**Wednesday, February 17, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 2:00 P.M., 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 Lord proclaims:

“ ‘For where your treasure is, there your heart will be also.’ ”

(Matthew 6:21)

On this day of repentance, O God, this Ash Wednesday, most all of us cannot help but reflect upon how we often have allowed the wrong sorts of priorities to dominate our lives. By Your grace, dear Lord, forgive us, and grant us each the courage to let go of those things that just don’t matter. Help all of us to hold fast to every treasure in life that is dear. Bless each of these Senators, O God. May they always serve You and South Carolina wisely and well. In Your precious name we pray, Lord.

Amen.

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

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

S. 277 Sen. Davis

S. 450 Sen. Hayes

S. 642 Sen. Ford

S. 670 Sen. Ford

S. 957 Sen. Ford

S. 1096 Sens. Thomas, Ford, Elliott, Rose

S. 1097 Sen. Land

S. 1118 Sen. Shoopman

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1180 -- Senator Setzler: A SENATE RESOLUTION TO RECOGNIZE AND HONOR SALUDA RIVER ACADEMY FOR THE ARTS, AND TO CONGRATULATE THEM UPON THE OCCASION OF BEING NAMED A RECIPIENT OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS NATIONAL SCHOOLS OF DISTINCTION IN ARTS EDUCATION AWARD FOR THE 2008-2009 SCHOOL YEAR.

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The Senate Resolution was adopted.

S. 1181 -- Senators Cromer, Setzler, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, 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, Scott, Sheheen, Shoopman, Thomas, Verdin and Williams: A SENATE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA SENATE UPON THE PASSING OF NATHANIEL ROSS PHILLIPS OF LEXINGTON ON FEBRUARY 3, 2010, AND TO EXTEND OUR DEEPEST SYMPATHY TO HIS FAMILY, CAREGIVERS, AND MANY FRIENDS AND ADMIRERS.

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The Senate Resolution was adopted.

S. 1182 -- Senator McConnell: A BILL TO AMEND ACT 99 OF 2007, RELATING TO THE SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES, BY REPEALING SECTIONS 1B AND 1C, WHICH STATE THAT THE SALES TAX RATE ON DURABLE MEDICAL EQUIPMENT IS FIVE AND ONE-HALF PERCENT SUBJECT TO FURTHER REDUCTION BASED ON GENERAL FUND REVENUE GROWTH.

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

S. 1183 -- Senators Malloy, McConnell, Ford and Pinckney: A BILL TO AMEND SECTION 20-3-130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AWARD OF ALIMONY AND OTHER ALLOWANCES IN DIVORCE CASES, SO AS TO PERMIT A COURT TO AWARD ALIMONY TO A PARTY WHO COMMITS ADULTERY IF THE ADULTERY OCCURS AFTER ONE YEAR FROM THE DATE OF FILING OR AN ACTION FOR DIVORCE OR SEPARATE MAINTENANCE AND SUPPORT, IF THE COURT FINDS THE ADULTERY DID NOT MATERIALLY AFFECT THE ECONOMIC CIRCUMSTANCES OF THE PARTIES OR DID NOT MATERIALLY CONTRIBUTE TO THE BREAK UP OF THE MARRIAGE; TO REQUIRE THAT ALL PAYMENTS MADE BY THE PAYOR MUST BE MADE THROUGH THE CLERK OF COURT UNLESS THE PAYOR SPOUSE DEMONSTRATES THAT HE WILL NOT DEFAULT ON THE OBLIGATION OR PROVIDES ADEQUATE SECURITY FOR THE PAYMENT OF THE SUPPORT; AND TO REQUIRE THAT IF THE PAYOR SPOUSE IS EVER TEN DAYS OR MORE LATE IN PAYING HIS OBLIGATION, THEN, UPON THE FILING OF AN AFFIDAVIT BY THE PAYEE SPOUSE, ALL FUTURE PAYMENTS, ALONG WITH A SERVICE FEE, MUST BE MADE THROUGH THE CLERK OF COURT; AND TO REQUIRE THAT WHEN CONSIDERING FACTORS FOR AWARDING ALIMONY OR SEPARATE MAINTENANCE AND SUPPORT, THE COURT MUST GIVE ADDITIONAL WEIGHT TO THE AWARD AND THE AMOUNT OF ALIMONY OR SEPARATE MAINTENANCE AND SUPPORT IF THE SPOUSE SEEKING ALIMONY OR SUPPORT HAD NOT ENGAGED IN ADULTERY AND THE OTHER SPOUSE HAS ENGAGED IN ADULTERY PRIOR TO THE FORMAL SIGNING OF A WRITTEN PROPERTY OR MARITAL SETTLEMENT AGREEMENT; AND TO AMEND SECTION 63-5-10, RELATING TO THE PROVISION OF CHILD SUPPORT, SO AS TO REQUIRE THAT ALL PAYMENTS MADE BY THE PAYOR MUST BE MADE THROUGH THE CLERK OF COURT UNLESS THE PAYOR DEMONSTRATES THAT HE WILL NOT DEFAULT ON THE OBLIGATION OR PROVIDES ADEQUATE SECURITY FOR THE PAYMENT OF THE SUPPORT, AND TO REQUIRE THAT IF THE PAYOR IS EVER TEN DAYS OR MORE LATE IN PAYING HIS OBLIGATION, THEN, UPON THE FILING OF AN AFFIDAVIT BY THE PERSON RECEIVING THE SUPPORT FOR THE CHILD, ALL FUTURE PAYMENTS, ALONG WITH A SERVICE FEE, MUST BE MADE THROUGH THE CLERK OF COURT.

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Senator MALLOY spoke on the Bill.

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

S. 1184 -- Senators Malloy, McConnell, Ford and Pinckney: A BILL TO AMEND SECTION 63-7-430 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAKING OF FALSE REPORTS OF ABUSE AND NEGLECT, SO AS TO PROVIDE THAT ON A SECOND OR SUBSEQUENT FALSE REPORT MADE WITH BAD FAITH, IF A CIVIL LAWSUIT IS FILED, THE COURT MAY AWARD APPROPRIATE RELIEF AS PERMITTED BY STATE LAW AND THE SOUTH CAROLINA RULES OF COURT; AND TO AMEND CHAPTER 7 OF TITLE 63 OF THE 1976 CODE, SO AS TO ADD SECTION 63-7-435, TO PROVIDE THAT IF THE DEPARTMENT DETERMINES THAT AN ALLEGATION OF ABUSE AND NEGLECT IS UNFOUNDED, THE PERSON WRONGFULLY ALLEGED TO HAVE PERPETRATED THE ABUSE OR NEGLECT MAY PETITION THE COURT TO RELEASE THE IDENTITY OF THE MAKER OF THE WRONGFUL COMPLAINT, TO PROVIDE THAT NO PETITION MAY BE FILED AGAINST ANYONE WHO IS REQUIRED TO REPORT ABUSE AND NEGLECT PURSUANT TO SECTION 63-7-310, AND TO PROVIDE THAT THE COURT SHALL ORDER THE RELEASE OF THE NAME OF THE MAKER OF THE WRONGFUL ALLEGATION, IF THE REPORT WAS MADE MALICIOUSLY OR IN BAD FAITH.

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Senator MALLOY spoke on the Bill.

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

S. 1185 -- Senators Malloy, Ford, Pinckney and McConnell: A BILL TO AMEND TITLE 20, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 8 ENTITLED THE "SOUTH CAROLINA FAMILY LAW MEDIATION ACT", SO AS TO MANDATE MEDIATION IN ALL DOMESTIC RELATIONS ACTIONS IN FAMILY COURT; TO PROVIDE FOR DEFINITIONS OF MEDIATION AND MEDIATOR; TO PROVIDE FOR AUTOMATIC EXCEPTIONS WHERE MEDIATION IS NOT REQUIRED; TO INCLUDE CONTEMPT ACTIONS, CHILD ABUSE AND NEGLECT PROCEEDINGS, DEPARTMENT OF SOCIAL SERVICES ADULT PROTECTIVE SERVICES CASES, CASES WHERE THERE HAS BEEN A FINDING OF ABUSE OR NEGLECT, JUVENILE PROCEEDINGS, UNCONTESTED ISSUES, ACTIONS WHERE PARTIES AGREE TO VOLUNTARY MEDIATION, AND THE ENTRY OF DIVORCE OR SEPARATE MAINTENANCE DECREES; TO PROVIDE CIRCUMSTANCES WHERE MEDIATION MAY BE WAIVED BY THE FAMILY COURT; TO INCLUDE GEOGRAPHIC CONSIDERATIONS, INCAPACITY OF ONE OR MORE PARTIES, INCOMPETENCE OF ONE OR MORE PARTIES, CASES WHERE INVOLVING ABUSE OR NEGLECT OCCURRING MORE THAN ONE YEAR FROM THE HEARING, CASES INVOLVING SUBSTANCE ABUSE BY ONE OR MORE PARTIES; TO PROVIDE THAT MEDIATION MUST OCCUR BETWEEN NINETY AND ONE HUNDRED AND EIGHTY DAYS AFTER THE FILING OF THE ACTION; AND TO PROVIDE THAT NO FINAL HEARING IN A DOMESTIC RELATIONS ACTION SHALL BE SCHEDULED UNTIL MEDIATION IS COMPLETED IN THE MATTER, UNLESS IT IS EXEMPTED OR EXCEPTED FROM MEDIATION.

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Senator MALLOY spoke on the Bill.

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

S. 1186 -- Senators Bright, Bryant and Mulvaney: A BILL TO AMEND SECTION 2-19-70, RELATING TO JUDICIAL NOMINATIONS OF MEMBERS OF THE GENERAL ASSEMBLY, TO PROVIDE THAT A MEMBER OF THE GENERAL ASSEMBLY MAY NOT BE ELECTED TO JUDICIAL OFFICE FOR A PERIOD OF TWENTY YEARS AFTER HE CEASES TO BE A MEMBER OR FAILS TO FILE FOR ELECTION TO THE GENERAL ASSEMBLY.

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

S. 1187 -- Senator Leatherman: A BILL TO AMEND SECTION 28-11-30 OF THE 1976 CODE, RELATING TO REIMBURSEMENT OF PROPERTY OWNERS FOR CERTAIN EXPENSES RELATED TO THE TAKING OF LAND FOR PUBLIC USE, TO PROVIDE THAT REESTABLISHMENT EXPENSES, PAYABLE PURSUANT TO FEDERAL GUIDELINES AND REGULATIONS TO MOVE A SMALL BUSINESS, FARM, OR NONPROFIT ORGANIZATION, MAY BE PAID IN AN AMOUNT UP TO FIFTY THOUSAND DOLLARS, NOTWITHSTANDING A LOWER LIMITATION IMPOSED BY FEDERAL REGULATIONS.

