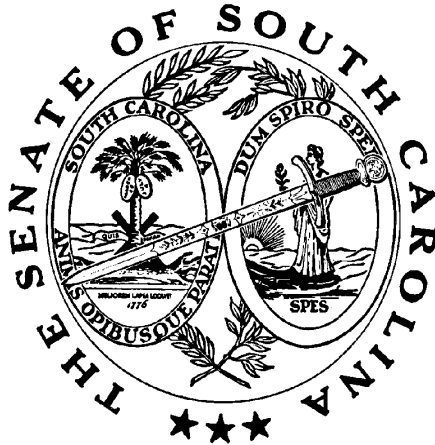


NO. 69

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009

TUESDAY, OCTOBER 27, 2009

Tuesday, October 27, 2009
(Statewide Session)

~~Indicates Matter Stricken~~
Indicates New Matter

Under the provisions of S. 834, the *Sine Die* Resolution, 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:

The Psalmist plaintively declares:

“Search me, O God, and know my heart; test me and know my anxious thoughts. See if there is any offensive way in me, and lead me in the way everlasting.” (Psalm 139:23-24)

Let us pray:

Holy God, we turn to You as those who—like the Psalmist—find ourselves tested and challenged again and again. So we call upon You here in this Chamber, dear Lord, to grant each of these Senators the wisdom and courage to determine those things that will best benefit the good people of South Carolina. Enable each of these leaders and their staff members to honor You through their decisions. And equally bless and encourage all other officials who happen to serve in this State and in this Nation, as well as our women and men in the Armed Forces. Together may these servants always follow Your way in everything they say and do. In Your loving name we pray, 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:

Local Appointments

Reappointment, Charleston Naval Facilities Redevelopment Authority, with the term to commence April 24, 2009, and to expire April 24, 2013

Berkeley County:

Ronald H. Anderson, 100 Speightstown Court, Goose Creek, SC 29445

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Initial Appointment, Charleston Naval Facilities Redevelopment Authority, with the term to commence April 24, 2009, and to expire April 24, 2013

Charleston County:

David Alan Coker, 1023 Bethany Street, North Charleston, SC 29405 *VICE* Louis C. Mintz

Initial Appointment, Chester County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Yale Zamore, 201 Town and Country Lane, Apt. 1, Chester, SC 29706 *VICE* William Ralph Garris

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

Robert Shawn McCord, 537 Sunset Dr., Manning, SC 29102

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

Earnest Michael Patrick O'Brien, 102 Cherokee Dr., Greenville, SC 29615 *VICE* Daniel Marsceau

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Nancy Collins Atkins, 180 Magnolia Street, Room 105, Spartanburg, SC 29306

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

James E. Talley, 482 South Irwin Ave., Spartanburg, SC 29306

Initial Appointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

James H. West, 147 Shady Lane Drive, Wellford, SC 29385 *VICE* David C. Snow

Initial Appointment, Union County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Arthur Taylor Sprouse, Jr., 4513 Buffalo-West Springs Highway, Pauline, SC 29374 *VICE* William E. Goodwin

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

Randy Brice Foxworth, 97 Crestwood Dr., Andrews, SC 29510
VICE Bruster O. Harvin

Leave of Absence

At 3:00 P.M., Senator RANKIN requested a leave of absence for Wednesday, October 28, 2009.

Expression of Personal Interest

Senator S. MARTIN rose for an Expression of Personal Interest.

Expression of Personal Interest

Senator BRIGHT rose for an Expression of Personal Interest.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 893 -- Senator Sheheen: A BILL TO AMEND SECTION 41-35-330 OF THE 1976 CODE, RELATING TO CERTAIN DEFINITIONS ASSOCIATED WITH EXTENDED UNEMPLOYMENT BENEFITS, TO PROVIDE AN ADDITIONAL "STATE 'ON' INDICATOR"; TO AMEND SECTION 41-35-380, RELATING TO THE DEFINITION OF THE ELIGIBILITY PERIOD FOR UNEMPLOYMENT BENEFITS, SO AS TO ADD TO THE DEFINITION OF THIS ELIGIBILITY PERIOD; AND TO AMEND SECTION 41-35-440, RELATING TO THE TOTAL EXTENDED BENEFIT AMOUNT OF UNEMPLOYMENT BENEFITS PAYABLE TO AN INDIVIDUAL WITHIN A BENEFIT YEAR, SO AS TO PROVIDE FOR A FORMULA FOR DETERMINING THE TOTAL EXTENDED BENEFIT AMOUNT PAYABLE TO AN INDIVIDUAL WITH RESPECT TO THE APPLICABLE BENEFIT YEAR FOR WEEKS BEGINNING IN A HIGH-UNEMPLOYMENT PERIOD.

