAX YEAR ENDING DECEMBER THIRTY-FIRST AFTER THE HOME IS COMPLETED AND A CERTIFICATE FOR OCCUPANCY ISSUED THEREON IF REQUIRED.

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**H. 3018--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting against third reading of the Bill.

H. 3615 -- Reps. Sandifer, Parks, King and Weeks: A BILL TO AMEND CHAPTER 7 OF TITLE 32, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PRENEED FUNERAL CONTRACTS, SO AS TO TRANSFER THE POWERS AND DUTIES FOR THE REGULATION OF PRENEED FUNERAL CONTRACTS FROM THE STATE BOARD OF FINANCIAL INSTITUTIONS TO THE DEPARTMENT OF CONSUMER AFFAIRS AND TO CONFORM THE PROVISIONS OF THIS CHAPTER TO THIS TRANSFER OF AUTHORITY, TO INCREASE CRIMINAL FINES FOR VIOLATIONS, TO PROVIDE FOR ADMINISTRATIVE PENALTIES, TO PROVIDE FOR A CONTESTED CASE HEARING FROM AN ORDER OF THE DEPARTMENT, AND TO MAKE TECHNICAL CORRECTIONS; AND TO AMEND SECTION 40-19-290, AS AMENDED, RELATING TO LICENSED EMBALMERS AND FUNERAL DIRECTORS RECEIVING PAYMENTS FOR PRENEED FUNERAL CONTRACTS, SO AS TO CHANGE "STATE BOARD OF FINANCIAL INSTITUTIONS" TO "SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS".

Senator CAMPBELL asked unanimous consent to take the Bill up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Bill, the question being the third reading of the Bill.

Senator CAMPBELL explained the Bill.

The Bill was read the third time, passed and ordered returned to the House of Representatives with amendments.

**H. 3615--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

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H. 3804 -- Reps. Bedingfield, Wylie, Cato, Allen, Bannister, Hamilton and Stringer: A BILL TO AMEND SECTION 7-7-280, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GREENVILLE COUNTY, SO AS TO REVISE AND RENAME CERTAIN VOTING PRECINCTS OF GREENVILLE COUNTY AND REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

**H. 3804--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

**AMENDED, READ THE THIRD TIME  
RETURNED TO THE HOUSE**

H. 3651 -- Reps. Duncan, Umphlett, Anthony, Knight, Forrester and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-23-205 SO AS TO LIMIT THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES, AND TO PROVIDE THE TERMS AND CONDITIONS OF CERTAIN PERMITTED REGULATIONS.

**Motion Under Rule 26B**

Senator FAIR asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B

There was no objection.

The Senate proceeded to a consideration of the Bill, the question being the third reading of the Bill.

Senator FAIR proposed the following amendment (3651R001.MLF), which was adopted:

Amend the bill as and if amended, page 2, by striking lines 22 - 27 and inserting:

/ (1) regulate activities associated with development, provided that a county or municipality requires a deferral of consideration of an application for a building permit, a site disturbance or subdivision plan,

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or any other approval for development that if implemented would result in a change from forest land to nonforest or nonagricultural use, the deferral may not exceed a period of up to:

Renumber sections to conform.

Amend title to conform.

Senator FAIR explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was read the third time, passed and ordered returned to the House of Representatives with amendments.

### **THIRD READING BILLS**

The following Bills were read the third time and ordered sent to the House of Representatives:

S. 813 -- Judiciary Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE PUBLIC SERVICE COMMISSION, RELATING TO PC&N (STRETCHER VANS), DESIGNATED AS REGULATION DOCUMENT NUMBER 4020, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

#### **S. 813--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

S. 817 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, OFFICE OF OCCUPATIONAL SAFETY AND HEALTH, RELATING TO OCCUPATIONAL SAFETY AND HEALTH ACT, DESIGNATED AS REGULATION DOCUMENT NUMBER 4019, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

#### **S. 817--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

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S. 818 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO MILK AND MILK PRODUCTS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4017, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 818--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

S. 819 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO STANDARDS FOR LICENSING NURSING HOMES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4013, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 819--Recorded Vote**

Senators BRYANT and BRIGHT desired to be recorded as voting against the third reading of the Bill.

S. 820 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO PUBLIC SWIMMING POOLS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4030, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 820--Recorded Vote**

Senators BRYANT and RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

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**SECOND READING BILLS**

The following Bills, having been read the second time, were ordered placed on the Third Reading Calendar:

S. 562 -- Senator McConnell: A BILL TO AMEND SECTION 56-5-750, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO THE FAILURE OF A DRIVER TO STOP A MOTOR VEHICLE WHEN SIGNALLED BY A LAW ENFORCEMENT VEHICLE, SO AS TO PROVIDE THAT A DRIVER MAY PROCEED TO A REASONABLY CLOSE AND SAFE LOCATION BEFORE STOPPING.

Senator L. MARTIN explained the Bill.

H. 4023 -- Reps. Daning, Jefferson, Merrill and Umphlett: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 57-23-815 SO AS TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION MAY MOW BEYOND THIRTY FEET FROM THE PAVEMENT ROADSIDE VEGETATION ADJACENT TO INTERSTATE HIGHWAY 26 AT EXIT 199 IN BERKELEY COUNTY.

**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

H. 3013 -- Reps. Limehouse, Parker and Toole: A BILL TO AMEND SECTION 16-11-650, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFENSE OF REMOVING OR DESTROYING FENCES, GATES, OR OTHER BARRIERS ENCLOSING ANIMALS, CROPS, OR UNCULTIVATED LANDS, SO AS TO REVISE THE ELEMENTS OF THE OFFENSE AND INCREASE PENALTIES FOR VIOLATIONS AND TO VEST JURISDICTION TO HEAR AND DISPOSE OF THIS OFFENSE IN MAGISTRATES COURT.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Committee on Judiciary proposed the following amendment (JUD3013.001), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

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/ SECTION 1. Section 16-11-650 of the 1976 Code is amended to read:

“Section 16-11-650. (A) Any A person, other than the owner or a person acting under the authority of the owner, who shall remove, destroy or leave wilfully and knowingly removes, destroys, or leaves down any portion of any a fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who shall leave wilfully and knowingly leaves open any or removes a gate or leave leaves down any bars or other structure intended for a like the same purpose shall be is guilty of a misdemeanor and shall must be punished by a fine of not less than five nor more than thirty one thousand dollars or be imprisoned in the county jail not less than five and not more than imprisonment for thirty days, or both.

(B) The magistrates court is vested with jurisdiction to hear and dispose of these cases.

(C) Nothing in this section shall affect an easement holder’s right and ability to maintain such easement and rights-of-way consistent with the provisions of the document granting such easement.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

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**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

H. 3087 -- Reps. Brady and M.A. Pitts: A BILL TO AMEND SECTION 23-3-535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIMITATIONS ON PLACES OF RESIDENCE FOR SEX OFFENDERS, SO AS TO PROVIDE THAT A LOCAL GOVERNMENT MAY NOT ENACT AN ORDINANCE THAT EXPANDS OR CONTRACTS THE BOUNDARIES OF THE AREAS IN WHICH A SEX OFFENDER MAY OR MAY NOT RESIDE THAT ARE CONTAINED IN THIS SECTION.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Committee on Judiciary proposed the following amendment (JUD3087.001), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 23-3-535(E) of the 1976 Code, as added by Act 333 of 2008, is amended to read:

“(E) A local government may not enact an ordinance that:

(1) contains penalties that exceed or are less lenient than the penalties contained in this section; or

(2) expands or contracts the boundaries of areas in which a sex offender may or may not reside as contained in subsection (B).”