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

S. 1188 -- Senators Malloy, McConnell, Ford and Pinckney: A BILL TO AMEND TITLE 20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CHILDREN'S CODE, BY ADDING CHAPTER 6 ENTITLED THE "SOUTH CAROLINA FAMILY COURT HEARING OFFICER ACT", SO AS TO PROVIDE FOR VOLUNTEER FAMILY COURT HEARING OFFICERS APPOINTED BY THE CHIEF JUSTICE OF THE SOUTH CAROLINA SUPREME COURT AND WHO ARE PROTECTED PURSUANT TO THE SOUTH CAROLINA TORT CLAIMS ACT; TO PROVIDE THAT HEARING OFFICERS MUST BE MEMBERS OF THE SOUTH CAROLINA BAR IN GOOD STANDING WITH A MINIMUM OF TEN YEARS OF FAMILY COURT EXPERIENCE; TO PROVIDE THAT RETIRED JUDGES, EXCEPT SUMMARY COURT JUDGES, MAY BE APPOINTED AS HEARING OFFICERS ABSENT TEN YEARS OF EXPERIENCE IN FAMILY COURT MATTERS, TO REQUIRE HEARING OFFICERS TO RECEIVE AT LEAST SIX HOURS OF FAMILY LAW CONTINUING LEGAL EDUCATION EVERY YEAR; TO PROVIDE THAT HEARING OFFICERS MAY BE ASSIGNED TO ALL UNCONTESTED DOMESTIC RELATIONS MATTERS, THAT THEY MAY MAKE FINDINGS AND RECOMMENDATIONS FOR THE FAMILY COURT JUDGE ON UNIFORM INTERSTATE FAMILY SUPPORT ACT ACTIONS, THAT THEY MAY BE ASSIGNED MOTION HEARINGS FOR TEMPORARY RELIEF IN DOMESTIC RELATIONS MATTERS, WITH THE CONSENT OF THE PARTIES, AND MAY MAKE RECOMMENDATIONS OF FINDINGS OF FACT AND CONCLUSIONS OF LAW TO THE FAMILY COURT JUDGES, THAT THE CHIEF JUSTICE MUST ISSUE DIRECTIVES CONCERNING OTHER TYPES OF CASES THAT MAY BE ASSIGNED ONLY TO RETIRED JUDGE HEARING OFFICERS, TO PROVIDE A LIST OF TYPES OF CASES THAT MAY BE ASSIGNED, THAT THE CLERK OF COURT SHALL MAINTAIN A FAMILY COURT HEARING OFFICER DOCKET, THAT HEARING OFFICERS SHALL HAVE THE SAME AUTHORITY AS A FAMILY COURT JUDGE TO ADMINISTER OATHS, PRESERVE AND ENFORCE ORDER IN THE COURT, HOLD PERSONS IN CONTEMPT AND SANCTION THEM, EXAMINE WITNESSES, ISSUE BENCH WARRANTS, ISSUE ORDERS AND RULINGS ON MOTIONS, ACT AS A FINDER OF FACT AND LAW, TAKE MINORS AND VULNERABLE ADULTS INTO EMERGENCY PROTECTIVE CUSTODY, TO ISSUE TEMPORARY ORDERS RELATING TO EQUITABLE DIVISION OF MARITAL PROPERTY, CHILD SUPPORT, CUSTODY, VISITATION, ATTORNEY'S FEES, DISCOVERY, AND RESTRAINING ORDERS, AND TO APPOINT GUARDIANS AD LITEM AS APPROPRIATE; TO PROVIDE THAT MATTERS DIRECTLY APPEALABLE TO THE SUPREME COURT ARE NOT SUBJECT TO REFERRAL TO A HEARING OFFICER, TO PROVIDE THAT PROCEEDINGS SHALL BE HELD IN THE COUNTY OF APPROPRIATE VENUE UNLESS THE PARTIES CONSENT TO ANOTHER COUNTY; TO PROVIDE THAT ORDERS ISSUED BY RETIRED JUDGE HEARING OFFICERS SHALL BE CONSIDERED FINAL AND SHALL BE APPEALED DIRECTLY TO THE COURT OF APPEALS; TO PROVIDE THAT ORDERS ISSUED BY OTHER HEARING OFFICERS ARE SUBJECT TO REVIEW BY A FAMILY COURT JUDGE; TO PROVIDE THAT HEARING OFFICERS ARE NOT BARRED FROM THE PRACTICE OF LAW IN FAMILY COURT; TO PROVIDE THAT THE FAMILY COURT RULES APPLY IN PROCEEDINGS BEFORE HEARING OFFICERS; AND TO PROVIDE THAT HEARING OFFICERS SHALL RECEIVE CREDIT FOR COURT APPOINTMENTS.

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Senator MALLOY spoke on the Bill.

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

S. 1189 -- Senators Malloy, McConnell, Ford and Pinckney: A BILL TO AMEND SECTION 15-36-10 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIABILITY FOR ATTORNEY'S FEES AND COSTS OF FRIVOLOUS SUITS, SO AS TO CLARIFY THAT AN ACTION IN FAMILY COURT IS SUBJECT TO THE SOUTH CAROLINA FRIVOLOUS CIVIL PROCEEDINGS SANCTIONS ACT; TO AMEND SECTION 15-36-10 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FRIVOLOUS SUITS, TO ADD THAT THE FRIVOLOUS CIVIL PROCEEDINGS SANCTIONS ACT DOES NOT ALTER THE SOUTH CAROLINA FAMILY COURT RULES; AND TO AMEND SECTION 63-3-530, RELATING TO THE EXCLUSIVE JURISDICTION OF FAMILY COURT, TO PERMIT A JUDGE TO SANCTION A PARTY WHO FILES A FRIVOLOUS CLAIM OR MOTION IN DOMESTIC MATTERS, AND TO MANDATE THAT JUDGES SANCTION PARTIES WHO FILE A SECOND OR SUBSEQUENT FRIVOLOUS CLAIM OR MOTION WITH THE COURT.

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Senator MALLOY spoke on the Bill.

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

S. 1190 -- Senator Leatherman: A JOINT RESOLUTION TO MAKE CERTAIN FINDINGS BY THE GENERAL ASSEMBLY IN REGARD TO THE SETTLEMENT OF LITIGATION INVOLVING A SITE ACQUIRED BY THE STATE OF SOUTH CAROLINA IN RICHLAND COUNTY FOR THE PROPOSED STATE FARMERS' MARKET, AND TO CONFIRM AND VALIDATE THE USE OF SPECIFIC TRACTS OF LAND RECEIVED BY THE SOUTH CAROLINA RESEARCH AUTHORITY, AND RICHLAND COUNTY AS PART OF THE SETTLEMENT, AND THE USE OF CERTAIN REVENUES TO MEET OBLIGATIONS CONTINUING UNDER THE SETTLEMENT.

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

S. 1191 -- Senators Ryberg, Leatherman, Sheheen, Peeler, Hayes, Verdin, Campbell, Grooms, Hutto, McConnell, Lourie, Williams, Alexander, Setzler, Knotts, Massey, Nicholson, Anderson, Rose, Leventis, L. Martin, Land, Matthews and Shoopman: A CONCURRENT RESOLUTION TO DESIGNATE THE THIRD WEEK IN APRIL 2010 AS "SHAKEN BABY SYNDROME AWARENESS WEEK" TO RAISE AWARENESS REGARDING SHAKEN BABY SYNDROME AND TO COMMEND THE HOSPITALS, CHILD CARE COUNCILS, SCHOOLS, AND OTHER ORGANIZATIONS THAT EDUCATE PARENTS AND CAREGIVERS ON HOW TO PROTECT CHILDREN FROM ABUSE.

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

S. 1192 -- Senators Massey and Campbell: A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO ENACT LEGISLATION EXPANDING THE OUTER CONTINENTAL SHELF (OCS) OIL AND GAS LEASING PROGRAM TO ALLOW EXPLORATION AND PRODUCTION OF DOMESTIC SUPPLIES OF NATURAL GAS OFF THE COAST OF SOUTH CAROLINA AND TO ALLOW SOUTH CAROLINA TO RECEIVE 37.5 PERCENT OF FUNDS DUE TO THE UNITED STATES FROM OCS NATURAL GAS LEASES TO BE EXPENDED BY THE STATE FOR SUCH PURPOSES THE STATE MAY DETERMINE.

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The Concurrent Resolution was introduced and referred to the Committee on Agriculture and Natural Resources.

S. 1193 -- Senators Rankin, 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, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A SENATE RESOLUTION TO RECOGNIZE AND CONGRATULATE JENNY PRICE OF CLOVER ON BEING CROWNED MISS SUN FUN 2010 AND TO WISH HER MUCH SUCCESS IN HER REIGN AND IN ALL HER FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 1194 -- Senators Ryberg, McConnell, Peeler, Hutto, Leventis, Bright, Massey, Setzler, Alexander, Anderson, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Jackson, Knotts, Land, Leatherman, Lourie, Malloy, L. Martin, S. Martin, Matthews, McGill, Mulvaney, Nicholson, O'Dell, Pinckney, Rankin, Reese, Rose, Scott, Sheheen, Shoopman, Thomas, Verdin and Williams: A BILL TO AMEND CHAPTER 3, TITLE 58 OF THE 1976 CODE, RELATING TO THE PUBLIC SERVICE COMMISSION, BY ADDING ARTICLE 7, TO ESTABLISH THE NUCLEAR WASTE ESCROW FUND, TO PROVIDE FOR FUNDING THE ACCOUNT, AND TO PROVIDE FOR THE CIRCUMSTANCES UNDER WHICH FUNDS IN THE ACCOUNT MAY BE DISTRIBUTED OR UTILIZED.

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Read the first time and, on motion of Senator RYBERG, with unanimous consent, S. 1194 was ordered placed on the Calendar without reference.

H. 4281 -- Rep. J. M. Neal: A BILL TO AMEND SECTION 56-1-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF CERTAIN TERMS REGARDING THE ISSUANCE OF DRIVER'S LICENSES, SO AS TO PROVIDE A DEFINITION FOR THE TERM "MOPED"; TO AMEND SECTION 56-3-20, RELATING TO THE DEFINITION OF CERTAIN TERMS CONTAINED IN THE "SOUTH CAROLINA MOTOR VEHICLE REGISTRATION AND LICENSING ACT", SO AS TO DELETE THE DEFINITION FOR THE TERM "MOPED"; AND TO REPEAL SECTIONS 56-1-1710 AND 56-5-165, BOTH RELATING TO DEFINITIONS FOR THE TERM "MOPED".

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

H. 4549 -- Reps. Simrill, King, Delleney, Kirsh and Norman: A CONCURRENT RESOLUTION TO HONOR AND RECOGNIZE THE MEMBERS OF THE ROCK HILL HIGH SCHOOL DRUMLINE, AND TO CONGRATULATE THESE YOUNG ARTISTS FOR ACCOMPLISHING THEIR GOAL OF BREAKING THE WORLD RECORD FOR THE LONGEST CONTINUOUS GROUP DRUM ROLL.

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

H. 4550 -- Reps. Kirsh and Norman: A CONCURRENT RESOLUTION TO RECOGNIZE YORK COUNTY AS A VITAL PART OF THE GREAT STATE OF SOUTH CAROLINA AND TO DECLARE FEBRUARY 16, 2010, "YORK COUNTY DAY" IN SOUTH CAROLINA.

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

H. 4568 -- Rep. Owens: A CONCURRENT RESOLUTION TO RECOGNIZE, AND EXPRESS DEEP APPRECIATION TO, THE INDEPENDENT COLLEGES AND UNIVERSITIES IN SOUTH CAROLINA DURING "INDEPENDENT COLLEGE AND UNIVERSITY WEEK", APRIL 12-16, 2010, AND ON "INDEPENDENT COLLEGE AND UNIVERSITY DAY", APRIL 14, 2010, FOR THE OUTSTANDING CONTRIBUTIONS OF THESE INSTITUTIONS IN EDUCATING OUR STATE'S AND NATION'S YOUTH.

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

H. 4592 -- Reps. G. M. Smith, Weeks, Harvin, 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, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, 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, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION CONGRATULATING SOUTH CAROLINA HIGHWAY PATROL SENIOR TROOPER WILSON OWENS HORTON, JR., OF FLORENCE COUNTY ON BEING NAMED THE TROOPER OF THE YEAR FOR 2008.

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

**REPORTS OF STANDING COMMITTEES**

Senator KNOTTS from the Committee on Judiciary submitted a favorable with amendment report on:

S. 642 -- Senators Alexander and Ford: A BILL TO AMEND ARTICLE 31, CHAPTER 5, TITLE 56, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑3890 TO PROVIDE THAT A PERSON UNDER THE AGE OF EIGHTEEN MAY NOT OPERATE A MOTOR VEHICLE WHILE USING A CELL PHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE AND TO PROVIDE FOR PENALTIES AND EXCEPTIONS.

Ordered for consideration tomorrow.

Senator CAMPBELL from the Committee on Judiciary submitted a favorable with amendment report on:

S. 670 -- Senators Malloy and Ford: A BILL TO AMEND SECTION 63‑11‑710, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LOCAL FOSTER CARE REVIEW BOARDS AND THE APPOINTMENT OF MEMBERS TO THESE BOARDS BY THE LEGISLATIVE DELEGATION OF THE REGION SERVED BY THE BOARD, SO AS TO DELETE THE PROVISION REQUIRING THE DELEGATION TO BE NOTIFIED OF VACANCIES BY CERTIFIED MAIL.

Ordered for consideration tomorrow.

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

S. 906 -- Senators Leatherman, Land, Coleman and Elliott: A BILL TO AMEND SECTION 9‑8‑50 OF THE 1976 CODE, RELATING TO SERVICE CREDIT IN THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, TO PROVIDE THAT A MEMBER UPON TERMINATION WHO DOES NOT QUALIFY FOR A MONTHLY BENEFIT MAY TRANSFER HIS SERVICE CREDIT TO THE SOUTH CAROLINA RETIREMENT SYSTEM, AND TO CLARIFY PROVISIONS RELATED TO THE TRANSFER OF EARNED SERVICE CREDIT IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS.

Ordered for consideration tomorrow.

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

S. 915 -- Senators Land, Anderson, Nicholson, Leventis, Elliott, Williams, Sheheen and Setzler: A BILL TO AMEND ACT 314 OF 2000, TO TERMINATE THE PROVISIONS OF THE SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT ON JUNE 30, 2015.

Ordered for consideration tomorrow.