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

S. 894 -- Senator Alexander: A SENATE RESOLUTION TO CONGRATULATE COLLEGE STREET BAPTIST CHURCH OF WALHALLA AND ITS CONGREGATION ON THE

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OBSERVANCE AND CELEBRATION OF ITS CENTENNIAL ANNIVERSARY.

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The Senate Resolution was adopted.

S. 895 -- Senator Lourie: A SENATE RESOLUTION EXPRESSING THE CONGRATULATIONS OF THE MEMBERS OF THE SOUTH CAROLINA SENATE TO MAYOR RICHARD W. THOMAS, JR., COUNCIL MEMBERS, BOB BISHOP, RUSTY ONLEY, AND MICHAEL N. SMITH, TOWN CLERK CHRISTINE MURPHY, OTHER STAFF, AND ALL THE RESIDENTS OF THE TOWN OF ARCADIA LAKES IN RICHLAND COUNTY ON THE OCCASION OF THE FIFTIETH ANNIVERSARY OF ITS INCORPORATION FOLLOWING A FAVORABLE VOTE IN AN INCORPORATION REFERENDUM HELD ON OCTOBER 30, 1959.

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The Senate Resolution was adopted.

REPORT OF STANDING COMMITTEE

Senator L. MARTIN from the Committee on Judiciary submitted a favorable with amendment report on:

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

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THAT UNLESS ADJOURNED EARLIER, THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE NO LATER THAN NOON ON TUESDAY, JANUARY 12, 2010.

S. 856--Committee Amendment Adopted

Resolution Adopted, Ordered Sent to the House as Amended

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.

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

The Judiciary Committee proposed the following amendment (856R001.GFM), which was adopted:

Amend the Concurrent resolution as and if amended, by striking all after the resolving words and inserting:

/ (A) Pursuant to the provisions of Article III, Section 9 of the Constitution of this State and Section 2-1-180 of the 1976 Code, the sine die adjournment date for the General Assembly for the 2009 Session is recognized and extended to permit the General Assembly to

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continue in session after Thursday, May 21, 2009, under the terms and conditions stipulated in this resolution and for this purpose each house agrees that when the Senate and the House of Representatives adjourn on Thursday, May 21, 2009, not later than 5:00 p.m., each house shall stand adjourned to meet in statewide session at a date and time mutually agreed upon by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. However, the Senate and the House shall remain in session past May 21, 2009, to complete any unfinished business concerning any general appropriations bill or any supplemental appropriations bill or any veto to any appropriations bill and, upon completion, each body shall adjourn pursuant to the provisions of this resolution. When the Senate and the House reconvene at a time between, the later of May 21, 2009, or the completion of any general appropriations bill or any supplemental appropriations bill, and no later than June 30, 2009, each house may remain in session for no longer than three statewide legislative days to adjourn not later than 5:00 p.m. on the third legislative day, except as provided by this resolution, for the following matters and subject to the following conditions, as applicable:

- (1) receipt and consideration of gubernatorial vetoes;
- (2) receipt, consideration, and confirmation of appointments;
- (3) election of members to state boards and commissions, or other office elected by the General Assembly, at a joint session on a date and time mutually agreed upon by the President Pro Tempore of the Senate and the Speaker of the House of Representatives;
- (4) receipt and consideration of resolutions affecting the sine die adjournment date;
- (5) receipt and consideration of local legislation which has the unanimous consent of the affected delegation;
- (6) receipt and consideration of resolutions expressing sympathy or congratulations;
- (7) receipt, consideration, and actions upon any general appropriations bill and any supplemental appropriations bill;
- (8) receipt and consideration of conference and free conference reports;
- (9) receipt and consideration of any matter related to the certification, application, receipt, or expenditure of federal funds available pursuant to HR-1, the American Recovery and Reinvestment Act of 2009; and
- (10) receipt, consideration, and actions upon H. 3722.