SECTION 2. SECTION 2 of Act 333 of 2008 shall take effect upon approval of this act by the Governor. All other sections of Act 333 of 2008 shall take effect as provided in SECTION 4 of Act 333 of 2008.”

SECTION 3. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

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**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

H. 3761 -- Rep. Cooper: A BILL TO AMEND SECTION 44-53-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FORFEITURE PROCEDURES RELATED TO DRUG PROCEEDS, SO AS TO ALLOW THE USE OF FORFEITED MONIES AND PROCEEDS FROM THE SALE OF PROPERTY FOR TRAINING AND EDUCATION BY LAW ENFORCEMENT IN ADDITION TO OTHER USES PREVIOUSLY DELINEATED.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Committee on Judiciary proposed the following amendment (JUD3761.002), which was adopted:

Amend the bill, as and if amended, page 1, by striking lines 26-36 in their entirety and inserting:

/ SECTION 1. Section 44-53-530(g) of the 1976 Code is amended to read:

“(g) All forfeited monies and proceeds from the sale of forfeited property as defined in Section 44-53-520 must be retained by the governing body of the local law enforcement agency or prosecution agency and deposited in a separate, special account in the name of each appropriate agency. These accounts may be drawn on and used only by the law enforcement agency or prosecution agency for which the account was established. For law enforcement agencies, the accounts must be used for drug enforcement activities, or for drug or other law enforcement training or education. ~~and for~~ For prosecution agencies, the accounts must be used in matters relating to the prosecution of drug offenses and litigation of drug-related matters. /

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

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**COMMITTEE AMENDMENT ADOPTED  
READ THE SECOND TIME**

H. 3919 -- Reps. Mitchell, Alexander, Gunn, Dillard, Hamilton, Limehouse, J.R. Smith, King, Kirsh, Littlejohn, J.M. Neal, Herbkersman, Stavrinakis, Chalk, Cobb-Hunter, Anthony, Branham, Brantley, Parker, Allison, Gilliard, J.H. Neal, Whipper, Mack, Battle, Hosey, Allen, Weeks, Jennings, Loftis, Knight, Vick, Rutherford and Hutto: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2-1-250 SO AS TO ESTABLISH THE SOUTH CAROLINA HOUSING COMMISSION TO PROVIDE RECOMMENDATIONS TO ENSURE AND FOSTER THE AVAILABILITY OF SAFE, SOUND, AND AFFORDABLE HOUSING AND WORKFORCE HOUSING FOR EVERY SOUTH CAROLINIAN, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMISSION, AND FOR OTHER PROCEDURAL MATTERS.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Committee on Judiciary proposed the following amendment (JUD3919.002), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting language and inserting therein the following:

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

“Section 2-1-250. (A) The South Carolina Housing Commission (commission) is hereby established. The purpose of the commission is to provide recommendations to the Governor and the General Assembly on an annual basis to ensure and foster the availability of safe, sound, and affordable housing and workforce housing for every South Carolinian. The commission also may make recommendations relating to such other housing, real property, and community development issues as it considers desirable.

(B) The commission shall consist of fifteen members. Of these members, five must be members of the House of Representatives to be appointed by the Speaker of the House; five must be members of the Senate to be appointed by the President Pro Tempore of the Senate; and five must be nonlegislative members selected by the other legislative members. All members must be qualified electors of this State.

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Legislative members shall serve terms concurrent with their terms of office. Nonlegislative members shall serve for terms of four years each. Appointments to fill vacancies, other than by expiration of a term, must be for the unexpired terms. Legislative and nonlegislative members may be reappointed for successive terms. Vacancies must be filled in the same manner as the original appointments.

The commission shall elect a chairman and vice chairman every two years from among its membership, who must be members of the General Assembly.

(C) A majority of the members shall constitute a quorum. The meetings of the commission shall be held at the call of the chairman or whenever the majority of the members request.

No recommendation of the commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the commission vote against the recommendation.

(D) The commission shall have the following powers and duties:

(1) undertake analyses, gather information and data, and pursue such other activities as may be desirable to accomplish its purposes;

(2) report annually on its activities during the preceding year and include a discussion of analyses made and recommendations for administrative or legislative action; and

(3) review newly enacted federal legislation pertaining to mortgage lending and brokering and determine if the federal legislation necessitates amendments to the laws of this State.

(E) The chairman shall submit to the General Assembly and the Governor an annual summary of the activity and work of the commission together with its recommendations no later than the first day of each regular session of the General Assembly.

(F) Staff for the commission shall be provided from the standing committees of the House of Representatives and the Senate with jurisdiction over the subject matter being studied by the commission.

(G) Members of the commission shall serve without compensation, subsistence, per diem, or mileage.”

SECTION 2. This act takes effect July 1, 2009. /

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

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There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

**ADOPTED**

H. 4008 -- Reps. Funderburk, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G.A. Brown, H.B. Brown, R.L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D.C. Moss, Nanney, J.H. Neal, J.M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A.D. Young and T.R. Young: A CONCURRENT RESOLUTION TO DESIGNATE THE MONTH OF NOVEMBER 2009 AS "EPILEPSY AWARENESS MONTH" IN SOUTH CAROLINA AND TO ENCOURAGE COMMUNITY AWARENESS AND UNDERSTANDING OF EPILEPSY.

The Concurrent Resolution was adopted, ordered returned to the House.

**CARRIED OVER**

H. 3342 -- Reps. Delleney, Simrill, Nanney, Allison, Clemmons, Erickson, Hamilton, Lucas, Owens, Parker, Pinson, Scott, G.R. Smith, J.R. Smith, Loftis, Duncan, Hiott, Bedingfield, Rice and Vick: A BILL TO AMEND SECTION 2-7-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONSTRUCTION OF THE WORDS "PERSON" AND "PARTY" AS THOSE WORDS APPEAR IN THE LAWS OF THIS STATE, SO AS TO PROVIDE FURTHER FOR THE CONSTRUCTION OF "PERSON", "HUMAN BEING", "CHILD", AND "INDIVIDUAL", SO THAT THEY INCLUDE

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EVERY INFANT MEMBER OF SPECIES HOMO SAPIENS WHO IS BORN ALIVE AND TO DEFINE "BORN ALIVE".

Senator L. MARTIN explained the Bill.

On motion of Senator LEVENTIS, the Bill was carried over.

H. 3377 -- Reps. D.C. Moss, Vick, Simrill, Anthony, Bedingfield, H.B. Brown, Duncan, Gambrell, Gullick, Jennings and A.D. Young: A BILL TO AMEND SECTION 23-1-212, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ENFORCEMENT OF STATE CRIMINAL LAWS BY FEDERAL LAW ENFORCEMENT OFFICERS, SO AS TO PROVIDE THAT NATIONAL PARK SERVICE RANGERS ARE FEDERAL LAW ENFORCEMENT OFFICERS WHO ARE AUTHORIZED TO ENFORCE THE STATE'S CRIMINAL LAWS.

Senator L. MARTIN explained the Bill.

On motion of Senator MALLOY, the Bill was carried over.

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MOTION ADOPTED**

On motion of Senator McCONNELL, the Senate agreed to dispense with the Motion Period.

**RECESS**

At 12:52 P.M., on motion of Senator McCONNELL, the Senate recessed from business until 2:00 P.M.

**AFTERNOON SESSION**

The Senate reassembled at 2:19 P.M. and was called to order by the PRESIDENT.