Senator CAMPBELL from the Committee on Judiciary submitted a favorable with amendment report on:

S. 981 -- Senators Rose and Knotts: A BILL TO AMEND SECTION 63‑3‑530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF THE FAMILY COURT, INCLUDING JURISDICTION TO ORDER VISITATION FOR GRANDPARENTS, SO AS TO PROVIDE THAT THE COURT MAY ORDER GRANDPARENT VISITATION IF THE COURT FINDS THAT THE CHILD’S PARENTS ARE DEPRIVING THE GRANDPARENT VISITATION WITH THE CHILD AND THAT THE PARENTS ARE UNFIT OR THAT THERE ARE COMPELLING CIRCUMSTANCES TO OVERCOME THE PRESUMPTION THAT THE PARENTAL DECISION IS IN THE CHILD’S BEST INTEREST.

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable with amendment report on:

S. 1026 -- Senator Verdin: A BILL TO AMEND SECTION 50‑13‑1630 OF THE 1976 CODE, RELATING TO THE UNLAWFUL ACT OF IMPORTING, POSSESSING, AND SELLING OF CERTAIN FISH, TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY NOT PERFORM SUBSEQUENT STERILITY TESTS ON WHITE AMUR OR GRASS CARP HYBRIDS THAT HAVE BEEN DETERMINED TO BE STERILE, TO PROVIDE THAT THE CERTIFIED RESULTS OF STERILITY TESTS PERFORMED BY THE UNITED STATES FISH AND WILDLIFE SERVICE ON WHITE AMUR OR GRASS CARP HYBRIDS ARE CONCLUSIVE.

Ordered for consideration tomorrow.

Senator RANKIN from the Committee on Judiciary submitted a favorable with amendment report on:

S. 1096 -- Senators McConnell, Alexander, Rankin, Hutto, Matthews, Leatherman, Land, Hayes, Anderson, Scott, Coleman, O’Dell, Nicholson, Setzler, Cleary, Courson, Verdin, L. Martin, Knotts, Lourie, Sheheen, Mulvaney, Campbell, S. Martin, Massey, Grooms, Davis, Shoopman, Thomas and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑37‑50, RELATING TO THE AUTHORIZATION FOR ELECTRIC COOPERATIVES AND MUNICIPAL ELECTRIC SYSTEMS, TO IMPLEMENT FINANCING SYSTEMS FOR ENERGY EFFICIENCY IMPROVEMENTS, SO AS TO PROVIDE THAT THEY WILL HAVE THE AUTHORITY TO FINANCE THE PURCHASE PRICE AND INSTALLATION COST OF ENERGY CONSERVATION MEASURES; TO PROVIDE FOR THE RECOVERY OF SUCH FINANCING THROUGH CHARGES PAID FOR BY THE CUSTOMERS BENEFITTING FROM THE INSTALLATION OF THE ENERGY CONSERVATION MEASURES; TO PROTECT THE ENTITIES FROM LIABILITY FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF SUCH MEASURES; TO PROVIDE FOR THE INSTALLATION OF ENERGY EFFICIENCY AND CONSERVATION MEASURES IN RENTAL PROPERTIES; AND TO PROVIDE A MECHANISM FOR RECOVERY OF THE COSTS OF SUCH MEASURES INSTALLED IN RENTAL PROPERTIES; AND TO AMEND SECTION 8‑21‑310 TO ALLOW CLERKS OF COURT AND REGISTERS OF DEEDS TO CHARGE A FEE FOR FILING A NOTICE OF UTILITY METER CHARGE.

Ordered for consideration tomorrow.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable with amendment report on:

S. 1118 -- Senators Cromer, Leventis, Verdin, Hutto, Campbell, Campsen, McGill, Matthews, Grooms, Elliott, Fair and Shoopman: A BILL TO AMEND SECTION 48‑34‑40 OF THE 1976 CODE, RELATING TO THE REQUIREMENTS FOR CONDUCTING A PRESCRIBED FIRE, TO REFERENCE OTHER SPECIFIC STATUTORY AND REGULATORY REQUIREMENTS; AND TO AMEND SECTION 48‑34‑50, RELATING TO LIABILITY FOR DAMAGES CAUSED BY A PRESCRIBED FIRE, TO PROVIDE THAT NO PROPERTY OWNER, LESSEE, AGENT, OR EMPLOYEE MAY BE HELD LIABLE FOR DAMAGES CAUSED BY THE RESULTING SMOKE OF A PRESCRIBED FIRE UNLESS GROSS NEGLIGENCE IS PROVEN, AND TO DEFINE GROSS NEGLIGENCE.

Ordered for consideration tomorrow.

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

S. 1131 -- Senators Peeler and Coleman: A BILL TO AMEND SECTION 4‑29‑67, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INDUSTRIAL DEVELOPMENT PROJECTS REQUIRING A FEE IN LIEU OF PROPERTY TAXES AGREEMENT, SO AS TO ADD CERTAIN DEFINITIONS, TO FURTHER PROVIDE FOR THE MINIMUM LEVEL OF INVESTMENT FOR A QUALIFIED NUCLEAR PLANT FACILITY, TO PROVIDE FOR THE TIMELINE WHEN THE SPONSOR MUST ENTER INTO AN INITIAL LEASE AGREEMENT WITH THE COUNTY IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY, AND THE TIMELINES WHEN THE SPONSOR MUST MEET MINIMUM INVESTMENT REQUIREMENTS IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY AND PLACE THE PROJECT INTO SERVICE; TO AMEND SECTION 12‑44‑30, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE CERTAIN DEFINITIONS AND ADD CERTAIN DEFINITIONS; AND TO AMEND SECTION 12‑44‑40, AS AMENDED, RELATING TO THE REQUIRED FEE AGREEMENT BETWEEN THE SPONSOR AND THE COUNTY UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO PROVIDE THE TIME WITHIN WHICH A SPONSOR HAS TO ENTER INTO A FEE AGREEMENT IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY.

Ordered for consideration tomorrow.

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

S. 1145 -- Senator Leatherman: A BILL TO AMEND SECTIONS 9‑1‑1540, 9‑9‑65, AND 9‑11‑80 OF THE 1976 CODE, RELATING TO THE DATE UPON WHICH AN APPLICATION FOR DISABILITY RETIREMENT MUST BE FILED WITH THE SOUTH CAROLINA RETIREMENT SYSTEM, TO PROVIDE THAT A MEMBER IS CONSIDERED TO BE IN SERVICE ON THE DATE THE APPLICATION IS FILED IF THE MEMBER IS NOT RETIRED AND THE LAST DAY THE MEMBER WAS EMPLOYED BY A COVERED EMPLOYER IN THE SYSTEM OCCURRED NOT MORE THAN NINETY DAYS PRIOR TO THE DATE OF FILING.

Ordered for consideration tomorrow.

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

S. 1146 -- Senator Alexander: A BILL TO AMEND SECTIONS 9‑1‑1770, 9‑1‑1775, 9‑8‑110, 9‑9‑100, 9‑11‑120, 9‑11‑125, AND 9‑11‑140 OF THE 1976 CODE, RELATING TO THE PAYMENT OF DEATH BENEFITS IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS, TO REPEAL CERTAIN DUTIES AND RESPONSIBILITIES OF THE BOARD, TO PROVIDE THAT BENEFITS PAID PURSUANT TO THE ACCIDENTAL DEATH INSURANCE BENEFIT SHALL NOT BE TREATED AS A LIFE INSURANCE BENEFIT, AND TO PROVIDE THAT ADJUSTMENTS TO BENEFITS SHALL BE MADE IN THE MANNER PROVIDED IN SECTION 9‑11‑310.

Ordered for consideration tomorrow.

**HOUSE CONCURRENCES**

The following Resolutions were returned with concurrence and received as information:

S. 1143 -- Senators Knotts, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Mulvaney, Nicholson, O’Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR REVEREND THOMAS “TOMMY” MILTON KNOTTS, AND TO COMMEND HIM FOR HIS YEARS OF ENTHUSIASTIC AND DEDICATED SERVICE TO THE SOUTH CAROLINA ASSOCIATION OF CONSERVATION DISTRICTS.

S. 1155 -- Senator Sheheen: A CONCURRENT RESOLUTION TO HONOR AND RECOGNIZE DIMETRY GIOVONNI “VONNIE” HOLLIDAY FOR HIS CELEBRATED CAREER AS A PROFESSIONAL FOOTBALL PLAYER AND FOR HIS OUTSTANDING CONTRIBUTIONS TO THE BETTERMENT OF KERSHAW COUNTY.

S. 1156 -- Senator Davis: A CONCURRENT RESOLUTION TO COMMEND THE UNIVERSITY OF SOUTH CAROLINA‑BEAUFORT UPON CELEBRATION OF FIFTY YEARS OF SERVICE AS A MEMBER OF SOUTH CAROLINA’S PUBLIC FLAGSHIP UNIVERSITY SYSTEM.

S. 1157 -- Senator Courson: A CONCURRENT RESOLUTION TO CONGRATULATE KARIS MAZYCK OF RICHLAND COUNTY ON BEING NAMED THE 2010 MIDDLE SCHOOL ASSISTANT PRINCIPAL OF THE YEAR FOR THE STATE OF SOUTH CAROLINA, TO COMMEND HER FOR HER YEARS OF DEDICATED SERVICE AND OUTSTANDING CONTRIBUTIONS TO EDUCATION IN SOUTH CAROLINA, AND TO WISH HER MUCH SUCCESS IN ALL HER FUTURE ENDEAVORS.

S. 1158 -- Senator Courson: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR DR. SHERRY A. WALTERS OF LEXINGTON COUNTY, TO CONGRATULATE HER UPON THE OCCASION OF BEING NAMED THE 2010 HIGH SCHOOL ASSISTANT PRINCIPAL OF THE YEAR FOR THE STATE OF SOUTH CAROLINA, AND TO COMMEND HER FOR HER DEDICATED SERVICE TO EDUCATION IN SOUTH CAROLINA.

S. 1159 -- Senator Courson: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR MRS. LAYNE PUTNAM OF ANDERSON COUNTY, TO CONGRATULATE HER UPON THE OCCASION OF BEING NAMED THE 2010 ELEMENTARY SCHOOL ASSISTANT PRINCIPAL OF THE YEAR FOR THE STATE OF SOUTH CAROLINA, AND TO COMMEND HER FOR HER OUTSTANDING CONTRIBUTIONS TO EDUCATION IN SOUTH CAROLINA.

S. 1165 -- Senator Hayes: A CONCURRENT RESOLUTION TO RECOGNIZE YORK COUNTY AS A VITAL PART OF THE GREAT STATE OF SOUTH CAROLINA AND TO DECLARE FEBRUARY 16, 2010, “YORK COUNTY DAY” IN SOUTH CAROLINA.

S. 1173 -- Senators Elliott, Malloy and Williams: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE HONORABLE DOUGLAS JENNINGS, JR. OF MARLBORO COUNTY FOR TWENTY YEARS OF SELFLESS AND DEDICATED SERVICE IN THE HOUSE OF REPRESENTATIVES ON BEHALF OF THE CITIZENS OF SOUTH CAROLINA, AND TO WISH HIM MUCH SUCCESS AND HAPPINESS IN ALL HIS FUTURE ENDEAVORS.

**Message from the House**

Columbia, S.C., February 17, 2010

Mr. President and Senators:

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

H. 3488 -- Reps. J.E. Smith, Hart, Williams, R.L. Brown, Hutto and Weeks: A JOINT RESOLUTION TO ESTABLISH A COMMITTEE TO STUDY CERTAIN ISSUES AFFECTING VETERANS AND PROVIDE FOR RELATED MATTERS INCLUDING, BUT NOT LIMITED TO, COMMITTEE MEMBERSHIP AND DUTIES, THE FILLING OF VACANCIES, COMMITTEE MEETINGS, AND STAFFING.

and has ordered the Joint Resolution enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., February 17, 2010

Mr. President and Senators:

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

H. 4310 -- Reps. Clemmons, Edge and Barfield: A BILL TO AMEND SECTION 4‑10‑970, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO USES ALLOWED FOR REVENUES OF THE LOCAL OPTION TOURISM DEVELOPMENT FEE, SO AS TO ALLOW AMOUNTS UP TO TWENTY PERCENT OF THE REVENUE TO BE USED FOR PROPERTY TAX RELIEF FOR OWNER‑OCCUPIED RESIDENTIAL PROPERTY AND FOR TOURISM‑RELATED CAPITAL PROJECTS BEGINNING IN THE SECOND RATHER THAN THE THIRD YEAR OF IMPOSITION OF THE FEE, TO REQUIRE THE AMOUNTS USED FOR THESE PURPOSES TO BE RETAINED BY THE MUNICIPALITY WITH AT LEAST TWENTY PERCENT OF THE AMOUNT RETURNED USED AS A CREDIT AGAINST THE PROPERTY TAX LIABILITY OF OWNER‑OCCUPIED RESIDENTIAL PROPERTY AND PROVIDE FOR THE CALCULATION OF THE CREDIT, AND TO PROVIDE FOR THE USE OF CREDITS IN EXCESS OF THE MUNICIPAL PROPERTY TAX LIABILITY.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Motion to Ratify Adopted**

At 2:40 P.M., Senator McCONNELL asked unanimous consent to make a motion to invite the House of Representatives to attend the Senate Chamber for the purpose of ratifying Acts at 11:15 A.M. or at a mutually agreeable time on Thursday.