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(B) After each house stands adjourned pursuant to subsection (A) not later than 5:00 p.m. on the third legislative day, each house shall stand adjourned to meet in statewide session at a date and time mutually agreed upon by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, only for the following matters and subject to the following conditions, as applicable:

(1) receipt and consideration of any matter necessary to address any shortfall in revenue meeting the conditions of Section 11-9-890;

(2) receipt and consideration of any matter related to the certification, application, receipt, or expenditure of federal funds available pursuant to HR-1, the American Recovery and Reinvestment Act of 2009 or receipt and consideration of any matter related to the maintenance of state effort required by the American Recovery and Reinvestment Act of 2009;

(3) receipt and consideration of gubernatorial vetoes;

(4) receipt, consideration, and confirmation of appointments;

(5) election of members to state boards and commissions, or other office elected by the General Assembly, at a joint session on a date and time mutually agreed upon by the President Pro Tempore of the Senate and the Speaker of the House of Representatives;

(6) receipt and consideration of any matter necessary to address economic development opportunities;

(7) receipt and consideration of conference and free conference reports related to H. 3722; and

(8) receipt and consideration of resolutions affecting the sine die adjournment date.

(C) The President Pro Tempore of the Senate and the Speaker of the House of Representatives may set a mutually agreed upon time after May 21, 2009, and prior to sine die adjournment for officers of the Senate and House to ratify acts.

(D) Unless adjourned earlier, the General Assembly shall stand adjourned sine die no later than noon on Tuesday, January 12, 2010./

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the committee amendment.

The committee amendment was adopted.

The question then was the adoption of the Concurrent Resolution, as amended:

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

Ayes 44; Nays 0

AYES

Alexander	Anderson	Bright
Bryant	Campbell	Campsen
Cleary	Coleman	Courson
Cromer	Davis	Elliott
Fair	Ford	Grooms
Hayes	Hutto	Jackson
Knotts	Land	Leatherman
Leventis	Lourie	Malloy
<i>Martin, L.</i>	<i>Martin, S.</i>	Massey
Matthews	McConnell	McGill
Mulvaney	Nicholson	Peeler
Pinckney	Rankin	Reese
Rose	Scott	Setzler
Sheheen	Shoopman	Thomas
Verdin	Williams	

Total--44

NAYS

Total--0

There being no further amendments, the Concurrent Resolution was adopted, as amended, ordered sent to the House with amendments.

RECESS

At 12:32 P.M., on motion of Senator McCONNELL, the Senate recessed from business until 2:00 P.M.

AFTERNOON SESSION

The Senate reassembled at 2:57 P.M. and was called to order by the PRESIDENT.

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MOTION ADOPTED

On motion of Senator McCONNELL, with unanimous consent, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet at 2:00 P.M. on Wednesday, October 28, 2009.

RECESS

At 3:01 P.M., on motion of Senator LEATHERMAN, the Senate recessed from business.

At 3:17 P.M., the Senate resumed.

REPORT OF STANDING COMMITTEE

Senator LEATHERMAN from the Committee on Finance submitted a favorable with amendment report on:

H. 3130 -- Rep. Harvin: A BILL TO AMEND SECTION 12-37-3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINING WHEN A PARCEL OF REAL PROPERTY MUST BE APPRAISED AS A RESULT OF AN ASSESSABLE TRANSFER OF INTEREST, SO AS TO PROVIDE THAT A CONVEYANCE TO A TRUST DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE SETTLOR OR SETTLOR'S SPOUSE CONVEYS THE PROPERTY TO A TRUST THE BENEFICIARIES OF WHICH ARE A CHILD OR CHILDREN OF THE SETTLOR OR THE SETTLOR'S SPOUSE AND TO PROVIDE THAT A CONVEYANCE BY DISTRIBUTION UNDER A WILL OR BY INTESTATE SUCCESSION DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE DISTRIBUTE IS A CHILD OR CHILDREN OF A DECEDENT AND THE DECEDENT DID NOT HAVE A SPOUSE AT THE DECEDENT'S DATE OF DEATH.

H. 3130--Committee Amendment Adopted

Read the Second Time

H. 3130 -- Rep. Harvin: A BILL TO AMEND SECTION 12-37-3150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINING WHEN A PARCEL OF REAL PROPERTY MUST BE APPRAISED AS A RESULT OF AN ASSESSABLE TRANSFER OF INTEREST, SO AS TO PROVIDE THAT A CONVEYANCE TO A TRUST DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE SETTLOR OR SETTLOR'S

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SPOUSE CONVEYS THE PROPERTY TO A TRUST THE BENEFICIARIES OF WHICH ARE A CHILD OR CHILDREN OF THE SETTLOR OR THE SETTLOR'S SPOUSE AND TO PROVIDE THAT A CONVEYANCE BY DISTRIBUTION UNDER A WILL OR BY INTESTATE SUCCESSION DOES NOT CONSTITUTE AN ASSESSABLE TRANSFER OF INTEREST IN THE REAL PROPERTY IF THE DISTRIBUTE IS A CHILD OR CHILDREN OF A DECEDENT AND THE DECEDENT DID NOT HAVE A SPOUSE AT THE DECEDENT'S DATE OF DEATH.