**HAVING DISPENSED WITH THE MOTION PERIOD, THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

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**CONCURRENCE**

S. 345 -- Senator Leatherman: A BILL TO AMEND SECTION 8-11-65 OF THE 1976 CODE, RELATING TO LEAVES OF ABSENCE TO BE AN ORGAN DONOR, TO PROVIDE THAT THE NUMBER OF DAYS A PERSON MAY MISS EACH YEAR TO DONATE THEIR ORGANS SHALL BE COUNTED IN A CALENDAR YEAR INSTEAD OF A FISCAL YEAR; AND TO AMEND SECTION 8-11-120, RELATING TO THE POSTING OF JOB VACANCIES BEFORE THE VACANCY IS FILLED, TO REVISE AND SIMPLIFY THE REQUIREMENTS FOR THE NOTICE.

The House returned the Bill with amendments.

On motion of Senator LEATHERMAN, the Senate concurred in the House amendments and a message was sent to the House accordingly. Ordered that the title be changed to that of an Act and the Act enrolled for Ratification.

**AMENDMENT PROPOSED, CARRIED OVER**

S. 351 -- Senators Grooms, McConnell and Ford: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 54 OF THE 1976 CODE, RELATING TO THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA STATE PORTS AUTHORITY, TO CLARIFY THAT THE POWERS AND DUTIES OF THE AUTHORITY ARE EXERCISED BY A BOARD OF DIRECTORS, TO PROVIDE THAT CANDIDATES FOR APPOINTMENT MUST POSSESS CERTAIN QUALIFICATIONS, TO PROVIDE THAT CANDIDATES MUST BE SCREENED TO DETERMINE WHETHER THEY POSSESS THE REQUIRED QUALIFICATIONS BEFORE THEY MAY SERVE ON THE BOARD, TO PROVIDE THAT MEMBERS OF THE BOARD MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE, TO PROVIDE THAT THE BOARD MUST PERFORM AN ANNUAL PERFORMANCE REVIEW OF THE EXECUTIVE DIRECTOR, TO ESTABLISH THAT DIRECTORS HAVE A DUTY OF GOOD FAITH AND ORDINARY CARE WHEN DISCHARGING THEIR DUTIES AS A DIRECTOR, TO PROHIBIT CONFLICT OF INTEREST TRANSACTIONS, TO ESTABLISH A SOUTH CAROLINA STATE PORTS ADVISORY BOARD, AND SET THE MEMBERSHIP, DUTIES, AND RESPONSIBILITIES OF THE ADVISORY BOARD; TO AMEND CHAPTER 3, TITLE 54,

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BY ADDING ARTICLE 2, RELATING TO PORTS AUTHORITY MANAGEMENT, TO PROVIDE THAT THE BOARD OF DIRECTORS MUST HIRE AN EXECUTIVE DIRECTOR OF PORT OPERATIONS AND TO ESTABLISH THE DIRECTOR'S DUTY TO OPERATE THE PORTS IN A MANNER CONSISTENT WITH THE MISSION, POLICIES, AND DIRECTION OF THE BOARD; TO AMEND SECTION 54-3-140(5), TO PROVIDE THAT THE BOARD OF DIRECTORS MUST ADOPT AN ORGANIZATIONAL STRUCTURE FOR AUTHORITY OPERATIONS; TO AMEND SECTION 54-3-140, RELATING TO THE POWERS OF THE PORTS AUTHORITY, BY ADDING TWO NEW ITEMS THAT REQUIRE A LONG-RANGE PORT DEVELOPMENT AND CAPITAL FINANCING PLAN AND TO PROVIDE THAT THE AUTHORITY MUST CONSIDER PUBLIC-PRIVATE PARTNERSHIPS FOR CURRENT AND FUTURE OPERATIONS; TO AMEND SECTION 54-3-1040, RELATING TO THE ANNUAL FINANCIAL STATEMENT, AND TO PROVIDE THAT COPIES OF THE STATEMENT MUST BE FORWARDED TO THE ADVISORY COMMITTEE AND THE GENERAL ASSEMBLY; TO AMEND ARTICLE 11, CHAPTER 3, TITLE 54, RELATING TO FINANCIAL MATTERS, BY ADDING SECTION 54-3-1060, TO PROVIDE THAT THE AUTHORITY MUST MAINTAIN A TRANSACTION REGISTER OF ALL FUNDS EXPENDED OVER ONE HUNDRED DOLLARS AND MUST MAINTAIN ON ITS INTERNET WEBSITE A COPY OF EACH MONTHLY CREDIT CARD STATEMENT FOR ALL CREDIT CARDS MAINTAINED BY THE AUTHORITY; AND TO AMEND CHAPTER 3, TITLE 54, BY ADDING ARTICLE 13, RELATING TO LEGISLATIVE OVERSIGHT, TO REQUIRE REGULAR OVERSIGHT REVIEW OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR.

The Bill was returned from the House with amendments. The question then was concurrence in the House amendments.

On motion of Senator GROOMS, with unanimous consent, Amendment No. 3 was taken up for immediate consideration.

**Amendment No. 3**

Senators GROOMS and McCONNELL proposed the following Amendment No. 3 (351R041.LKG):

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Amend the bill as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. Article 1, Chapter 3, Title 54 of the 1976 Code is amended to read:

“Article 1

Creation and Organization

Section 54-3-10. ~~(A) The~~ There is created the South Carolina State Ports Authority, is hereby created consisting of a The governing body of the authority is a board of directors consisting of ~~nine~~ eleven members, hereafter referred to as the Authority nine voting members appointed by the Governor as provided in Section 54-3-20 and the Secretary of Transportation, or his designee, and the Secretary of Commerce, or his designee. The voting members shall be responsible for setting policies and direction for the authority so that the authority may achieve its mission. The powers and duties of the authority shall be exercised by the board. The board may delegate to one or more officers, agents, or employees such powers and duties as it determines are necessary and proper for the effective, efficient operation of the port.

(B) The Secretary of Transportation and the Secretary of Commerce:

(1) shall serve on the board, ex officio, as non-voting members;

(2) are ineligible for election as chairman, vice chairman, secretary, treasurer, or any other office elected by the board; and

(3) may only attend meetings or portions of meetings open to the public. They are not permitted to attend executive session meetings.

Section 54-3-20. (A) The members of the board, except for the Secretary of Transportation and the Secretary of Commerce, shall be appointed by the Governor, with the advice and consent of the Senate, for terms of ~~seven~~ five years each and until their successors shall have been appointed, screened, and have qualified. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.

(B) A candidate for appointment to the board may not be confirmed by the Senate or serve on the board, even in an interim capacity, until he is found qualified by possessing the abilities, the experience, and the minimum qualifications contained in Section 54-3-60.

Section 54-3-30. ~~They~~ The board shall elect one of their number its members to serve as chairman and who shall serve for a term of two years in this capacity and may not serve more than three consecutive

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full two-year terms as chairman. The board also shall elect one member to serve as vice chairman, and shall also elect a one member to serve as secretary. The board shall meet upon the call of its chairman and a majority of its voting members shall constitute a quorum for the transaction of its business.

Section 54-3-40. The ~~Authority~~ board shall select one of its members to serve as its treasurer. The ~~Authority~~ treasurer shall ~~require~~ give a surety bond ~~of such appointee in such an amount as the Authority may fix~~ fixed by the board and the premium ~~thereon~~ on the bond shall be paid by the authority as a necessary expense ~~of the Authority~~.