There was no objection and a message was sent to the House accordingly.

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

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

S. 1073 -- Senators Thomas and Leventis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 18 TO TITLE 37, SO AS TO REQUIRE THOSE WHO ENGAGE IN COLLATERAL RECOVERY TO APPLY FOR LICENSURE WITH THE DEPARTMENT OF CONSUMER AFFAIRS, TO PROVIDE WHAT MUST BE INCLUDED IN AN APPLICATION, TO PROVIDE ELIGIBILITY REQUIREMENTS FOR THOSE WHO ENGAGE IN COLLATERAL RECOVERY, TO PROVIDE LICENSE FEES, TO PROVIDE FOR THE INVESTIGATION OF LICENSE APPLICANTS, TO PROVIDE FOR THE FORM, VALIDITY PERIOD, AND RENEWAL OF ISSUED LICENSES, TO PROVIDE CANCELLATION REQUIREMENTS OF ISSUED LICENSES, TO PROVIDE FOR THE TRAINING OF INTERN COLLATERAL RECOVERERS, TO PROVIDE FOR VIOLATIONS AND ASSOCIATED PENALTIES OF THE CHAPTER, TO PROVIDE FOR THE CONFIDENTIALITY OF REQUIRED INVESTIGATIONS, TO ALLOW THE DEPARTMENT ACCESS TO CERTAIN RECORDS FOR INVESTIGATIONS, TO REQUIRE THE DEPARTMENT TO MAINTAIN CERTAIN STATISTICS, TO PROVIDE INVENTORY AND TITLE REQUIREMENTS, AND TO DEFINE CERTAIN TERMS.

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 McCONNELL proposed the following amendment (JUD1073.002), which was adopted:

Amend the committee report, as and if amended, page [1073-7], by striking line 15, in Section 37-18-180(A), as contained in SECTION 1, and inserting therein the following:

/ license, name of the agency employing the licensee, and other information the department requires. A license /

Amend the committee report further, as and if amended, page [1073-12], by striking line 8, in Section 38-18-230, as contained in SECTION 1, and inserting therein the following:

/ (30) failing to maintain continuous insurance coverage as required by Section 37-18-300(A)(3) and (4). /

Amend the committee report further, as and if amended, page [1073-17], by striking lines 18-19, of Section 38-18-290(A), as contained in SECTION 1, and inserting therein the following:

/ (4) Class ‘RI’ license recovery agent intern: one hundred fifty dollars. /

Amend the committee report further, as and if amended, page [1073-18], by striking lines 18-23, in Section 37-18-300(A), as contained in SECTION 1 and inserting therein the following:

/ (3) A Class ‘R’ agency owner must provide proof of insurance for the Class ‘R’ agency that also applies to any Class ‘RB’ branch office for a minimum of three hundred thousand dollars that must include coverage for a wrongful repossession and insurance coverage in the minimum amount of two thousand dollars for personal property./

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Banking and Insurance proposed the following amendment (AGM\19846BH10), which was adopted:

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

/ SECTION 1. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 18

Collateral Recovery

Section 37-18-100. The General Assembly recognizes that the self‑help collateral recovery process contains certain inherent risks that require regulation to ensure that the health, welfare, and protection of the public adequately will be served and protected. The General Assembly recognizes that untrained persons, unlicensed persons or businesses, or persons who are not of good moral character engaged in the collateral recovery profession are a threat to the welfare of the public if placed in positions of trust.  Regulation of licensed and unlicensed persons and businesses engaged in this profession is, therefore, necessary.

Section 37-18-110. As used in this chapter:

(1) ‘Advertising’ means the submission of bids, contracting, or making known by public notice or solicitation of business, directly or indirectly, that services regulated pursuant to this chapter are available for consideration.

(2) ‘Branch office’ means each additional location of an agency where business is actively conducted which advertises as performing or is engaged in the business authorized by the license.

(3) ‘Class ‘R’ license’ means a license issued to a person, firm, company, partnership, or corporation which engages in business as a recovery agency.

(4) ‘Class ‘RB’ license’ means a license issued to a branch office of a person, firm, company, partnership, or corporation which engages in business as a recovery agency.

(5) ‘Class ‘RA’ license’ means a license issued to an individual who performs the services of a recovery agent.

(6) ‘Class ‘RI’ license’ means a license issued to an individual who performs recovery services as an intern under the supervision of a designated, sponsoring Class ‘RA’ licensee.

(7) ‘Conviction’ means an adjudication of guilt by a federal or state court resulting from a plea or trial, regardless of whether the imposition of sentence was suspended.

(8) ‘Department’ means the Department of Consumer Affairs.

(9) ‘Felony’ means a criminal offense that is classified as a felony pursuant to the provisions of Section 16-1-10 or that is exempt from classification but which carries a maximum penalty of five years or more; a crime in another state or a crime against the United States which is designated as a felony; or an offense in another state, territory, or country punishable by imprisonment for a term exceeding five years.

(10) ‘Good moral character’ means a personal history of honesty, fairness, and respect for the rights and property of others and for the laws of this State and nation.

(11) ‘Intern’ means an individual who studies as a trainee or apprentice under the supervision of a designated sponsoring licensee.

(12) ‘Licensee’ means a person licensed pursuant to this chapter.

(13) ‘Person’ means an individual, firm, company, agency, organization, partnership, or corporation.

(14) ‘Principal officer’ means an individual who holds the office of president, vice president, secretary, or treasurer in a corporation.

(15) ‘Recovery agency’ means a Class ‘R’ licensee who, for consideration, advertises as providing or is engaged in the business of performing collateral recovery services.

(16) ‘Recovery agent’ means an individual who, for consideration, performs collateral recovery services.

(17) ‘Repossession’ means the recovery of collateral as defined in this chapter by a licensed recovery agent who is authorized by the legal owner, lienholder, or lessor to recover that which has been sold or leased pursuant to a security agreement that contains a repossession clause.  A repossession is complete when a licensed recovery agent is in control, custody, and possession of the defined collateral.

(18) ‘Sponsor’ means a Class ‘RA’ licensee who supervises and maintains under his supervision a Class ‘RI’ intern.

(19) ‘Unarmed’ means that a firearm may not be carried by the licensee while providing services regulated pursuant to this chapter.

Section 37-18-120. (A) Except for subsection (B) and (C), this chapter does not apply to:

(1) a repossession of abandoned property;

(2) a voluntary surrender of the property;

(3) a person effecting a repossession conducted pursuant to the authority of a court of competent jurisdiction;

(4) an individual solely, exclusively, and regularly employed by a lien holder or lessor;

(5) a licensed attorney in the regular practice of his profession; or

(6) a bank or bank holding company, credit union, or a collection agency not engaged in the business of repossessions.

(B) Damage to other property must be reported to law enforcement with jurisdiction and to the owner when known.

(C) Exempt persons in this section may not use an unlicensed person who is not exempt.

Section 37-18-130. The department shall adopt rules necessary to administer this chapter.  However, a rule may not be adopted that unreasonably restricts competition or the availability of services requiring licensure by this chapter or that unnecessarily increases the cost of these services without a corresponding or equivalent public benefit.

Section 37-18-140. (A) Each individual, partner, or principal officer in a corporation shall file with the department a complete application accompanied by an application fee not to exceed one hundred dollars.

(1) The application submitted by an individual, partner, or corporate officer must be approved by the department prior to that individual, partner, or corporate officer assuming his duties.

(2) Individuals who invest in the ownership of a licensed agency but do not participate in, direct, or control shall register with the department but may not be required to apply for licensure.

(B) An application must be signed by the applicant under oath and must be notarized.

(C) The application must contain the following information concerning the applicant who signs it:

(1) name and aliases;

(2) age and date of birth;

(3) place of birth;

(4) social security number or alien registration number, whichever is applicable;

(5) present residence address and his residence addresses within the last five years immediately preceding the submission of the application;

(6) occupations held presently and within the last five years immediately preceding the submission of the application;

(7) a statement of all convictions;

(8) whether he has ever been adjudicated incompetent;

(9) whether he has ever been committed to a mental institution;

(10) documentation that a full set of fingerprints has been provided in a manner prescribed by the South Carolina Law Enforcement Division (SLED) for a fingerprint-based state criminal records check and by the Federal Bureau of Investigation (FBI) for a fingerprint-based national criminal records check, and payment of fees has been made to cover the costs of the criminal records checks including those as established in Section 23-3-115 for the South Carolina check and as established by the FBI for the national check.  An applicant who has, within the immediately preceding six months, submitted fingerprints and fees for licensing purposes pursuant to this chapter is not required to submit fingerprints or fees unless specifically required by the department;

(11) a personal inquiry waiver which allows the department to conduct necessary investigations to satisfy the requirements of this chapter; and

(12) further facts required by the department to show that the applicant signing the application is of good moral character and qualified by experience and training to satisfy the requirements of this chapter.

(D) In addition to the application requirements for individuals, partners, or officers provided in subsection (C), the application for an agency license must contain the following information:

(1) the proposed name under which the agency intends to operate;

(2) the street address, mailing address, and telephone numbers of the principal location at which business is to be conducted in this State;

(3) the street address, mailing address, and telephone numbers of all branch offices within this State; and

(4) the names and titles of all partners or, in the case of a corporation, the names and titles of its principal officers.

Section 37-18-150. (A) An individual licensed by the department must:

(1) be at least eighteen years of age;

(2) be of good moral character;

(3) not have been adjudicated incapacitated in this or another state, unless his capacity has been judicially restored; not have been involuntarily placed in a treatment facility for the mentally ill in this or another state, unless his competency has been judicially restored; and not have been diagnosed as having an incapacitating mental illness, unless a psychologist or psychiatrist licensed in this State certifies that he does not currently suffer from the mental illness;

(4) not be a chronic or habitual user of alcoholic beverages to the extent that his normal faculties are impaired; not have been committed for substance abuse reasons in this or another state; not have been found to be a habitual offender of drunkenness, loitering, prowling, or desertion in this or another state;

(5) not have been committed for controlled substance abuse or have been found guilty of a drug crime relating to controlled substances in this or another state within the three-year period immediately preceding the date the application is filed, unless the individual establishes that he is not currently abusing a controlled substance and has successfully completed a rehabilitation course;

(6) must have a valid South Carolina driver’s license; and

(7) be a citizen or legal resident alien of the United States or have been granted authorization to seek employment in this country by the United States Immigration and Naturalization Service.

(B) Each agency shall have a minimum of one physical location within this State from which the normal business of the agency is conducted, and this location must be considered the primary office for that agency in this State.

(1) If an agency desires to change the physical location of the business as it appears on the agency license the department must be notified within ten days of the change.

(2) The Class ‘R’ license and a branch office license at all times must be posted in a conspicuous place at the licensed physical location in this State where the business is being conducted.

(3) Each class of license for an office or branch office must display, in a place that is in clear and unobstructed public view, a notice on a form prescribed by the department that states that the business operating at this location is licensed and regulated by the department and that questions or complaints should be directed to the department.

(4) A minimum of one properly licensed manager must be designated for each agency and branch office location.

(5) Each Class ‘R’, Class ‘RA’, or Class ‘RI’ licensee shall notify the department in writing within ten days of a change in his residence or mailing address.

Section 37-18-160. Except as otherwise provided, prior to the issuance of a license, the department shall investigate the applicant for a license.  The investigation must include:

(1) an examination of fingerprint records and police records.  When a criminal history analysis of an applicant is performed by means of fingerprint card identification, the time limitations must be tolled during the time the applicant’s fingerprint card is under review by SLED for a fingerprint-based state criminal records check or the United States Department of Justice, FBI for a fingerprint-based national criminal records check;

(2) an inquiry to determine if the applicant has been adjudicated incompetent or has been committed to a mental institution; and

(3) other investigation of the applicant the department deems necessary.

  Section 37-18-170. (A) The department may promulgate regulations for:

(1) entering into reciprocal agreements with other states or territories of the United States for the purpose of licensing people to perform activities regulated pursuant to this chapter who are currently licensed to perform similar services in other states or territories; and

(2) allowing a person who is licensed in another state or territory to perform similar services in this State, on a temporary and limited basis, without the need for licensure in this State.

(B) The regulations authorized in subsection (A) may be promulgated only if:

(1) the other state or territory has requirements that are substantially similar to or greater than those established in this chapter;

(2) the applicant has engaged in licensed activities for at least one year in the other state or territory with no disciplinary action against him; or

(3) the appropriate authority of the other state or territory agrees to accept service of process for those licensees who are operating in this State on a temporary basis.