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

The Committee on Finance proposed the following amendment (3130FIN001), which was adopted:

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

/ A BILL

TO PROVIDE FOR MAJOR ECONOMIC DEVELOPMENT IN THIS STATE BY AMENDING SECTION 12-6-2320 OF THE 1976 CODE, RELATING TO THE ALLOCATION AND APPORTIONMENT OF A TAXPAYER'S INCOME, TO PROVIDE THAT THE DEPARTMENT OF REVENUE MAY ENTER INTO AN AGREEMENT WITH A TAXPAYER IF THE TAXPAYER IS PLANNING A NEW FACILITY IN THIS STATE AND INVESTS AT LEAST SEVEN HUNDRED FIFTY MILLION DOLLARS IN REAL OR PERSONAL PROPERTY OR BOTH IN A SINGLE COUNTY IN THIS STATE AND CREATES AT LEAST THREE THOUSAND EIGHT HUNDRED FULL-TIME NEW JOBS; TO AMEND SECTION 12-36-2120, RELATING TO SALES TAX EXEMPTIONS, TO EXEMPT FUEL SOLD TO CERTAIN MANUFACTURERS FOR CERTAIN PURPOSES, TO EXEMPT COMPUTER EQUIPMENT USED IN CONJUNCTION WITH A MANUFACTURING FACILITY WHERE THE TAXPAYER INVESTS AT LEAST SEVEN HUNDRED FIFTY MILLION DOLLARS AND CREATES AT LEAST THREE THOUSAND EIGHT HUNDRED FULL-TIME NEW JOBS IN THIS STATE OVER A SEVEN-YEAR PERIOD, AND TO EXEMPT CONSTRUCTION MATERIALS WHERE THE TAXPAYER INVESTS AT LEAST SEVEN HUNDRED FIFTY MILLION DOLLARS AND CREATES AT LEAST THREE THOUSAND

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EIGHT HUNDRED FULL-TIME NEW JOBS IN THIS STATE OVER A SEVEN-YEAR PERIOD; TO AMEND CHAPTER 41, TITLE 11 OF THE 1976 CODE, RELATING TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, TO REVISE THE FINDINGS OF THE ACT, TO AUTHORIZE THE ISSUANCE OF ADDITIONAL ECONOMIC DEVELOPMENT BONDS, AND TO PRESCRIBE THE LIMITATIONS APPLICABLE TO THE ISSUANCE OF THESE ECONOMIC DEVELOPMENT BONDS.

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

SECTION 1. A. Section 12-6-2320(B) of the 1976 Code is amended to read:

“(B)(1)For the purposes of this chapter, the department may enter into an agreement with the taxpayer establishing the allocation and apportionment of the taxpayer’s income for a period not to exceed five years, if the following conditions are met:

(a) the taxpayer is planning a new facility in this State or an expansion of an existing facility;

(b) the taxpayer asks the department to enter into a contract under this subsection reciting an allocation and apportionment method; and

(c) after reviewing the taxpayer’s proposal and planned new facility or expansion, the Advisory Coordinating Council for Economic Development certifies that the new facility or expansion will have a significant beneficial economic effect on the region for which it is planned and that its benefits to the public exceed its costs to the public. It is within the Advisory Coordinating Council for Economic Development’s sole discretion to determine whether a new facility or expansion has a significant economic effect on the region for which it is planned.

(2) For the purposes of this subsection the word ‘taxpayer’ includes any one or more of the members of a controlled group of corporations authorized to file a consolidated return under Section 12-6-5020. Also, the word ‘taxpayer’ includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.