Section 54-3-50. Members of the board of directors may be removed by the Governor pursuant to Section 1-3-240(C)(1), a breach of duty required by Section 54-3-80, or entering into a conflict of interest transaction prohibited by Section 54-3-90.

Section 54-3-60. (A) Each member of the board, except for the Secretary of Transportation and the Secretary of Commerce, or their designees, must possess a four-year baccalaureate or more advanced degree from:

(1) a recognized institution of higher learning requiring face-to-face contact between its students and instructors prior to completion of the academic program;

(2) an institution of high learning that has been accredited by a regional or national accrediting body; or

(3) an institution of higher learning in this State chartered prior to 1962.

(B) In addition to the requirements in subsection (A), each board member must possess a background of at least five years in any one or any combination of the following fields of expertise:

(a) maritime shipping;

(b) labor related to maritime shipping;

(c) overland shipping by truck or rail, or both;

(d) international commerce;

(e) finance, economics, or statistics;

(f) accounting;

(g) engineering;

(h) law; or

(i) business management gained from serving as a chief executive officer, president, or managing director of a business or any upper level management position with a business that is equivalent in duties and responsibilities to the positions listed in this item.

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(C) When making appointments to the board, the Governor shall ensure that that the diverse interests represented by the port are represented. To the greatest extent possible, the Governor shall ensure that the membership of the board includes a certified public accountant, a member representing port users such as manufacturers, shippers, and importers, a member representing the state's economic development interests, and a member who has served as a corporate chief executive officer. Consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

Section 54-3-70. The board shall conduct an annual performance review of the executive director and submit a written report of its findings to the Governor and the General Assembly. A draft of the performance review must be submitted to the executive director, and the executive director must be provided an opportunity to be heard by the board of directors before the board submits the final draft to the Governor and the General Assembly.

Section 54-3-80. (A) A member of the board of directors shall discharge his duties as a director, including his duties as a member of a committee:

- (1) in good faith;
- (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) in a manner he reasonably believes to be in the best interests of the authority. As used in this chapter, best interests means a balancing of the following:
  - (a) achieving the purposes of the authority as provided in Section 54-3-130;
  - (b) preservation of the financial integrity of the State Ports Authority and its ongoing operations;
  - (c) economic development and job attraction and retention;
  - (d) consideration given to diminish or mitigate any negative effect port operations or expansion may have upon the environment, transportation infrastructure, and quality of life of residents in communities located near existing or proposed port facilities; and
  - (e) exercise of the powers of the authority in accordance with good business practices and the requirements of applicable licenses, laws, and regulations.

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(B) In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the State whom the director reasonably believes to be reliable and competent in the matters presented;

(2) legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or

(3) a committee of the board of directors of which he is not a member if the director reasonably believes the committee merits confidence.

(C) A director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) Nothing in this article gives rise to a cause of action against a member of the board of directors or any decision of the board of directors regarding duties of the individual director or the board of directors concerning port operations or development. Willful failure of the board or any individual member of the board to discharge his duties as required by this article may be considered by the Governor in determining whether to reappoint a board member or in the confirmation proceedings of that board member.

Section 54-3-90. (A) A conflict of interest transaction is a transaction with the State Ports Authority in which a director has a direct or indirect interest. A conflict of interest transaction is not voidable by the authority solely because of the director's interest in the transaction if any one of the following is true:

(1) the material facts of the transaction and the director's interest were disclosed or known to the board or a committee of the board, and the board or a committee of the board authorized, approved, or ratified the transaction; or

(2) the transaction was fair to the authority and its customers.

If item (1) has been accomplished, the burden of proving unfairness of any transaction covered by this section is on the party claiming unfairness. If item (1) has not been accomplished, the party seeking to uphold the transaction has the burden of proving fairness.

(B) For purposes of this section, a director has an indirect interest in a transaction if:

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(1) another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction;

(2) another entity of which he is a director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board; or

(3) another entity of which an immediate family member has a material financial interest or in which an immediate family member is a general partner, director, officer, member, or trustee is a party to the transaction and the transaction is or should be considered by the board.

(C) For purposes of subsection (A)(1), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (A)(1) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.”

Amend the bill further as and if amended, page 9, by striking line 29 and inserting:

/ ( ) Shall take all necessary steps it finds reasonable to /

Amend the bill further as and if amended, by striking SECTION 5 in its entirety and inserting:

/ SECTION 5. Section 54-3-1040 of the 1976 Code is amended to read:

“Section 54-3-1040. At least once ~~in~~ each year the authority shall ~~publish once in some newspaper published in Charleston County~~ furnish the Governor, the Chairman of the Senate Transportation Committee, and the House of Representatives Ways and Means Committee, and conspicuously post on the authority’s Internet website, a complete detailed statement of all ~~moneys~~ monies received and disbursed by the ~~Authority~~ authority during the preceding year. Such statement shall also show the several sources from which such funds were received and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the ~~Authority~~ authority.” /

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Amend the bill further as and if amended, by striking SECTION 7 in its entirety and inserting:

/ SECTION 7. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Article 13

The Review and Oversight Commission on the South Carolina State Ports Authority

Section 54-3-1300. (A) There is hereby established a commission to be known as the Review and Oversight Commission on the South Carolina State Ports Authority, hereinafter referred to as the commission, which must exercise the powers and fulfill the duties described in this article.

(B) The commission is composed of the following ten members.

(1) From the Senate:

- (a) the chairman of the Finance Committee or his designee;
- (b) the chairman of the Judiciary Committee or his designee;
- (c) the chairman of the Transportation Committee or his designee; and
- (d) two members appointed by the President Pro Tempore, one member upon the recommendation of the Senate Majority Leader and one member upon the recommendation of the Senate Minority Leader.

(2) From the House of Representatives:

- (a) the chairman of the Ways and Means Committee or his designee;
- (b) the chairman of the Judiciary Committee or his designee;
- (c) the chairman of the Labor, Commerce, and Industry Committee, or his designee;
- (c) two members of the House of Representatives appointed by the Speaker of the House of Representatives.

(C) In making appointments to the commission, race, gender, and other demographic factors, such as residence in rural or urban areas, must be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

(D) The commission must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to screen candidates for appointment to and at the call of the chairman or by a majority of the members. A quorum consists of six members.

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Section 54-3-1310. The commission has the following powers and duties:

(A) to screen each person appointed to serve on the board;

(1) in screening candidates and making its findings, the commission must give due consideration to:

(a) ability, area of expertise, dedication, compassion, common sense, and integrity of each candidate; and

(b) the impact that each candidate would have on the racial and gender composition of the commission, and each candidate's impact on other demographic factors represented on the commission, such as residence in rural or urban areas, to assure nondiscrimination to the greatest extent possible of all segments of the population of the State;

(3) to determine if each candidate is qualified and meets the requirements provided by law to serve as a member of the Board of Directors of the State Ports Authority, make findings concerning whether each candidate is qualified, and deliver its findings to the Clerk of the Senate, the Clerk of the House of Representatives, and the Senate Transportation Committee for confirmation;

(B) to conduct an oversight review of the authority and its operations at least once every two years.

(1) The oversight reviews must consider whether the authority is promoting, developing, constructing, equipping, maintaining, and operating the harbors and seaports of this State in an efficient, effective manner in accordance with all applicable laws and regulations. The oversight reviews must also include an analysis of the performance of the executive director. In performing this analysis the commission must consider the report required pursuant to 54-3-70 in addition to other information collected concerning the executive director's performance.