Section 37-18-180. (A) A license issued pursuant to this chapter must be on a form prescribed by the department and must include the licensee’s name, license number, expiration date of the license, and other information the department requires.   A license must be in the possession of the individual licensee while on duty.

(B) A license granted pursuant to the provisions of this chapter must be renewed annually by the department.

(C) The department, upon complete application and payment of the appropriate fees, shall issue a separate license to each branch office for which application is made.

(D) Notwithstanding the existence of a valid South Carolina corporate registration, an agency licensee may not conduct activities regulated pursuant to this chapter under a fictitious name without prior written authorization from the department to use that name in the conduct of activities regulated by this chapter.  The department may not authorize the use of a name which is so similar to that of a public officer or agency, or that used by another licensee, that the public may be confused or misled.  The authorization for the use of a fictitious name must require, as a condition precedent to the use of the name, the filing of a certificate of engaging in business under a fictitious name.  A licensee is not permitted to conduct business under more than one name except as separately licensed, nor is the license valid to protect a licensee who is engaged in the business under any name other than that specified in the license.  An agency that desires to change its licensed name shall notify the department and, except upon renewal, pay a fee not to exceed one hundred dollars, for each license requiring revision including those of all licensed employees.  Upon the return of the licenses to the department, revised licenses must be provided.

(E) A licensed agency must include its agency license number in an advertisement in a print medium or directory and must include its agency license number in a written bid or offer to provide services.

Section 37-18-190. (A) After filing the application, unless the department declines to issue the license or revokes it after issuance, an agency, within five working days of the withdrawal or removal of a partner or officer shall notify the department and the agency shall notify and file with the department applications for  replacement or addition of a partner or officer within five working days.  The agency’s good standing pursuant to this chapter is contingent upon the department’s approval of a new partner or officer.

(B) An agency, upon the employment or termination of employment of a Class ‘RA’ or Class ‘RI’ licensee, shall report the employment or termination immediately to the department and, in the case of termination, report the reason or reasons for the termination.  The report must be on a form prescribed by the department.

Section 37-18-200. (A) A license granted pursuant to the provisions of this chapter must be renewed annually by the department.

(B) No less than ninety days prior to the expiration date of the license, the department shall mail a written notice to the last known residence address for individual licensees and to the last known agency address for agencies.

(C) Each licensee is responsible for renewing his license on or before its expiration by filing with the department an application for renewal accompanied by payment of the prescribed license fee.

(D) A licensee who fails to file a renewal application on or before its expiration shall renew his license by fulfilling the applicable requirements of subsection (C) and by paying a late fee of one hundred dollars.

(E) A license may not be renewed three months or more after its expiration date.  The applicant shall submit a new, complete application and the respective fees.

(F) A renewal applicant may not perform an activity regulated by this chapter between the date of expiration and the date of renewal of his license.

Section 37-18-210. (A) In the event a licensee desires to cancel his license, he shall notify the department in writing and return the license to the department within ten days of the date of cancellation.

(B) The department, at the written request of the licensee, may place his license in inactive status.  A license may remain inactive for a period of three years, at the end of which time, if the license has not been renewed, it is automatically canceled.  If the license expires during the inactive period, the licensee shall pay license fees before the license can be made active.  Late fees do not apply when a license is in inactive status.

Section 37-18-220. (A) Only Class ‘RA’ licensees may sponsor interns.  An internship may not commence until the sponsor has submitted the notice of intent to sponsor to the department.  This notice must be on a form provided by the department.

(B) Upon submission of a completed application and approval by the department a Class ‘RI’ licensee may commence employment for a licensed agency or branch office under the supervision of a sponsoring ‘RA’ licensee.

(C) A sponsor shall assume a training status by providing supervision of interns.  Sponsors may not allow interns to operate independently of their supervision or require interns to perform activities which do not enhance the intern’s qualification for licensure.  A sponsor may not sponsor more than four interns at the same time.

(D) A sponsor shall certify a biannual progress report on each intern and shall certify completion or termination of an internship to the department within fifteen days after completion or termination.  The report must be made on a form provided by the department and must include at a minimum:

(1) the inclusive dates of the internship;

(2) a narrative explaining the primary duties, types of experiences gained, and the scope of training received; and

(3) an evaluation of the performance of the intern and a recommendation regarding future licensure.

(E) an internship is for a period of one year before the intern can submit an application for a Class ‘RA’ license.

Section 37-18-230. (A) The following constitute grounds for which disciplinary action specified in subsection (B) may be taken by the department against a licensee or applicant regulated by this chapter, or an unlicensed person engaged in activities regulated by this chapter:

(1) fraud or wilful misrepresentation in applying for or obtaining a license;

(2) using a fictitious or assumed name by an agency unless the agency has department approval;

(3) being found guilty of or entering a plea of guilty or nolo contendere to, regardless of adjudication, or being convicted of a crime that directly relates to the business for which the license is held or sought. A plea of nolo contendere creates a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the individual being disciplined or denied an application for a license to present mitigating circumstances surrounding his plea;

(4) a false statement by the licensee that an individual is or has been in his employ;

(5) a finding that the licensee or an employee is guilty of wilful betrayal of a professional secret or an unauthorized release of information acquired as a result of activities regulated by this chapter;

(6) proof that the applicant or licensee is guilty of fraud or deceit, or of negligence, incompetence, or misconduct, in the practice of the activities regulated by this chapter;

(7) conducting activities regulated by this chapter without a license or with a revoked or suspended license;

(8) impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or an employee of this State, the United States, or a political subdivision by identifying himself as a federal, state, county, or municipal law enforcement officer or official representative, by wearing a uniform or presenting or displaying a badge or credentials that would cause a reasonable person to believe that he is a law enforcement officer or that he has official authority, by displaying flashing or warning vehicular lights other than amber colored, or by committing an act that is intended to falsely convey official status;

(9) committing an act of violence or the use of force on a person except in the lawful protection of one’s self or another from physical harm;

(10) knowingly violating, advising, encouraging, or assisting the violation of a statute, court order, capias, warrant, injunction, or cease and desist order, in the course of business regulated by this chapter;

(11) soliciting business for an attorney in return for compensation;

(12) transferring or attempting to transfer a license issued pursuant to this chapter;

(13) employing or contracting with an unlicensed or improperly licensed person or agency to conduct activities regulated by this chapter, or performing an act that assists, aids, or abets a person or business entity in engaging in unlicensed activity, when the licensure status was known or could have been ascertained by reasonable inquiry;

(14) failing or refusing to cooperate with or refusing access to an authorized representative of the department engaged in an official investigation pursuant to this chapter;

(15) failure of a licensee to have his license in his possession while on duty;

(16) failure or refusal by a sponsor to certify a biannual written report on an intern or to certify completion or termination of an internship to the department within fifteen working days;

(17) failure to report to the department a person whom the licensee knows to be in violation of this chapter or the rules and regulations of the department;

(18) violating a provision of this chapter;

(19) recovering defaulted collateral sold under a conditional sales agreement or under the terms of a chattel mortgage before authorization has been received from the legal owner or mortgagee;

(20) charging for expenses not actually incurred in connection with the recovery, transportation, storage, or disposal of a motor vehicle, mobile home, motorboat, or personal property;

(21) using a motor vehicle, mobile home, or motorboat that has been repossessed, or using personal property obtained in a repossession, for the personal benefit of a licensee or an officer, director, partner, manager, or employee of a licensee;

(22) selling a motor vehicle, mobile home, or motorboat recovered pursuant to the provisions of this chapter, except with written authorization from the legal owner or the mortgagee;

(23) failing to notify the police or sheriff’s department of the jurisdiction in which the repossessed property is recovered within two hours after recovery;

(24) failing to remit monies collected in lieu of recovery of a motor vehicle, mobile home, or motorboat to the client within ten working days;

(25) failing to deliver to the client a negotiable instrument that is payable to the client within ten working days after receipt of the instrument;

(26) falsifying, altering, or failing to maintain required inventory or records regarding disposal of personal property contained in or on recovered collateral;

(27) carrying a weapon or firearm when he is performing duties pursuant to his license;

(28) soliciting from the legal owner the recovery of property subject to repossession after the property has been seen or located on public or private property if the amount charged or requested for the recovery is more than the amount normally charged for the recovery;

(29) wearing, presenting, or displaying a badge in the course of repossessing a motor vehicle, mobile home, or motorboat; or

(30) failing to maintain continuous insurance coverage.

(B) A person who engages in, or attempts to engage in repossession activities, and who is not licensed pursuant to this chapter is guilty of the offense of obtaining property by false pretenses pursuant to Section 16-13-240.  A law enforcement officer may seize and impound the tow vehicle engaged in the unlicensed repossession activity and the vehicle must be seized and forfeited.

(C) If a tow vehicle is towing a vehicle at the time of seizure by law enforcement, the vehicle being towed must be impounded.  The lien holder of this towed vehicle must take possession of the impounded vehicle upon payment of storage and other appropriate charges required by the impounding law enforcement agency.

(D) When the department finds a violation of subsection (A), it may:

(1) deny an application for the issuance or renewal of a license;

(2) issue a reprimand;

(3) impose an administrative fine not to exceed two thousand five hundred dollars for every count or separate offense;

(4) place the licensee on probation for a period of time and subject to conditions of the department; or

(5) suspend or revoke a license.

(E) The department may deny an application for licensure citing lack of good moral character only if the finding by the department of lack of good moral character is supported by clear and convincing evidence. In these cases, the department shall furnish the applicant a statement containing the findings of the department, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a contested case hearing before the Administrative Law Court.

(F) Notwithstanding the provisions of subsection (D):

(1) If the applicant or licensee has been convicted of a felony, the department shall deny the application or revoke the license unless and until civil rights have been restored by this State and a period of ten years has expired since final release from supervision.

(2) If the applicant or licensee has been found guilty of, entered a plea of guilty to, or entered a plea of nolo contendere to a felony and adjudication of guilt is withheld, the department shall deny the application or revoke the license until a period of three years has expired since final release from supervision.      A plea of nolo contendere creates a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the person being disciplined or denied an application for a license to present mitigating circumstances surrounding his plea.

(3) The grounds for discipline or denial cited in this subsection must be applied to any disqualifying criminal history regardless of the date of commission of the underlying criminal charge.  These provisions must be applied retroactively and prospectively.

(4) Upon revocation or suspension of a license, the licensee shall return the suspended or revoked license.

(5) The agency license and the approval or license of each officer, partner, or owner of the agency are automatically denied or suspended upon entry of a final order imposing an administrative fine against the agency, until the fine is paid, if thirty calendar days have elapsed since the entry of the final order.  Owners and corporate or agency officers or partners are jointly and severally liable for agency fines.  The agency license and the approval or license of an officer, partner, or owner of the agency may not be renewed, nor may an application be approved, if the owner, licensee, or applicant is liable for an outstanding administrative fine imposed pursuant to this chapter. An individual’s approval or license becomes automatically suspended if a fine imposed against the individual or his agency is not paid within thirty days after the date of the final order, and remains suspended until the fine is paid. Notwithstanding the provisions of this subsection, an individual’s approval or license may not be suspended nor may an application be denied when the licensee or the applicant has an appeal from a final order pending in an appellate court.

(G) An applicant or licensee is ineligible to reapply for the same class of license for a period of one year following final agency action resulting in the denial or revocation of a license applied for or issued pursuant to this chapter.  This time restriction does not apply to administrative denials in which the basis for denial was:

(1) an inadvertent error or omission on the application;

(2) the experience documented by the department was insufficient at the time of application;

(3) the department was unable to complete the criminal background investigation due to insufficient information from the South Carolina Law Enforcement Division, the Federal Bureau of Investigation, or another applicable law enforcement agency; or

(4) failure to submit required fees.

Section 37-18-235. A licensee is subject to the provisions of Sections 37-5-108 and 37-5-112, except the limitation in Section 37‑5‑108(5)(b)(i) that prohibits contacts after 9:00 p.m. and 8:00 a.m. does not apply to repossessions.

Section 37-18-240. (A) Except as otherwise provided by this chapter or another law, a licensee or an employee of a licensee or licensed agency may not divulge or release to anyone other than his client or employer the contents of an investigative file acquired in the course of licensed repossession activity. However, the prohibition of this section does not apply when the client for whom the information was acquired, or the client’s lawful representative, has alleged a violation of this chapter by the licensee, licensed agency, or an employee, or when the prior written consent of the client to divulge or release this information has been obtained.

(B) This section may not be construed to deny access to business or operational records, except as specified in subsection (A), by an authorized representative of the department engaged in an official investigation, inspection, or inquiry pursuant to the regulatory duty and investigative authority of this chapter.