(3) Notwithstanding the provisions of item (1), the department may enter into an agreement with the taxpayer establishing the allocation and apportionment of the taxpayer’s income for a period not to exceed ten years if the following conditions are met:

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(a)(i) the taxpayer is planning a new facility in this State or an expansion of an existing facility and the new or expanded facility results in a total investment of at least ten million dollars and the creation of at least two hundred new full-time jobs, with an average cash compensation level for the new jobs of more than three times the per capita income of this State at the time the jobs are filled which must be within five years of the Advisory Coordinating Council for Economic Development's certification. Per capita income for the State shall be determined by using the most recent data available from the Board of Economic Advisors; or

(ii) the taxpayer is planning a new facility in this State and invests at least seven hundred fifty million dollars in real or personal property or both in a single county in this State and creates at least three thousand eight hundred full-time new jobs, as those terms are defined in Section 12-6-3360(M), within the county. The taxpayer has seven years from the date it makes the notification provided for in subitem (b) of this item to make the required investment and create the required number of jobs; and

(b) the taxpayer asks the department to enter into a contract under this subsection reciting an allocation and apportionment method; and

(c) after reviewing the taxpayer's proposal and planned new facility or expansion, the Advisory Coordinating Council for Economic Development certifies that the new facility or expansion will have a significant beneficial economic effect on the region for which it is planned and that its benefits to the public exceed its costs to the public. It is within the Advisory Coordinating Council for Economic Development's sole discretion to determine whether a new facility or expansion has a significant economic effect on the region for which it is planned.

(4) The taxpayer may begin operating under the agreement beginning with the tax year in which the agreement is executed. If the taxpayer fails to meet the requirements of subitem (3)(a)(ii), the department may assess any tax due as a result of the taxpayer's failure to meet the requirements of subitem (3)(a)(ii). For any subsequent year that the taxpayer fails to maintain three thousand eight hundred full-time new jobs, then the department may assess any tax due for that year."

B. This SECTION is effective on November 1, 2009, and item (3)(a)(ii) only applies to a taxpayer enters into an agreement prior to October 31, 2015.

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SECTION 2. A. Section 12-36-2120(9) of the 1976 Code is amended to read:

“(9) coal, or coke or other fuel sold to manufacturers, electric power companies, and transportation companies for:

(a) use or consumption in the production of by-products;

(b) the generation of heat or power used in manufacturing tangible personal property for sale. For purposes of this item, ‘manufacturer’ or ‘manufacturing’ includes the activities of a processor;

(c) the generation of electric power or energy for use in manufacturing tangible personal property for sale; ~~or~~

(d) the generation of motive power for transportation. For the purposes of this exemption, ‘manufacturer’ or ‘manufacturing’ includes the activities of mining and quarrying;

(e) the generation of motive power for test flights of aircraft by the manufacturer of the aircraft where:

(i) the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at a single manufacturing facility over a seven-year period; and

(ii) the taxpayer creates at least three thousand eight hundred full-time new jobs at the single manufacturing facility during that seven-year period; or

(f) the transportation of aircraft prior to its completion from one facility of the manufacturer of the aircraft to another facility of the manufacturer of the aircraft, not including the transportation of major component parts for construction or assembly, or the transportation of personnel. This exemption only applies when:

(i) the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at a single manufacturing facility over a seven-year period; and

(ii) the taxpayer creates at least three thousand eight hundred full-time new jobs at the single manufacturing facility during that seven-year period.

To qualify for the exemptions provided for in subitems (e) and (f), the taxpayer shall notify the department before the first month it uses the exemption and shall make the required investment and create the required number of full-time new jobs over the seven-year period beginning on the date provided by the taxpayer to the department in its notices. The taxpayer shall notify the department in writing that it has met the seven hundred fifty million dollar investment requirement and has created the three thousand eight hundred full-time new jobs or,

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after the expiration of the seven-year period, that it has not met the seven hundred fifty million dollar investment requirement and created the three thousand eight hundred full-time new jobs. The department may assess any tax due on fuel purchased tax free pursuant to subitems (e) and (f) but due the State as a result of the taxpayer's failure to meet the seven hundred fifty million dollar investment requirement and create the three thousand eight hundred full-time new jobs. The running of the periods of limitations for assessment of taxes provided in Section 12-54-85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the seven hundred fifty million dollar investment requirement and created the three thousand eight hundred full-time new jobs.

As used in subitems (e) and (f), 'taxpayer' includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code."

B. The exemptions in subitems (e) and (f) are effective November 1, 2009, and only apply to a taxpayer that notifies the department prior to October 31, 2015, of its intent to utilize the exemption provided by this section.