(a) A draft of a board member's and executive director's performance review and the evaluations of the actions of the board, must be submitted to the appropriate party, and that party must be allowed an opportunity to be heard before the commission conducting the oversight review by the performance review or evaluation, as the case may be, is final.

(b) The final performance review of a board member must be made a part of the member's record for consideration if the member seeks reappointment to the board.

(2) A written report of the findings from each oversight review must be published in the journals of both houses and made available on

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the General Assembly's Internet website and transmitted to the Governor and the board.

(C) to review and evaluate the complete list of the properties on Daniel and Thomas (St. Thomas) Islands transmitted to the commission pursuant to Section 54-3-119(D). The commission must recommend to the Budget and Control Board whether to approve the sale or sell, as appropriate, any or all of the all real property the authority owns on Daniel Island and Thomas (St. Thomas) Island pursuant to Section 54-3-119.

(D) undertake any additional reviews, studies, or evaluations as it considers necessary.

Section 54-3-1320. The commission by a two-thirds vote of its membership, may waive the requirements of Section 54-3-60(A) and (B) for a candidate for the board of directors for the State Ports Authority; and

Section 54-3-1330. State agencies must fully cooperate with requests from the commission for assistance in carrying out its responsibilities and duties as established in this article.

Section 54-3-1340. (A) The oversight report required by this article must at least contain:

(1) a performance review of each member of the board during the previous two years;

(2) a performance review of the State Ports Authority executive director; and

(3) an evaluation of the actions of the board, sufficient to allow the members of the General Assembly to better judge whether these actions serve the best interests of the citizens of South Carolina, both individual and corporate.

(B) To assist the commission in performing the performance reviews and evaluations required by this article, the commission may develop and distribute, as appropriate, an anonymous and confidential survey evaluating the board members and the executive director. At a minimum, the survey must include the following:

(1) knowledge and application of substantive port issues;

(2) the ability to perceive relevant issues;

(3) absence of influence by political considerations;

(4) absence of influence by identities of labor unions;

(5) courtesy to all persons appearing before the board;

(6) temperament and demeanor in general, preparation for hearings, and attentiveness during hearings; and

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(7) any other issue the commission deems appropriate.

Section 54-3-1350. In order to discharge their oversight responsibilities in regard to State Ports Authority operations and management, the commission may request and shall be provided within fifteen days after the request with any documents related to the sale or disposition or contemplated sale or disposition of any real property owned by the authority. The provisions of this section supercede any conflicting provisions contained in the Freedom of Information Act and these documents may be shared only with members of the commission, staff assigned to the commission, members of the General Assembly with whom the commission chooses to consult concerning the matter, or legal counsel employed by the Senate or the House of Representatives. These documents and the information contained in them must be kept confidential, and are not subject to public disclosure, or any other disclosure not permitted by the provisions of this section.

Section 54-3-1360. (A) Commission members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid by the State Ports Authority.

(B) The State Ports Authority must pay for all reasonable expenses associated with the commission's duties to screen appointees to the authority's board and conduct oversight as required by this article.

Section 54-3-1370. The commission must use clerical and professional employees of the General Assembly for its staff, who must be made available to the commission. The commission may employ or retain other professional staff, upon the determination of the necessity for other staff by the commission and as may be funded in the legislative appropriation of the annual general appropriations act. The State Ports Authority must pay for all reasonable staff related expenses associated with the commission's activities. /

Amend the bill further, as and if amended, by striking SECTION 17 in its entirety and inserting:

/ SECTION 17. Section 54-3-700 of the 1976 Code, as added by Act 313 of 2004, is amended to read:

“Section 54-3-700. (A) Upon the effective date of this section:

(1) the State Ports Authority has no statutory responsibility to operate a marine terminal at Port Royal; and

(2) marine operations at Port Royal shall cease as soon as practicable.

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(B) The State Ports Authority is hereby directed to sell all its real and personal property at Port Royal upon the effective date of this section, but in a manner that is financially responsible and advantageous to the State Ports Authority.

(C) The State Ports Authority ~~shall~~, in its discretion, shall determine the manner of the sale, but in no event shall terms of the sale extend beyond December 31, ~~2006~~ 2009, except for parcels ~~which may be~~ under long-term contract, in which case the South Carolina Ports Authority is directed to terminate ~~such~~ these leases as soon as possible through 'lease purchases', 'buy outs', or ~~any~~ other lawful means.

(D) Any real or personal property at Port Royal which is to be sold must be first appraised and then sold at fair market value. The real property appraiser must be a State Certified General Real Estate Appraiser, a member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising marine terminal facilities. The appraisal of the real property should include its future development opportunities and those of the surrounding properties. The State Ports Authority Board of Directors shall exercise its lawful discretion in the acceptance of any sales price with due regard to its fiduciary duties to the authority and for the protection of the interests of the authority's bondholders as for forth in its bond covenants, and otherwise according to law, including conversion of a nonperforming asset into revenue in the most expeditious manner. The sale of the real property shall comply with all state procedures, must be approved by the State Budget and Control Board, and must be on an open-bid basis, and no bid may be accepted which is less than the property's fair market value as shown by the appraisal. All proceeds from the sale of real and personal property at Port Royal must be retained by the State Ports Authority; ~~provided, however, except~~ that the Town of Port Royal ~~shall have the right to~~ may petition the State Budget and Control Board for a portion of the net proceeds from ~~any~~ a sale and may be allocated a portion of these net proceeds in an amount not to exceed five percent of the net proceeds upon showing the allocation is necessary to pay for infrastructure needs directly associated with and necessitated by the closing of the port as Port Royal. These funds must be expended at the direction of the Town Council of Port Royal with the approval of the State Budget and Control Board, solely for ~~the~~ infrastructure, and shall have priority over all other expenditures except usual and necessary closing costs attributable to ~~any a sales contracts~~ contract." /

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Amend the bill further as and if amended, by striking SECTION 15 and inserting:

/ SECTION 15. Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Section 13-1-1355. All tracks, spurs, switches, terminal, terminal facilities, road beds, rights-of-way, bridges, stations, railroad cars, locomotives, or other vehicles constructed for operation over railroad tracks, crossing signs, lights, signals, storage, and all associated structures and equipment which are necessary for the operation of any railroad located on any ‘applicable federal military installation’ or ‘applicable federal facility’ as defined in Section 12-6-3450 may not be transferred without the prior approval of the Budget and Control Board. The provisions of this section are remedial and shall be deemed to be retroactive. /

Amend the bill further as and if amended, by striking SECTION 18 and SECTION 19 in their entirety.

Amend the bill further as and if amended, by striking SECTION 20 and SECTION 21 in its entirety and inserting:

/ SECTION 19. Chapter 3, Title 54 of the 1976 Code is amended by adding:

“Section 54-3-119. (A) Except as provided in subsection (B), the State Ports Authority Board is directed to sell under those terms and conditions it considers most advantageous to the authority and the State of South Carolina all real property it owns on Daniel Island and Thomas (St. Thomas) Island except for the dredge disposal cells that are needed in connection with the construction of the North Charleston terminal on the Charleston Naval Complex and for harbor deepening and for channel and berth maintenance. The sale shall be timed and concluded on a schedule that prudently considers all market conditions affecting the sale but in any event must be under contract for sale by December 31, 2012 and the sale completed by December 31, 2013. The property must be transferred to the Budget and Control Board for sale if authority is unable to complete the sale by December 31, 2013. To assist in the sale of the property, the board shall have the property appraised by at least two independent qualified commercial appraisers not affiliated with the authority. The real property appraisers must be a State Certified General Real Estate Appraiser, a member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising marine terminal facilities. The appraisal of the real property should include its future development opportunities and those

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of the surrounding properties. The sale price must be equal to or greater than at least one of the independent appraisals. The approval of the State Budget and Control Board is required to effectuate the sale if completed on or before December 31, 2013.