(C) A licensee or employee of a licensee or licensed agency who, in reliance on subsection (A), denies access to an investigative file to an authorized representative of the department shall state the denial in writing within two working days of the request for access.  The statement of denial must include the following:

(1) the client has been advised of the request and has denied permission to grant access;

(2) that the present whereabouts of the client are unknown, or attempts to contact the client have been unsuccessful, but, in the opinion of the person denying access, review of the investigative file under conditions specified by the department would be contrary to the interests of the client; or

(3) that the requested investigative file will be provided pursuant to a subpoena issued by the department.

(D) A licensee or an employer or employee of a licensee or licensed agency may not wilfully make a false statement or report to his client or employer or an authorized representative of the department concerning information acquired in the course of activities regulated by this chapter.

Section 37-18-250. (A) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, may be imprisoned not more than thirty days.

(B) A person who is convicted of a violation of this chapter is not eligible for licensure for a period of five years.

(C) A person who violates or disregards a cease and desist order issued by the department is guilty of a misdemeanor and, upon conviction, may be imprisoned not more than thirty days.  In addition, the department may seek the imposition of an administrative fine not to exceed five thousand dollars.

(D) A person who was an owner, officer, partner, or manager of a licensed agency at the time of activity that is the basis for revocation of the agency or branch office license and who knew or should have known of the activity, shall have his personal license or approval suspended for three years and may not have any financial interest in or be employed in any capacity by a licensed agency during the period of suspension.

(E) An unlicensed individual or agency that engages in repossession activities or hires an unlicensed repossession provider is guilty of obtaining property by false pretenses pursuant to Section 16-13-240.

Section 37-18-260. (A) The department may enforce the provisions of this chapter, irrespective of the place or location in which the violation occurred, and, upon the complaint of a person or on its own initiative, cause to be investigated a suspected violation or to cause to be investigated the business and business methods of a licensed or unlicensed person, agency, employee, or applicant for licensure pursuant to this chapter.

(B) In an investigation undertaken by the department, each licensed or unlicensed person, applicant, agency, or employee shall, upon request of the department, provide records and truthfully respond to questions concerning activities regulated pursuant to this chapter.  These records must be maintained in this State for a period of two years at the principal place of business of the licensee, or at another location within the State for a person whose license has been terminated, canceled, or revoked. Upon request by the department the records must be made available immediately to the department unless the department grants an extension.

(C) The department may investigate a licensed or unlicensed person, firm, company, partnership, or corporation when the person, firm, company, partnership, or corporation is advertising as providing or is engaged in performing services which require licensure pursuant to this chapter or when a licensee is engaged in activities which do not comply with or are prohibited by this chapter; and the department may issue an order to cease and desist the further conduct of these activities, or seek an injunction, or take other appropriate action.

(D) In the exercise of its enforcement responsibility and in the conduct of any investigation authorized by this chapter, the department may subpoena and bring before it any person in the State, require the production of any papers, administer oaths, and take depositions of any subpoenaed persons. If a person fails or refuses to comply with a proper subpoena to be examined or fails or refuses to answer a question about his qualifications or the business methods or business practices under investigation or refuses access to agency records, the circuit court of the county in which the person resides may issue an order on the application of the department requiring the person to comply with the subpoena and to testify.  Failure or refusal to do so is grounds for revocation, suspension, or other disciplinary action. The testimony of witnesses in the proceeding must be under oath before the department or its agents.

(E) In order to carry out the duties of the department prescribed in this chapter, designated employees of the Department of Consumer Affairs may receive and review state and national fingerprint-based criminal record check information and must protect the confidentiality of the information.  The fingerprint-based criminal record check information submitted to the department is confidential.

Section 37-18-270. The department shall maintain statistics and relevant information for recovery agents which details:

(1) the number of complaints received and investigated;

(2) the number of complaints initiated and investigated by the department;

(3) the disposition of each complaint;

(4) the number of administrative complaints filed by the department;

(5) the disposition of all administrative complaints; and

(6) a description of all disciplinary actions taken by profession.

Section 37-18-280. (A) A person, firm, company, partnership, or corporation which engages in business as a recovery agency shall have a Class ‘R’ license.  A Class ‘R’ license is valid for only one location.

(B) Each branch office of a Class ‘R’ agency shall have a Class ‘RB’ license.

(C) An individual who performs the services of a recovery agent shall have a Class ‘RA’ license.

(D) An individual who performs recovery services as an intern under the supervision of a designated, sponsoring Class ‘RA’ licensee shall have a Class ‘RI’ license.

Section 37-18-290. (A) The department shall promulgate by regulation annual license fees of:

(1) Class ‘R’ license recovery agency:  five hundred dollars.

(2) Class ‘RB’ license branch office:  three hundred dollars.

(3) Class ‘RA’ license recovery agent:  three hundred dollars.

(4) Class ‘RI’ license recovery agent intern:  three hundred dollars.

(B) The department may promulgate by regulation a fee for the replacement or revision of a license, which may not exceed one hundred dollars.

(C) The fees provided in this section must be paid by certified check or money order, or, at the direction of the department, by agency check at the time the application is approved, except that the applicant for a Class ‘RA’ or Class ‘RI’ license must pay the license fee at the time the application is made.  If a license is revoked or denied, or if an application is withdrawn, the license fee may not be refunded.

(D) The department may prorate license fees.

(E) Payment of a license fee required by this chapter and approval of the application by the department authorizes the licensee to practice his profession in this State without obtaining an additional license, permit, registration, or identification card, notwithstanding a contrary municipal or county ordinance or resolution.  However, an agency may be required to obtain a city and county occupational license in each city and county in which the agency maintains a physical office.

(F) Fees collected pursuant to this section must be used to implement the provisions of this chapter.

Section 37-18-300. (A) In addition to the license requirements provided in this chapter:

(1) Each agency or branch office must designate a minimum of one appropriately licensed individual to act as manager, directing the activities of the Class ‘RI’ employees.  A Class ‘RA’ licensee may be designated to act as manager of a Class ‘R’ agency or branch office.

(2) An applicant for Class ‘RA’ license shall have at least one year of lawfully gained, verifiable, full-time experience performing repossessions for a Class ‘R’ agency and under the supervision of a Class ‘RA’ licensee as defined by this chapter, except for a person who has been engaged as a collateral recovery agent for a collateral recovery agency for one year prior to the enactment of this chapter and are able to show proof of experience to the department.  Experience requirements that have been obtained by a person in a state that has a reciprocal agreement with the department satisfies the experience requirements of this subsection, provided the agent applying for licensure is able to show acceptable proof of experience to the department.

(3) A Class ‘R’ agency owner must provide proof of insurance for wrongful repossession of a minimum of three hundred thousand dollars which also will apply to any Class ‘RB’ branch office and insurance coverage in the minimum amount of two thousand dollars for personal property, which also will apply to a Class ‘RB’ branch office.

(4) A Class ‘R’ agency owner with four or more employees must provide proof of either occupational hazard insurance coverage or worker’s compensation insurance coverage.

(B) An applicant for a Class ‘R’, Class ‘RA’, or Class ‘RI’ license must have completed a certification program approved by the department.

(C) Licensees must complete continuing education courses set by the department.

Section 37-18-310. (A) Personal effects or other property not covered by a security agreement are contained in or on a recovered vehicle, mobile home, or motorboat at the time it is recovered, a complete and accurate inventory must be made of these personal effects or property. The date and time the inventory is made must be indicated, and it must be signed by the Class ‘RA’ or Class ‘RI’ licensee who obtained the personal property.  The inventory of the personal property and the records regarding disposal of personal property must be maintained for a period of two years in the permanent records of the licensed agency and must be made available, upon demand, to an authorized representative of the department engaged in an official investigation.

(B) The personal property being held must be made reasonably available to the debtor, or his lawful designee, and for purposes of this section, reasonably available means within one hundred miles of the place of the recovery. Should the debtor, or his lawful designee, appear to retrieve the personal property prior to the date on which the Class ‘RA’ licensee is permitted to dispose of the property, the licensee shall surrender the personal property to that individual upon payment of reasonably incurred expenses for inventory and storage. If personal property is not claimed within forty-five days of the notice of intent to dispose, the licensee may dispose of the personal property as provided in Section 29-15-10, except that illegal items or contraband must be surrendered to a law enforcement agency, and the licensee shall retain a receipt or other proof of surrender as part of the inventory and disposal records he maintains.

(C) Vehicles used for the purpose of repossessions by a licensee must be identified during repossession by the Class ‘R’ license number of the agency only, local ordinances to the contrary notwithstanding. The license number must be displayed on both sides of the vehicle and must appear in lettering no less than 4 inches tall and in a color contrasting from that of the background.

Section 37-18-320. (A) A Class ‘R’ licensee shall obtain, prior to sale, written authorization and a negotiable title from the owner or lien holder to sell repossessed collateral.

(B) A Class ‘R’ licensee shall send the net proceeds from the sale of the repossessed collateral to the owner or lien holder within twenty working days after the licensee executes the documents which permit the transfer of legal ownership to the purchaser.

(C) A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, may be imprisoned not more than thirty days.

Section 37-18-330. A person who engages in repossession of collateral as defined in this chapter must be licensed by the department, except for exempt persons as defined in Section 37-18-120.”

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. The department shall create forms and procedures for licensure by October 1, 2010, with full licensure required for those who undertake collateral recovery beginning on January 1, 2011. /

Renumber sections to conform.

Amend title to conform.

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 39; Nays 3**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Davis

Elliott Fair Ford

Grooms Hayes Hutto

Knotts Land Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

**Total--39**

**NAYS**

Bright Bryant Mulvaney

**Total--3**

The Bill was read the second time, passed and ordered to a third reading.

**COMMITTEE AMENDMENT ADOPTED, AMENDED**

**AMENDEMENT PROPOSED, CARRIED OVER**

S. 1065 -- Senators Hayes, Malloy, Lourie, Thomas, Sheheen, Fair and Anderson: A BILL TO AMEND SECTION 37‑3‑501, AS AMENDED, OF THE 1976 CODE, RELATING TO THE DEFINITION OF SUPERVISED LOAN, TO PROVIDE THAT CERTAIN CLOSED‑END CREDIT TRANSACTIONS ARE NOT SUPERVISED LOANS; AND TO AMEND SECTION 37‑3‑503, RELATING TO A LICENSE TO MAKE SUPERVISED LOANS, TO PROVIDE THAT CERTAIN LICENSED DEFERRED PRESENTMENT PROVIDERS MAY NOT CONDUCT THE BUSINESS OF MAKING SUPERVISED LOANS, TO PROVIDE PENALTIES, AND TO PROVIDE NECESSARY DEFINITIONS.

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.

The Committee on Banking and Insurance proposed the following amendment (1065R005.DLT), which was adopted:

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

/ SECTION 1. Section 37‑3‑501(1) of the 1976 Code, as last amended by Act 67 of 2009, is further amended to read:

“Section 37-3-501. (1) ‘Supervised loan’ means a consumer loan in which the rate of the loan finance charge exceeds twelve percent per year as determined according to the provisions on the loan finance charge for consumer loans (Section 37‑3‑201). A supervised loan does not include ~~a mortgage loan as defined in Section 37‑22‑110(30).~~:

(a) a mortgage loan as defined in Section 37‑22‑110(30); or

(b) a closed‑end credit transaction, with an original repayment term of less than one hundred twenty days, unsecured by any interest in the consumer’s personal property or secured by personal property, excluding motor vehicles that are free of any other liens or encumbrances, that does not have a market value that reasonably secures the amount of the loan, and the consumer:

(i) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, provides a check or other payment instrument to the creditor who agrees with the consumer not to deposit or present the check or payment instrument; or

(ii) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, authorizes the creditor to initiate a debit or debits to the consumer’s deposit account by electronic fund transfer or a remotely created check or remotely created consumer item as defined in Section 36‑3‑103(16).

The provisions of subitem (b) do not apply to credit unions, bank holding companies, banks, or financial institutions insured by the Federal Deposit Insurance Corporation.”

SECTION 2. Section 37‑3‑503(7) of the 1976 Code is amended to read:

“(7)(a) A licensee may conduct the business of making supervised loans only at or from any place of business for which he holds a license and not under any other name than that in the license. Sales or leases made pursuant to a lender credit card do not violate this subsection.

(b)(1) A person licensed to make supervised loans may not make or enter into a closed‑end credit transaction, with an original repayment term of less than one hundred twenty days, unsecured by any interest in the consumer’s personal property or secured by personal property, excluding motor vehicles that are free of any other liens or encumbrances, that does not have a market value that reasonably secures the amount of the loan, and the consumer:

(i) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, provides a check or other payment instrument to the creditor who agrees with the consumer not to deposit or present the check or payment instrument; or

(ii) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, authorizes the creditor to initiate a debit or debits to the consumer’s deposit account by electronic fund transfer or a remotely created check or remotely created consumer item as defined in Section 36‑3‑103(16).

(2) The board shall impose the following penalties for violation of this item:

(a) a fine of $500.00 for the first violation;

(b) a fine of $1,000.00 for the second violation;

(c) permanent revocation of license for the third violation.