SECTION 3. A. Section 12-36-2120(65) of the 1976 Code is amended to read:

“(65)(a) computer equipment, as defined in subitem ~~(b)~~ (c) of this item, used in connection with a technology intensive facility as defined in Section 12-6-3360(M)(14)(b), where:

(i) the taxpayer invests at least three hundred million dollars in real or personal property or both comprising or located at the facility over a five-year period;

(ii) the taxpayer creates at least one hundred new full-time jobs at the facility during that five-year period, and the average cash compensation of at least one hundred of the new full-time jobs is one hundred fifty percent of the per capita income of the state according to the most recently published data available at the time the facility's construction starts; and

(iii) at least sixty percent of the three hundred million dollars minimum investment consists of computer equipment;

(b) computer equipment, as defined in subitem (c) of this item, used in connection with a manufacturing facility, where:

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(i) the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at the facility over a seven-year period; and

(ii) the taxpayer creates at least three thousand eight hundred full-time new jobs at the facility during that seven-year period.

As used in this subitem, 'taxpayer' includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.

~~(b)~~(c) For the purposes of this item, 'computer equipment' means original or replacement servers, routers, switches, power units, network devices, hard drives, processors, memory modules, motherboards, racks, other computer hardware and components, cabling, cooling apparatus, and related or ancillary equipment, machinery, and components, the primary purpose of which is to store, retrieve, aggregate, search, organize, process, analyze, or transfer data or any combination of these, or to support related computer engineering or computer science research.

~~(e)~~(d) ~~This exemption applies~~ These exemptions apply from the start of the investment in or construction of the technology intensive facility or the manufacturing facility as defined in subitem (a). The taxpayer shall notify the Department of Revenue of its use of the exemption provided in this item on or before the first sales tax return filed with the department after the first such use. Upon receipt of the notification, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes under this item. Within six months after the fifth anniversary of the taxpayer's first use of this exemption, the taxpayer shall notify the department in writing that it has or has not met the investment and job requirements of this item by the end of that five-year period. Once the department certifies that the taxpayer has met the investment and job requirements, all subsequent purchases of or investments in computer equipment, including to replace originally deployed computer equipment or to implement future expansions, likewise shall qualify for the exemption described above, regardless of when the taxpayer makes the investments.

~~(d)~~(e) The department may assess any tax due on property purchased tax free pursuant to this item but due the State if the taxpayer subsequently fails timely to meet the investment and job requirements of this item after being granted the exemption; for purposes of determining whether the taxpayer has timely satisfied the investment requirement, replacement computer equipment counts toward the

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investment requirement to the extent that the value of the replacement computer equipment exceeds the cost of the computer equipment so replaced, but, provided the taxpayer otherwise qualifies for the exemption, the full value of the replacement computer equipment is exempt from sales and use tax. The running of the periods of limitation within which the department may assess taxes provided pursuant to Section 12-54-85 is suspended during the time period beginning with the taxpayer's first use of this exemption and ending with the later of the fifth anniversary of first use or notice to the department that the taxpayer either has met or has not met the investment and job requirements of this item;"

B. The exemption provided for in subitem (b) is effective on November 1, 2009, and only applies to a taxpayer that notifies the department prior to October 31, 2015, of its intent to utilize the exemption provided by this section.

SECTION 4. A. Section 12-36-2120(67) of the 1976 Code is amended to read:

"(67) effective July 1, 2011, construction materials used in the construction of a new or expanded single manufacturing or distribution facility, or one that serves both purposes, with a capital investment of at least one hundred million dollars in real and personal property at a single site in the State over an eighteen-month period, or effective November 1, 2009, construction materials used in the construction of a new or expanded single manufacturing facility where:

(i) the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at the facility over a seven-year period; and

(ii) the taxpayer creates at least three thousand eight hundred full-time new jobs at the facility during that seven-year period. The taxpayer must provide notice of the exemption, and the Department of Revenue may assess taxes owing in the manner provided in Section 12-36-2120(51).

To qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall make the required investment over the applicable time period beginning on the date provided by the taxpayer to the department in its notices. The taxpayer shall notify the department in writing that it has met the investment requirement or, after the expiration of the applicable time period, that it has not met the investment requirement. The department may assess any tax due on construction materials purchased tax free pursuant to this subitem but due the State as a result of the taxpayer's

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failure to meet the investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12-54-85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the investment requirement.

As used in this subitem, ‘taxpayer’ includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.”

B. The additional exemption provided by this SECTION is effective November 1, 2009, and only applies to a taxpayer that notifies the department prior to October 31, 2015, of its intent to utilize the exemption provided by this SECTION.