(B) The board shall give the right of first refusal to those former landowners on Thomas (St. Thomas) Island who sold their land located within the transportation corridor to the authority in anticipation of the authority's exercise of eminent domain. The right of first refusal must provide that the landowner may repurchase his land at the same price for which the authority purchased it from him. Each contract for the sale of a parcel located in the transportation corridor on Thomas Island must contain a covenant creating an easement over the parcel. The easement must permit the authority, and any successor in interest to the authority, reasonable ingress and egress to the real property on Daniel Island owned by the authority as of the effective date of this section. The easement must contain express language that the easement runs with the land.

(C)(1) With regards to the sale of real property pursuant to subsection (A), the Budget and Control Board is vested with all of the board's fiduciary duties to the authority and the authority's bondholders if the property is transferred to the Budget and Control Board for sale. The acceptance of any sales price by either the board or the Budget and Control Board must be exercised with due regard to the fiduciary duty owed to the authority and for the protection of the interests of the authority's bondholders as set forth in its bond covenants, and otherwise according to law, including the conversion of a nonperforming asset into revenues in the most expeditious manner.

(2) The Budget and Control Board may deduct from the proceeds of the sale an amount equal to the actual costs incurred in conjunction with the sale of the property. The balance of the proceeds must be transmitted to the authority.

(D) The authority must provide the Review and Oversight Commission on the South Carolina State Ports Authority a complete list of the properties, described in metes and bounds, on Daniel and Thomas (St. Thomas) Islands that:

(1) constitute the dredge disposal cells commonly identified as the west cell, the middle cell, and the Wando cell. These three cells may not be sold by the authority because they are necessary in connection with the construction of North Charleston terminal on the Charleston Naval Complex and harbor deepening and for channel and

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berth maintenance. The authority must also identify the north cell, which must be retained long enough to excavate material contained in the cell to be used for construction of the North Charleston terminal on the Charleston Naval Complex; and

(2) located within the transportation corridor.”

SECTION 20. The General Assembly encourages discussions between interested parties and the Town of Port Royal concerning the building of a boat landing north of the Broad River in Beaufort County. Funds negotiated between the Town of Port Royal and the South Carolina State Ports Authority pursuant to Section 54-3-700 should be used to build the boat landing.

SECTION 21. The provisions of this act related to a time limitation for members of the Board of Directors serving in a holdover capacity do not apply to board members serving in a holdover capacity as of the effective date of this act but apply to any subsequent term.

SECTION 22. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 23. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 24. This act takes effect upon approval by the Governor.

/

Renumber sections to conform.

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Amend title to conform.

Senator GROOMS explained the amendment.

**Motion Adopted**

On motion of Senator SETZLER, with unanimous consent, Senators ALEXANDER, SHOOPMAN and SETZLER were granted leave to attend a meeting of a Committee of Conference on S. 12 and were granted leave to vote from the balcony.

Senator GROOMS resumed explaining the amendment.

Senator GROOMS moved to carry over the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 28; Nays 16**

**AYES**

Alexander	Bright	Bryant
Campbell	Campsen	Cleary
Courson	Cromer	Davis
Elliott	Fair	Grooms
Hayes	Knotts	Leatherman
<i>Martin, L.</i>	<i>Martin, S.</i>	Massey
McConnell	Mulvaney	O'Dell
Peeler	Reese	Rose
Ryberg	Shoopman	Thomas
Verdin		

**Total--28**

**NAYS**

Anderson	Coleman	Hutto
Jackson	Land	Leventis
Lourie	Malloy	Matthews
McGill	Nicholson	Pinckney
Scott	Setzler	Sheheen
Williams		

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**Total--16**

The Bill was carried over.

**THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.**

**CARRIED OVER**

H. 3301 -- Reps. Harrell, Cato, Sandifer, Sellers, Neilson, Erickson, Bannister, Bedingfield, Merrill, Mitchell, Anthony, Bingham, Huggins, Vick, Cooper, Chalk, J.R. Smith, Willis, Gilliard, Allison, Anderson, Bales, Battle, Bowers, Brady, G.A. Brown, H.B. Brown, Cole, Daning, Duncan, Edge, Forrester, Gambrell, Gullick, Hamilton, Hayes, Herbkersman, Hiott, Jefferson, Horne, Kirsh, Limehouse, Littlejohn, Long, Lowe, Lucas, Miller, Millwood, Nanney, Ott, Owens, Parker, Pinson, E.H. Pitts, M.A. Pitts, Scott, Simrill, Skelton, D.C. Smith, G.R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, White, Whitmire and Wylie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34-39-175 SO AS TO REQUIRE THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS TO IMPLEMENT A REAL-TIME INTERNET ACCESSIBLE DATABASE FOR DEFERRED PRESENTMENT PROVIDERS TO VERIFY IF DEFERRED PRESENTMENT TRANSACTIONS ARE OUTSTANDING FOR A PARTICULAR PERSON; BY ADDING SECTION 34-39-270 SO AS TO PROHIBIT A DEFERRED PRESENTMENT PROVIDER FROM ENTERING INTO A DEFERRED PRESENTMENT TRANSACTION WITH A PERSON WHO HAS AN OUTSTANDING DEFERRED PRESENTMENT TRANSACTION OR WHO HAS ENTERED INTO AN EXTENDED PAYMENT PLAN AGREEMENT AND TO REQUIRE A DEFERRED PRESENTMENT PROVIDER TO VERIFY WHETHER AN INDIVIDUAL IS ELIGIBLE TO ENTER INTO A DEFERRED PRESENTMENT TRANSACTION; BY ADDING SECTION 34-39-280 SO AS TO REQUIRE THOSE APPLYING FOR LICENSES TO ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT TO PROVIDE CERTAIN INFORMATION REGARDING EXTENDED PAYMENT PLANS; TO AMEND SECTION 34-39-130, RELATING TO LICENSURE REQUIREMENTS FOR DEFERRED PRESENTMENT

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PROVIDERS, SO AS TO PROHIBIT A PERSON FROM ENGAGING IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES WITH A RESIDENT OF SOUTH CAROLINA EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 39, TITLE 34; TO AMEND SECTION 34-39-180, RELATING TO DEFERRED PRESENTMENT RESTRICTIONS AND REQUIREMENTS, SO AS TO PROVIDE THAT THE TOTAL AMOUNT ADVANCED TO A CUSTOMER FOR DEFERRED PRESENTMENT OR DEPOSIT, EXCLUSIVE OF PERMISSIBLE FEES, MAY NOT EXCEED SIX HUNDRED DOLLARS.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Banking and Insurance.

Senator L. MARTIN, as Chairman of the Committee on Rules and under the provision of Rule 14, polled the Committee on Rules on a motion to carry over H. 3301.

**Poll of the Rules Committee  
Polled 17; Ayes 10; Nays 7; Not Voting 0**

**AYES**

<i>Martin, L.</i>	McConnell	Cromer
Leatherman	Elliott	Massey
Davis	<i>Martin, S.</i>	Rose
Shoopman		

**Total-- 10**

**NAYS**

Reese	Land	Hutto
Matthews	Knotts	Malloy
Nicholson		

**Total-- 7**

Senator L. MARTIN moved to carry over the bill.  
A roll call vote was ordered.