The board may not revoke a license issued pursuant to this chapter unless the licensee has been given notice and opportunity for hearing in accordance with the Administrative Procedures Act.

(3) In addition to the penalties required in item (2), the board or the court may order and impose civil penalties upon a person subject to the provisions of this article for violations of this article or its regulations in an amount not to exceed one thousand dollars for each violation. The board also may order repayment of unlawful or excessive fees charged to customers.

(c) The provisions of subsection (b)(1) do not apply to credit unions, bank holding companies, banks, or financial institutions insured by the Federal Deposit Insurance Corporation.”

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

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

Senator HAYES proposed the following amendment (1065R006.RWH), which was adopted:

Amend the bill, as and if amended, page 2 by amending Section 37‑3‑503(7) found in SECTION 2 to add a new subsection to read:

/ “(d) A person licensed to make supervised loans that makes supervised loans secured by a motor vehicle that have an original repayment term of less than one hundred twenty days must comply with the provisions contained in Section 37-3-413.” /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the amendment.

The amendment was adopted.

Senators MALLOY and COURSON proposed the following amendment (1065R008.GM):

Amend the bill, as and if amended, page 2 by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_. A. SECTION 1. The 1976 Code is amended by adding:

“Section 16‑13‑480. (A) For purposes of this section:

(1) ‘Deferred presentment services’ means a transaction pursuant to an agreement involving the following combination of activities in exchange for a fee:

(a) accepting a check dated on the date it was written; and

(b) holding the check for a period of time before presentment for payment or deposit.

(2) ‘Person’ means an individual, group of individuals, partnerships, association, corporation, or other business unit or legal entity, and includes a person who was previously licensed by this State to engage in the business of deferred presentment services pursuant to Chapter 39 of Title 34.

(B) It is unlawful for a person to engage in the business of deferred presentment services in this State.

(C) A person who violates this section is guilty of a felony and, upon conviction, must be fined the mandatory minimum amount of ten thousand dollars and imprisoned not less than a mandatory minimum of five years nor more than ten years, no part of which may be suspended nor probation granted.”

B. Chapter 39, Title 34 of the 1976 Code is repealed. /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

**Point of Order**

Senator LAND raised a Point of Order that the amendment was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT took the Point of Order under advisement.

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

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

**MOTION ADOPTED**

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

**Expression of Personal Interest**

Senator LEVENTIS rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator RANKIN rose for an Expression of Personal Interest.

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

**CARRIED OVER**

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

The House returned the Concurrent Resolution with amendments.

On motion of Senator HUTTO, the Concurrent Resolution was carried over.

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

**AMENDED, AMENDMENT PROPOSED**

**DEBATE INTERRUPTED**

S. 391 -- Senators Ryberg, McConnell, Verdin, Bryant, Cleary, Campsen, Shoopman, Campbell, Rose, Davis, Bright and S. Martin: A BILL TO CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE, TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH, TO CONFORM SEVERAL CODE SECTIONS TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE. (ABBREVIATED TITLE)

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

**Amendment No. 8**

Senator RYBERG proposed the following Amendment No. 8 (391R019.WGR), which was carried over:

Amend the bill, as and if amended, page 3 after line 38 by adding:

/ (4) A panel member may not receive per diem or subsistence for days that the member was performing his duties in Columbia and may not receive mileage for traveling between his home and Columbia.” /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator LEVENTIS argued contra to the adoption of the amendment.

Senator LEVENTIS moved to lay the amendment on the table.

By a division vote of 13-18, the Senate refused to table the amendment.

The question then was the adoption of the amendment.

Senator LEVENTIS argued contra to the adoption of the amendment.

On motion of Senator LEVENTIS, Amendment No. 8 was carried over.

**Amendment No. 9**

Senator RYBERG proposed the following Amendment No. 9 391R017.WGR), which was adopted:

Amend the bill, as and if amended, by striking Section 40-29-300(E)(3) and inserting:

/ (3) The initial members of the panel do not have to meet the qualifications for election contained in this subsection during their continued tenure as a commissioner. Initial commissioners may not seek reelection. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

The amendment was adopted.

**Amendment No. 11**

Senator SETZLER proposed the following Amendment No. 11 (391R021.NGS), which was adopted:

Amend the bill, as and if amended, page 6 by striking Section 41-27-650 and inserting:

“Section 41-27-650. (A) The Department of Commerce and the Department of Workforce must work in conjunction to develop or procure computer hardware, software, and other equipment that are compatible with each other as needed to efficiently address the state’s policy goals as set forth in Section 41-27-20. Once information technology is attained, the departments must regularly develop reports that address relevant workforce issues and make the reports available to workforce training entities, including, but not limited to, the State Board for Technical and Comprehensive Education, the Commission on Higher Education, and the State Agency of Vocational Rehabilitation. Additionally, the departments must promptly respond to inquiries for information made by education and workforce training entities.

(B) The department must work in conjunction with the State Budget and Control Board to coordinate its computer system with computer systems of other state agencies so that the department may more efficiently match unemployed persons with available jobs. The department must provide a progress report concerning implementation of this subsection to the Chairman of the Senate Labor, Commerce and Industry Committee, the Chairman of the House of Representatives Labor, Commerce and Industry Committee, and the Governor every three months until fully implemented.” /

Renumber sections to conform.

Amend title to conform.

Senator SETZLER explained the amendment.

The amendment was adopted.

**Amendment No. 13**

Senators RANKIN and KNOTTS proposed the following Amendment No. 13 (391R034.LAR), which was carried over:

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

/ SECTION 5. A. Section 41‑29‑20 of the 1976 Code is amended to read:

“Section 41‑29‑20. (A) ~~The Commission shall elect one of its members as chairman. Any two commissioners shall constitute a quorum and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission through action of a quorum.~~ There is hereby created the South Carolina Department of Workforce which must be managed and operated by an executive director appointed by the Governor from among the candidates nominated by the joint screening committee pursuant to subsection (B). The term of the executive director is conterminous with the Governor. The executive director is subject to removal by the Governor as provided in Section 1‑3‑240(C)(1). The director shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act. For purposes of this chapter, ‘department’ means the South Carolina Department of Workforce.

(B)(1) A vacancy is created on the office of the executive director when the current executive director’s term expires, or he resigns, dies, or is removed from office as provided in Section 57‑1‑330(C). If known in advance, the review committee may provide notice of a vacancy and begin screening prior to the actual date of the vacancy. When an executive director must be appointed to fill a vacancy, a joint committee must be appointed pursuant to Section 2‑20‑10 to begin the screening process. The first order of business for the joint committee, after organization, must be to provide the public with a notice of the vacancy pursuant to Section 20‑20‑15. The provisions contained in Chapter 20, Title 2 must govern the screening process.

(2) A person must be screened and found qualified in the manner provided in Chapter 20, Title 2 before he may be appointed to serve as the executive director. The qualifications that the executive director must possess include, but are not limited to:

(a) a baccalaureate or more advanced degree from:

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

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

(iii) an institution of higher learning chartered before 1962; or

(b) a background of at least five years in any combination of the following fields of expertise:

(i) general business administration;

(ii) general business management;

(iii) management at the Department of Workforce, or its predecessor;

(iv) human resources management;

(v) finance; or

(vi) law.

(3)(a) The joint committee must review the qualifications of all applicants and nominate for appointment the three applicants whom it considers best qualified to serve as executive director. The joint committee will submit the names and qualifications of nominees to the Governor. If fewer than three persons apply to fill the vacancy or if the joint committee concludes there are fewer than three applicants qualified for the vacancy, it shall submit to the Governor only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

(b)(i) The nominations of the joint committee are binding on the Governor, and he may not appoint a person not nominated by the joint committee. The Governor must make his appointment within thirty days of receiving the nominations. If the Governor does not make an appointment in that time period, then the General Assembly must hold an election for the office of executive director. The General Assembly may not elect a person not nominated by the joint committee.

(ii) If an election is required pursuant to subitem (i), the General Assembly shall meet in joint session for the election. The date and time for the joint session shall be set by concurrent resolution upon the recommendation of the joint committee. The chairman of the joint committee shall announce the commission’s nominees for each nominee, and no further nominating or seconding speeches shall be allowed by members of the General Assembly. In order to be elected, a nominee must receive a majority of the vote of the members of the General Assembly voting in joint session.

(4) No member of the General Assembly or member of his immediate family shall be appointed to be an Executive Director while the member is serving in the General Assembly; nor shall a member of the General Assembly or a member of his immediate family be appointed to be the Executive Director for a period of two years after the member either:

(a) ceases to be a member of the General Assembly; or

(b) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

(C) The executive director shall appoint assistant directors and area directors as needed for the effective and efficient operation of the department who shall serve at the pleasure of the executive director.”

B. Section 1‑3‑240(C)(1) of the 1976 Code is amended by adding an appropriately lettered subitem to read:

/ ( ) Executive Director of the Department of Workforce. /

Amend the bill further, as and if amended, page 4, by striking SECTION 3 in its entirety.

Renumber sections to conform.

Amend title to conform.

Senator RANKIN explained the amendment.

Senator RYBERG spoke on the amendment.

**PRESIDENT *Pro Tempore* PRESIDES**

At 4:03 P.M., Senator McCONNELL assumed the Chair.

Senator RYBERG spoke on the amendment.

**Objection**

Senator LAND asked unanimous consent to make a motion to amend the amendment.

Senator MULVANEY objected.

Senator RYBERG resumed speaking on the amendment.

On motion of Senator KNOTTS, the amendment was carried over.

**Amendment No. 14**

Senator RYBERG proposed the following Amendment No. 14 (391R037.WGR), which was tabled:

Amend the bill, as and if amended, page 73, after line 39, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_\_. Section 41‑35‑10 of the 1976 Code is amended to read:

“Section 41‑35‑10. (A) ~~Benefits shall become~~ Subject to the provisions in subsection (B), a benefit becomes payable from the fund to ~~any~~ an individual who is unemployed and eligible for ~~benefits~~ a benefit. Except as provided in Section 41‑35‑20, ~~benefits~~ a benefit based on service in employment defined in Section 41‑27‑230 (2) and (3) ~~shall be~~ is payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to Chapters 27 through 41 of this title. ~~All benefits shall~~ A benefit must be paid through an employment ~~offices, in accordance with such~~ office pursuant to regulations ~~as the Commission may prescribe~~ prescribed by the department.

(B)(1) Receiving severance pay, whether paid periodically or in a lump sum, does not affect an individual’s eligibility for unemployment benefits unless the employer and employee enter into an agreement pursuant to subsection (C). However, the receipt of those benefits by and individual who is unemployed and his previous employer has a negative account balance with the department must be adjusted in the following manner:

(a)(i) For any week that the individual receives severance pay, he may only receive unemployment benefits if the severance pay received is less than the amount of benefits that the individual would otherwise receive. In that instance, the individual is entitled to receive the difference between the severance payment and the benefit amount he would otherwise receive. However, an individual may not receive benefits that he is otherwise eligible to receive for any week that his severance payments is equal to or exceeds the benefits that he otherwise would have received.

(ii) If an individual receives periodic severance pay for a period that exceeds one week, then the severance payment must be converted to a weekly equivalent for that time period. For the purposes of item (a)(i), the weekly equivalent calculated pursuant to this item must be used when calculating whether there is a difference between severance pay received and unemployment benefits to which the individual is entitled if the individual receives periodic severance pay for a period that exceeds one week. The weekly equivalent is calculated by dividing the amount of the periodic severance payment by the number of weeks until the next scheduled periodic severance payment.

(b) An individual that receives severance pay in a lump sum may not receive benefits that he is otherwise eligible to receive for a number of weeks equal to dividing the lump sum amount by the weekly benefits the person would otherwise be eligible to receive.

(c) The adjustments contained in items (1) and (2) may not exceed eight weeks for an individual that receives severance pay from an employer that is going out of business.

(2) After the provisions contained in item (1) have been satisfied, an otherwise eligible individual must receive full benefits during the remainder of his eligibility.

(C) An agreement between an employee and an employer that conditions receipt of severance upon the employee waiving eligibility for unemployment benefits is enforceable.” /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator LAND argued contra to the adoption of the amendment.

Senator LAND moved to lay the amendment on the table.

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

**Ayes 31; Nays 13**

**AYES**

Alexander Anderson Campsen

Cleary Coleman Courson

Cromer Elliott Fair

Ford Grooms Hayes

Hutto Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

McGill Nicholson Peeler

Pinckney Rankin Reese

Scott Setzler Sheheen

Williams

**Total--31**

**NAYS**

Bright Bryant Campbell

Davis Massey McConnell

Mulvaney O’Dell Rose

Ryberg Shoopman Thomas

Verdin

**Total--13**

The amendment was laid on the table.