SECTION 5. A. The General Assembly hereby finds, as a fact, that the construction of infrastructure, as defined in, and subject to the terms and conditions of, the State General Obligation Economic Development Bond Act, for use by private parties enhances the recruitment of businesses to the State, facilitates the operation and growth of businesses in the State, and thereby provides significant and substantial direct and indirect benefits to the State and its residents, including employment and other opportunities; that such benefits outweigh the costs of such infrastructure; that for such reasons it is in the best interest of the State to authorize the issuance of economic development bonds as defined in, and subject to the terms and conditions of, the State General Obligation Economic Development Bond Act; and that such economic development bonds, issued for such purpose, serve a public purpose in fostering economic development and increasing employment in the State. The General Assembly further finds, as a fact, that the primary beneficiaries of the issuance of such economic development bonds and the construction of such infrastructure are the State of South Carolina and its residents.

B. Section 11-41-20 of the 1976 Code is amended to read:

“Section 11-41-20. As incident to this chapter, the General Assembly finds:

(1) That by Section 4, Act 10 of 1985, the General Assembly ratified an amendment to Article X, Section 13(6)(c), Constitution of this State, 1895. One amendment in Article X, Section 13(6)(c) limits the issuance of general obligation debt of the State such that maximum annual debt service on all general obligation bonds of the State, excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, must not exceed five percent of the

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general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(2) That Article X, Section 13(6)(c), as amended, further provides that the percentage rate of general revenues of the State by which general obligation bond debt service is limited may be reduced to four or increased to seven percent by legislative enactment passed by a two-thirds vote of the total membership of the Senate and a two-thirds vote of the total membership of the House of Representatives.

(3) In order to foster economic development and to encourage the creation of high-paying jobs in the life sciences industry within the State, it is in the best interests of the State that the limitation on general obligation debt imposed by That pursuant to Article X, Section 13(6)(c), the General Assembly, in Act 254 of 2002 and Act 187 of 2004, be increased to five and one-half percent the percentage rate of the general revenues of the State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to provide infrastructure required for significant economic development projects within the State, including those related to the life sciences industry that create high-paying jobs and meet certain investment criteria.

(4) That pursuant to Article X, Section 13(6)(c), the General Assembly, in Act 187 of 2004, increased to six percent the percentage rate of the general revenues of the State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to advance economic development and to facilitate and increase research within the State at the research universities.

(5) That Article X, Section 13(5) of the Constitution of this State, 1895, provides that if general obligation debt be authorized by two-thirds of the members of each House of the General Assembly, then there shall be no conditions or restrictions limiting the incurring of such indebtedness except those restrictions and limitations imposed in the authorization to incur such indebtedness, and the provisions of Article X, Section 13(3) of the Constitution of this State.

(6) That Article X, Section 13(5) provides additional constitutional authority for bonds authorized by this chapter.

(7) In order to continue fostering economic development within the State as set out in subsections (3) and (4) of this section, it is in the best

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interests of the State that the General Assembly authorize an additional amount of general obligation debt pursuant to Article X, Section 13(5) of the Constitution of this State, with such indebtedness limited to a principal amount of general obligation debt not exceeding one hundred seventy million dollars at any time, provided that no more than a total of one hundred seventy million dollars of proceeds may be used for any one project regardless of available capacity.”

C. Sections 11-41-50 and 11-41-60 of the 1976 Code are amended to read:

“Section 11-41-50. (A) Pursuant to Article X, Section 13(6)(c) of the Constitution of this State, 1895, the General Assembly provides that economic development bonds may be issued ~~under~~ pursuant to this chapter only subsection at such times as the maximum annual debt service on all general obligation bonds of the State, including economic development bonds outstanding and being issued, but excluding research university infrastructure bonds pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, will not exceed five and one-half percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. The State at any time may not issue general obligation bonds, excluding economic development bonds issued pursuant to this chapter, research university infrastructure bonds issued pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, if at the time of issuance the maximum annual debt service on all such general obligation bonds, outstanding and being issued exceeds five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(B) ~~With respect to the first eight hundred fifty million dollars in principal amount of general obligation~~ In addition to and exclusive of the economic development bonds provided for and issued after the effective date of this chapter within the debt service constraints set forth in pursuant to subsection (A) of this section, the General Assembly provides additional constitutional authorization for such bonds that pursuant to Article X, Section 13(5) of the Constitution of this State, 1895. This authorization is the same authorization contained in, and is not duplicative of, the authorization set forth in Section 11-51-50(e). (i) additional economic development bonds may be issued under this chapter in an aggregate principal amount that does not

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exceed one hundred seventy million dollars, and (ii) in addition to the authorization contained in the preceding clause, additional economic development bonds may be issued provided that the aggregate principal amount of economic development bonds then outstanding under clauses (i) and (ii), together with the economic development bonds to be issued pursuant to this clause (ii), does not at any time exceed the principal amount specified in clause (i). From the proceeds of the economic development bonds authorized pursuant to this subsection, no more than a total of one hundred seventy million dollars of proceeds may be used for any one project regardless of available capacity.”