Senator LEVENTIS, with unanimous consent, was recognized to make brief remarks to the Senate.

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The question then was the motion to carry over the Bill.

**Parliamentary Inquiry**

Senators KNOTTS and LOURIE made a Parliamentary Inquiry as to whether a roll call vote on the motion to carry over the Bill was the next order of business.

The PRESIDENT stated that a roll call vote on the motion to carry over the Bill was the next order of business inasmuch as Senator LEVENTIS had completed his remarks.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 26; Nays 17**

**AYES**

Alexander	Bright	Bryant
Campbell	Campsen	Cleary
Courson	Cromer	Davis
Fair	Grooms	Hayes
Knotts	Leatherman	<i>Martin, L.</i>
<i>Martin, S.</i>	Massey	McConnell
Mulvaney	Peeler	Reese
Rose	Ryberg	Shoopman
Thomas	Verdin	

**Total--26**

**NAYS**

Anderson	Coleman	Elliott
Hutto	Jackson	Land
Leventis	Lourie	Malloy
Matthews	McGill	Nicholson
Pinckney	Scott	Setzler
Sheheen	Williams	

**Total--17**

The Bill was carried over.

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**THE SENATE PROCEEDED TO THE SPECIAL ORDERS.**

**AMENDED, CONSIDERATION INTERRUPTED  
REMAINS IN THE STATUS OF SPECIAL ORDER**

S. 424 -- Senators Bright, S. Martin, Alexander, Campbell, Fair, Knotts, Cromer, Mulvaney, Verdin, L. Martin, Shoopman, Rose, McConnell, Thomas, Cleary, Courson, Coleman, Davis, Reese, Campsen, Grooms, Ryberg, Peeler, O'Dell, Bryant and Massey: A CONCURRENT RESOLUTION TO AFFIRM SOUTH CAROLINA'S SOVEREIGNTY UNDER THE TENTH AMENDMENT TO THE UNITED STATES CONSTITUTION OVER ALL POWERS NOT ENUMERATED AND GRANTED TO THE FEDERAL GOVERNMENT BY THE UNITED STATES CONSTITUTION.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the Concurrent Resolution.

Senator BRIGHT asked unanimous consent to take up Amendment No. 6 for immediate consideration.

There was no objection.

**Amendment No. 6**

Senator BRIGHT proposed the following Amendment No. 6 (424R002.LB), which was adopted:

Amend the resolution, as and if amended, by striking it in its entirety and inserting:

/ /TO AFFIRM THE RIGHTS OF ALL STATES INCLUDING SOUTH CAROLINA BASED ON THE PROVISIONS OF THE NINTH AND TENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

Whereas, the South Carolina General Assembly declares that the people of this State have the sole and exclusive right of governing themselves as a free, sovereign, and independent State, and shall exercise and enjoy every power, jurisdiction, and right pertaining thereto, which is not expressly delegated by them to the United States of America in the congress assembled; and

Whereas, some states when ratifying the Constitution for the United States of America recommended as a change, "that it be explicitly declared that all powers not expressly and particularly delegated by the

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aforesaid are reserved to the several states to be by them exercised"; and

Whereas, these recommended changes were incorporated as the Ninth Amendment, where the enumeration of certain rights shall not be construed to deny or disparage others retained by the people, and as the Tenth Amendment, where the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people; and

Whereas, the several states of the United States of America, through the Constitution and the amendments thereto, constituted a general government for special purposes and delegated to that government certain definite powers, reserving each state to itself, the residuary right to their own self government. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the General Assembly of South Carolina, based on the above principles and provisions, hereby declares by this resolution, that any act by the Congress of the United States, Executive Order of the President of the United States, or Judicial Order by the federal courts which assumes a power not delegated to the government of the United States of America by the Constitution and which serves to diminish the liberty of any of the several states or their citizens shall abridge the Constitution. The General Assembly further declares that acts which would cause such an abridgment include, but are not limited to:

(1) establishing martial law or a state of emergency within one of the states comprising the United States of America without the consent of the legislature of that state;

(2) requiring involuntary servitude, or governmental service other than a draft during a declared war, or pursuant to, or as an alternative to, incarceration after due process of law;

(3) requiring involuntary servitude or governmental service of persons under the age of eighteen other than pursuant to, or as an alternative to, incarceration after due process of law;

(4) surrendering any power delegated or not delegated to any corporation or foreign government;

(5) any act regarding religion, further limitations on freedom of political speech, or further limitations on freedom of the press; and

(6) further infringements on the right to keep and bear arms including prohibitions of type or quantity of arms or ammunition.

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Be it further resolved that a copy of this resolution be forwarded to the United States Senate, the United States House of Representatives, and each member of the South Carolina Congressional Delegation./

Senator BRIGHT explained the amendment.

**PRESIDENT *PRO TEMPORE* PRESIDES**

At 3:57 P.M., the PRESIDENT assumed the Chair.

Senator BRIGHT explained the amendment.

Senator BRIGHT moved that the amendment be adopted.

Senator HUTTO argued contra to the adoption of the amendment.

Senator CAMPSSEN argued contra to the adoption of the amendment.

The amendment was adopted.

**Recorded Vote**

Senator SETZLER desired to be recorded as voting in favor of the adoption of the amendment.

**Amendment No. 3**

Senator HUTTO proposed the following amendment (TENTHAM3), which was tabled:

Amend the concurrent resolution, as and if amended, page 1, by striking line 34 and inserting:

/ Whereas, many federal mandates, such as those which created the United States Department of Education, Medicaid, and the United States Social Security Administration, are directly in violation of the /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

Senator L. MARTIN moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 35; Nays 6**

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**AYES**

Alexander	Anderson	Bryant
Campbell	Campsen	Cleary
Coleman	Courson	Cromer
Davis	Elliott	Fair
Hayes	Hutto	Jackson
Knotts	Leatherman	Lourie
Malloy	<i>Martin, L.</i>	<i>Martin, S.</i>
Massey	Matthews	McConnell
McGill	Nicholson	O'Dell
Peeler	Pinckney	Rose
Setzler	Sheheen	Shoopman
Thomas	Williams	

**Total--35**

**NAYS**

Bright	Land	Leventis
Mulvaney	Ryberg	Verdin

**Total--6**

The amendment was laid on the table.

**Amendment No. 5**

Senator KNOTTS proposed the following Amendment No. 5 (JUD0424.003), which was adopted:

Amend the concurrent resolution, as and if amended, by striking all after the title and inserting therein the following:

/ Whereas, the Tenth Amendment to the United States Constitution provides that “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”; and

Whereas, the Tenth Amendment defines the limited scope of federal power as being that specifically granted by the United States Constitution; and

Whereas, the limited scope of authority defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

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Whereas, currently the states are treated as agents of the federal government; and

Whereas, many federal mandates are directly in violation of the Tenth Amendment to the United States Constitution; and

Whereas, the United States Supreme Court has ruled that Congress may not simply commandeer the legislative and regulatory processes of the states, and

Whereas, pursuant to the Tenth Amendment, by limiting the scope of federal power to only those specifically enumerated in the United States Constitution, the states retain plenary power to govern, and

Whereas, included among all states' plenary power to govern is the broad authority of all state legislatures to appropriate funds for the operation of state agencies and to specify and direct the conditions under which appropriated funds shall be spent; and

Whereas, the General Assembly of the State of South Carolina has exercised its broad authority to appropriate and direct the expenditure of funds by appropriating and directing the expenditure of funds in the Fiscal Year 2009-2010 budget. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the General Assembly of the State of South Carolina, by this resolution, claims for the State of South Carolina sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

Be it further resolved that all federal governmental agencies, quasi-governmental agencies, and their agents and employees operating within the geographic boundaries of the State of South Carolina, and all federal governmental agencies and their agents and employees, whose actions have effect on the inhabitants or lands or waters of the State of South Carolina, shall operate within the confines of the original intent of the Constitution of the United States and abide by the provisions of the Constitution of South Carolina, the South Carolina statutes, or the common law as guaranteed by the Constitution of the United States.