Section 11-41-60. The maximum annual debt service on bonds issued pursuant to subsection (A) of Section 11-41-50 of this chapter must not exceed one-half of one percent of the general revenues of this State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. Bonds issued pursuant to subsection (B) of Section 11-41-50 of this chapter shall not be subject to the limitation on maximum annual debt service prescribed by Article X, Section 13(6)(c) of the Constitution of this State, 1895.”

D. Section 11-41-90 of the 1976 Code is amended to read:

“Section 11-41-90. To effect the issuance of bonds, the State Budget and Control Board shall adopt a resolution providing for the issuance of bonds pursuant to the provisions of this chapter. The authorizing resolution must include:

(1) a statement of whether the bonds are being authorized and issued pursuant to Section 11-41-50(A) or Section 11-41-50(B);

(2) a schedule showing the aggregate of bonds issued, the annual principal payments required to retire the bonds, and the interest on the bonds;

~~(2)~~(3) the amount of bonds proposed to be issued;

~~(3)~~(4) a schedule showing future annual principal requirements and estimated annual interest requirements on the bonds to be issued; and

~~(4)~~(5) certificates evidencing that the provisions of Sections 11-41-50 and 11-41-60 of this chapter have been or will be met.”

SECTION 6. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of major economic development opportunities in this State as clearly enumerated in the title.

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The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 7. If any section, subsection, item, subitem, 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, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 8. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator LEATHERMAN explained the committee amendment.

The committee amendment was adopted.

The question then was the second reading of the Bill.

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

Ayes 44; Nays 0

AYES

Alexander	Anderson	Bright
Bryant	Campbell	Campsen
Cleary	Coleman	Courson
Cromer	Davis	Elliott
Fair	Grooms	Hayes
Hutto	Jackson	Knotts
Land	Leatherman	Leventis
Lourie	Malloy	<i>Martin, L.</i>
<i>Martin, S.</i>	Massey	Matthews
McConnell	McGill	Mulvaney

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Nicholson	O'Dell	Peeler
Pinckney	Rankin	Reese
Rose	Scott	Setzler
Sheheen	Shoopman	Thomas
Verdin	Williams	

Total--44

NAYS

Total--0

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

LOCAL APPOINTMENTS

Confirmations

Having received a favorable report from the Senate, the following appointments were confirmed in open session:

Initial Appointment, Union County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Arthur Taylor Sprouse, Jr., 4513 Buffalo-West Springs Highway, Pauline, SC 29374 *VICE* William E. Goodwin

Initial Appointment, Chester County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Yale Zamore, 201 Town and Country Lane, Apt. 1, Chester, SC 29706 *VICE* William Ralph Garris

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Nancy Collins Atkins, 180 Magnolia Street, Room 105, Spartanburg, SC 29306

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

James E. Talley, 482 South Irwin Ave., Spartanburg, SC 29306

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

Robert Shawn McCord, 537 Sunset Dr., Manning, SC 29102

Initial Appointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

James H. West, 147 Shady Lane Drive, Wellford, SC 29385 *VICE*
David C. Snow

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

Earnest Michael Patrick O'Brien, 102 Cherokee Dr., Greenville, SC 29615 *VICE* Daniel Marsceau

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

Randy Brice Foxworth, 97 Crestwood Dr., Andrews, SC 29510
VICE Bruster O. Harvin

Reappointment, Charleston Naval Facilities Redevelopment Authority, with the term to commence April 24, 2009, and to expire April 24, 2013

Berkeley County:

Ronald H. Anderson, 100 Speightstown Court, Goose Creek, SC 29445

Initial Appointment, Charleston Naval Facilities Redevelopment Authority, with the term to commence April 24, 2009, and to expire April 24, 2013

Charleston County:

David Alan Coker, 1023 Bethany Street, North Charleston, SC 29405 *VICE* Louis C. Mintz

MOTION ADOPTED

On motion of Senator L. MARTIN with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Jessie Mauldin Holder of Pickens, S.C., widow of Mr. Dwight A. Holder. Mrs. Holder passed away Tuesday, October 20, 2009.

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ADJOURNMENT

At 3:30 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 2:00 P.M.

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