Be it further resolved that this resolution serves as notice and demand to the federal government, as South Carolina's agent, to cease and desist immediately all mandates that are beyond the scope of the federal government's constitutionally delegated powers.

Be it further resolved that copies of this resolution be forwarded to the President of the United States, the Speaker of the United States

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House of Representatives, the President of the United States Senate, and each member of South Carolina's Congressional Delegation, all at Washington, D.C., and to the Speaker of the House of Representatives and the President of the Senate of the legislatures of the other forty-nine states. /

Renumber sections to conform.  
Amend title to conform.

Senator KNOTTS explained the amendment.

A roll call vote was ordered.

**Point of Order**

Senator MULVANEY raised a Point of Order that the amendment was divisible and each section should be voted on separately.

The PRESIDENT *Pro Tempore* overruled the Point of Order and stated that the Point of Order came too late inasmuch as a roll call vote had been ordered.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 28; Nays 17**

**AYES**

Alexander	Anderson	Campbell
Coleman	Cromer	Elliott
Ford	Hayes	Hutto
Jackson	Knotts	Land
Leatherman	Leventis	Lourie
Malloy	<i>Martin, L.</i>	Matthews
McConnell	McGill	Nicholson
O'Dell	Peeler	Pinckney
Scott	Setzler	Sheheen
Williams		

**Total--28**

**NAYS**

Bright	Bryant	Campsen
Cleary	Courson	Davis

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Fair	Grooms	<i>Martin, S.</i>
Massey	Mulvaney	Reese
Rose	Ryberg	Shoopman
Thomas	Verdin	

**Total--17**

The amendment was adopted.

**Amendment No. 9**

Senator MALLOY proposed the following Amendment No. 9 (424R005.GM), which was adopted:

Amend the concurrent resolution, as and if amended, page 1, after line 35, by adding:

/ Whereas, the State recognizes that as an independent sovereign, that the State along with the other states of the union took part in an extensive collective bargaining process through the adoption of the Constitution and the various amendments thereto, and like any other party to any other agreement, the State is bound to uphold the terms and conditions of that agreement. Through this agreement, the States have collectively created the federal government, limiting the scope of its power and authority, as well as ensuring that certain fundamental rights are guaranteed. Also, through this process the states have collectively agreed to limit their own governmental authority by providing that the rights and protections afforded to the people as citizens of the United States are also extended to each person as a citizen of an individual state. Pursuant to that agreement, this State is bound to uphold the principals and protections afforded by all of the constitutional amendments, one of the most notable being the protections afforded by the Fourteenth Amendment which guarantees the privileges and immunities of the United States, due process of law, and equal protection under the law; /

Re-number sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

The amendment was adopted.

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**Recorded Vote**

Senator VERDIN desired to be recorded as voting against the adoption of Amendment No. 9.

**Amendment No. 10**

Senator LEVENTIS proposed the following Amendment No. 10 (424R007.PPL), which was not adopted:

Amend the concurrent resolution as and if amended, page 2, by striking line 25 - 31

Re-number sections to conform.

Amend title to conform.

Senator LEVENTIS explained the amendment.

Senator LEVENTIS moved that the amendment be adopted.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 11; Nays 31**

**AYES**

Anderson	Coleman	Ford
Hutto	Land	Leventis
Malloy	Matthews	Pinckney
Scott	Sheheen	

**Total--11**

**NAYS**

Alexander	Bright	Bryant
Campbell	Campsen	Cleary
Courson	Cromer	Elliott
Fair	Grooms	Hayes
Knotts	Leatherman	<i>Martin, L.</i>
<i>Martin, S.</i>	Massey	McConnell
McGill	Mulvaney	Nicholson
O'Dell	Peeler	Reese
Rose	Ryberg	Setzler
Shoopman	Thomas	Verdin
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**Total--31**

Adoption of the amendment fails.

The question then was the adoption of the Concurrent Resolution.

Senator HUTTO spoke on the Concurrent Resolution.

**Motion Under Rule 15A Failed**

At 4:52 P.M., Senator L. MARTIN moved under the provisions of Rule 15A to vote on the entire matter of S. 424.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 22; Nays 22**

**AYES**

Alexander	Bright	Bryant
Campbell	Campsen	Cleary
Courson	Cromer	Davis
Fair	Grooms	Hayes
<i>Martin, L.</i>	<i>Martin, S.</i>	Massey
Mulvaney	Peeler	Rose
Ryberg	Shoopman	Thomas
Verdin		

**Total--22**

**NAYS**

Anderson	Coleman	Elliott
Ford	Hutto	Jackson
Knotts	Land	Leventis
Lourie	Malloy	Matthews
McConnell	McGill	Nicholson
O'Dell	Pinckney	Reese
Scott	Setzler	Sheheen
Williams		

**Total--22**

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Having failed to receive the necessary vote, the motion under Rule 15A failed.

Senator HUTTO resumed speaking on the Concurrent Resolution.

**ACTING PRESIDENT PRESIDES**

At 5:34 P.M., Senator L. MARTIN assumed the Chair.

Senator HUTTO resumed speaking on the Concurrent Resolution.

**ACTING PRESIDENT PRESIDES**

At 5:34 P.M., Senator L. MARTIN assumed the Chair.

Senator HUTTO resumed speaking on the Concurrent Resolution.

**PRESIDENT PRESIDES**

At 5:47 P.M., the PRESIDENT assumed the Chair.

Senator HUTTO resumed speaking on the Concurrent Resolution.

Senator HUTTO moved that the Senate stand adjourned.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 22; Nays 21**

**AYES**

Anderson	Elliott	Ford
Hutto	Jackson	Knotts
Land	Leatherman	Leventis
Lourie	Malloy	Matthews
McGill	Nicholson	O'Dell
Pinckney	Rankin	Reese
Scott	Setzler	Sheheen
Williams		

**Total--22**

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**NAYS**

Alexander	Bright	Bryant
Campbell	Campsen	Cleary
Courson	Cromer	Davis
Fair	Grooms	Hayes
<i>Martin, L.</i>	<i>Martin, S.</i>	Massey
Mulvaney	Peeler	Rose
Shoopman	Thomas	Verdin

**Total--21**

**Motion Adopted**

On behalf of the President *Pro Tempore*, Senator L. MARTIN moved that when the Senate adjourns today, it stand adjourned to meet tomorrow at 10:30 A.M.

**Expression of Personal Interest**

Senator BRIGHT rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator KNOTTS rose for an Expression of Personal Interest.

Consideration was interrupted by adjournment. The Concurrent Resolution remained in the status of Special Order.

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Initial Appointment, Oconee County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

Michael Todd Simmons, P.O. Box 130, Long Creek, SC 29658 *VICE*  
Becky Gerrard

**ADJOURNMENT**

At 5:56 P.M., on motion of Senator HUTTO, the Senate adjourned to meet tomorrow at 10:30 A.M.

\* \* \*

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