**Amendment No. 15A**

Senators ROSE and McCONNELL proposed the following Amendment No. 15A (JUD0391.004), which was adopted:

Amend the bill, as and if amended, page 66, beginning on line 19, by striking SECTION 105 in its entirety and inserting therein the following:

/ SECTION 105. Chapter 35, Title 41 of the 1976 Code is amended by adding:

“Section 41‑35‑760. (A) The department must promulgate all regulations described in this chapter and regulations governing procedures at all proceedings, hearings and appeals before the department or any member or employee of the department, including claims for benefit determinations, and all appeals of determinations regarding those claims, and publish all regulations on an electronic website.

(B) Regulations governing procedures at hearings and appeals before the department shall include, at a minimum:

(1) Procedures for seeking a hearing, review, or appeal;

(2) Procedures for notifying parties;

(3) Evidentiary rules;

(4) Procedures for making findings of fact and conclusions of law;

(5) Procedures for making and maintaining an appropriate record of interviews and proceedings before the department; and

(6) Procedures for seeking review or appeal of the department’s decision;

(C) All regulations must be promulgated in accordance with the provisions of Chapter 23 of Title 1 of the South Carolina Code of Laws.” /

Renumber sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

The amendment was adopted.

**Amendment No. 17**

Senators THOMAS and MULVANEY proposed the following Amendment No. 17 (NBD\11962AC10), which was ruled out of order:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to Part I to read:

/ SECTION \_\_\_. Article 1, Chapter 35, Title 41 of the 1976 Code is amended by adding:

“Section 41‑35‑112. (A) In September, 2010, the Employment Security Commission shall randomly select five hundred benefit recipients and refer them to the closest Department of Alcohol and Other Drug Abuse Services (DAODAS) site to undergo, within forty-eight hours, a urine test for marijuana, cocaine, PCP, and methamphetamine. The cost of this test must not exceed ten dollars per test and must be paid for by the commission. If a recipient tests positive the recipient may request a chemical analysis to be conducted on the urine specimen, the cost of which must not exceed twenty dollars and which must be paid for by the recipient. The Employment Security Commission shall notify the appropriate DAODAS offices of the referrals, including the names of the recipients being referred. The Department of Alcohol and Other Drug Abuse Services shall report the findings of all tests conducted on each individual to the Employment Security Commission, and if a referred individual did not appear for such testing, of this fact as well. The commission shall report the findings of these tests to the General Assembly by November 1, 2010. If more than ten percent of the random sample test positive for such drug use, beginning on February 1, 2011, and every month thereafter, three percent of all recipients who report to the commission to receive benefits, chosen randomly, must be tested for these drugs, with no recipient being tested more than once in a twelve‑month period. A benefit recipient who fails to appear for such testing shall have his benefits suspended until completion of the testing.

(B) If upon testing or retesting, whichever is conducted later, a benefit recipient tests positive for such drug use, the recipient, in order to continue receiving unemployment benefits, shall enter a treatment program as prescribed by the Department of Alcohol and Other Drug Abuse Services; the cost of this treatment must be borne by the recipient, but the recipient shall continue to receive unemployment benefits. At any time during the treatment program the recipient of benefits may request, at his own cost, to be given a urine test or chemical test, or both, for these drugs. If the recipient does not request a test during the program, DAODAS shall conduct such tests at those times as the treatment program considers appropriate. When one or more of these tests are conducted during the recipient’s participation in the treatment program and the recipient tests positive for these drugs, the recipient is no longer eligible to receive unemployment benefits and the individual’s benefits must immediately be terminated. However, after receiving a positive test upon the recipient’s request or when tested upon DOADAS initiating the test, if the recipient completes the DAODAS prescribed treatment program and does not test positive for these drugs at the end of the program, the individual, if otherwise eligible, may reapply for unemployment benefits without penalty for previously testing positive for these drugs.”/

Amend the bill further, by adding an appropriately numbered SECTION in Part II to read:

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

“Section 2-1-125. During every two-year legislative session, each member of the House of Representatives and of the Senate shall undergo a urine test for marijuana, cocaine, PCP, and methamphetamine to be conducted by the South Carolina Law Enforcement Division and must be paid for out of the approved accounts of each body, respectively. If a member tests positive, the member may request to be retested. Following the initial test or the retest the member also may request a chemical analysis to be conducted on the urine specimen. If after being tested, by whichever test is later, the member tests positive for these drugs, the results must be published on the SLED official website and available to the public.”/

Renumber sections to conform.

Amend title to conform.

Senator THOMAS explained the amendment.

**Point of Order**

Senator HUTTO raised a Point of Order that the amendment was out of order inasmuch as it was violative of Rule 24A.

Senator THOMAS spoke on the Point of Order.

The PRESIDENT *Pro Tempore* sustained the Point of Order.

Amendment No. 17 was ruled out of order.

**Amendment No. 18**

Senators THOMAS and MULVANEY proposed the following Amendment No. 18 (GGS\22506SD10):

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to Part I to read:

/ SECTION \_\_\_. Article 1, Chapter 35, Title 41 of the 1976 Code is amended by adding:

“Section 41‑35‑112. (A) In September, 2010, the Employment Security Commission shall randomly select five hundred benefit recipients and refer them to the closest Department of Alcohol and Other Drug Abuse Services (DAODAS) site to undergo, within forty-eight hours, a urine test for marijuana, cocaine, PCP, and methamphetamine. The cost of this test must not exceed ten dollars per test and must be paid for by the commission. If a recipient tests positive the recipient may request a chemical analysis to be conducted on the urine specimen, the cost of which must not exceed twenty dollars and which must be paid for by the recipient. The Employment Security Commission shall notify the appropriate DAODAS offices of the referrals, including the names of the recipients being referred. The Department of Alcohol and Other Drug Abuse Services shall report the findings of all tests conducted on each individual to the Employment Security Commission, and if a referred individual did not appear for such testing, of this fact as well. The commission shall report the findings of these tests to the General Assembly by November 1, 2010. If more than ten percent of the random sample test positive for such drug use, beginning on February 1, 2011, and every month thereafter, three percent of all recipients who report to the commission to receive benefits, chosen randomly, must be tested for these drugs, with no recipient being tested more than once in a twelve‑month period. A benefit recipient who fails to appear for such testing shall have his benefits suspended until completion of the testing.

(B) If upon testing or retesting, whichever is conducted later, a benefit recipient tests positive for such drug use, the recipient, in order to continue receiving unemployment benefits, shall enter a treatment program as prescribed by the Department of Alcohol and Other Drug Abuse Services; the cost of this treatment must be borne by the recipient, but the recipient shall continue to receive unemployment benefits. At any time during the treatment program the recipient of benefits may request, at his own cost, to be given a urine test or chemical test, or both, for these drugs. If the recipient does not request a test during the program, DAODAS shall conduct such tests at those times as the treatment program considers appropriate. When one or more of these tests are conducted during the recipient’s participation in the treatment program and the recipient tests positive for these drugs, the recipient is no longer eligible to receive unemployment benefits and the individual’s benefits must immediately be terminated. However, after receiving a positive test upon the recipient’s request or when tested upon DOADAS initiating the test, if the recipient completes the DAODAS prescribed treatment program and does not test positive for these drugs at the end of the program, the individual, if otherwise eligible, may reapply for unemployment benefits without penalty for previously testing positive for these drugs.”/

Renumber sections to conform.

Amend title to conform.

Senator THOMAS explained the amendment.

Senator LEVENTIS spoke on the amendment.

With Senator LEVENTIS retaining the floor, on motion of Senator LARRY MARTIN, with unanimous consent, debate was interrupted by adjournment.

**H. 4087--FREE CONFERENCE POWERS GRANTED**

**FREE CONFERENCE COMMITTEE APPOINTED**

**REPORT OF THE COMMITTEE**

**OF FREE CONFERENCE ADOPTED**

H. 4087 -- Rep. Bedingfield: 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.

On motion of Senator FAIR, with unanimous consent, the Report of the Committee of Free Conference was taken up for immediate consideration.

Senator MARTIN spoke on the report.

On motion of Senator FAIR, Free Conference Powers were granted.

Whereupon, Senators FAIR, ANDERSON and SHOOPMAN were appointed to the Committee of Free Conference on the part of the Senate and a message was sent to the House accordingly.

On motion of Senator FAIR, the Report of the Committee of Free Conference to H. 4087 was adopted as follows:

**H. 4087--Free Conference Report**

The General Assembly, Columbia, S.C., February 1, 2010

The COMMITTEE OF CONFERENCE, to whom was referred:

H. 4087 -- Rep. Bedingfield: 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.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments:

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

/ SECTION 1. Act 743 of 1962, as last amended by Act 599 of 1992, is further amended by adding:

“Section 1A. (A) There is created the Greenville Technical College Area Commission which is a body politic and corporate and the governing body of Greenville Technical College. The commission consists of twelve members, three of whom shall serve as non‑voting members:

(1) the Superintendent of Greenville County School District, who shall serve ex‑officio;

(2) the Director of Workforce Development, who shall serve ex‑officio; and

(3) a representative of the University Center of Greenville selected upon the recommendation of the Chairman of the Greenville County Legislative Delegation.

The remaining members are voting members, must be selected by the Greenville County Legislative Delegation, and include:

(1) a member selected upon the recommendation of the Chairman of the Greenville County Council, who may not be a current council member;

(2) a member selected upon the recommendation of the Chairman of the Greenville County Legislative Delegation;

(3) one member selected from either House District 17 or House District 18;

(4) one member selected from either House District 20 or House District 22;

(5) one member selected from either House District 23 or House District 25;

(6) one member selected from either House District 19 or House District 26;

(7) one member selected from either House District 21 or House District 24;

(8) one member selected from either House District 27 or House District 28; and

(9) one member selected at large.

A member of the area commission shall serve for a term of four years, except that the member selected upon the recommendation of the Chairman of the Greenville County Council and the members selected upon the recommendation of the Chairman of the Greenville County Legislative Delegation shall serve for a term of two years. Present members of the commission shall serve until their terms end, with their respective successors appointed by the legislative delegation according to the above method. The delegation shall designate one of the present members from House District 19 to serve at large.

(B) The commission shall:

(1) establish the basic qualifications for and appoint a president for the term and under the conditions as it may fix, the commission having full powers of appointment and dismissal to the fullest extent permitted by law and applicable regulations;

(2) provide for the employment of personnel pursuant to Section 59‑53‑20;

(3) purchase land required for college sites and rights‑of‑way which are necessary for the proper operation of the college;

(4) apply the standards and requirements for admission and graduation of students and other standards established by the State Board for Technical and Comprehensive Education;

(5) receive and accept private donations, gifts, bequests, and the like to apply them or invest any of them and apply the proceeds for the purposes and upon the terms which the donor may prescribe and which are consistent with the provisions of law and the regulations of the State Board for Technical and Comprehensive Education;

(6) require the execution of studies and take steps as are necessary to ensure that the functions of the college are always those which are most helpful and feasible in light of the resources available to the school;

(7) designate members or other agents or representatives to represent the college before the Greenville County Council, the State Board for Technical and Comprehensive Education, and other agencies concerned with the serving of financial support for the needs of the college for operation expenses and capital outlay;

(8) adopt and recommend current expense and capital outlay budgets;

(9) perform acts and do other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of reasonable rules, regulations, and bylaws for the government and operation of the college under law and for the discipline of students;

(10) perform functions required as necessary for the proper governance of the college with regard to policy, personnel, and fiduciary matters.”

SECTION 2. Sections 2 and 3 of Act 743 of 1962 are deleted.

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

Amend title to conform.

/s/Sen. Michael L. Fair /s/Rep. Dwight A. Loftis

/s/Sen. Ralph Anderson /s/Rep. Eric M. Bedingfield

/s/Sen. Phillip W. Shoopman /s/Rep. Karl B. Allen

On Part of the Senate. On Part of the House.

, and a message was sent to the House accordingly.

**MOTION ADOPTED**

On motion of Senator HUTTO, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. William B. “Billy” Gillam, Sr. of Barnwell, S.C., beloved husband, devoted father and doting grandfather. Mr. Gillam was a founder and former owner of Gillam and Associates, Inc. and was a former member of the Board of Trustees of Presbyterian College.

and

**MOTION ADOPTED**

On motion of Senators CROMER, SETZLER, ALEXANDER, ANDERSON, BRIGHT, BRYANT, CAMPBELL, CAMPSEN, CLEARY, COLEMAN, COURSON, DAVIS, ELLIOTT, FAIR, FORD, GROOMS, HAYES, HUTTO, JACKSON, KNOTTS, LAND, LEATHERMAN, LEVENTIS, LOURIE, MALLOY, LARRY MARTIN, SHANE MARTIN, MASSEY, MATTHEWS, McCONNELL, McGILL, MULVANEY, NICHOLSON, O'DELL, PEELER, PINCKNEY, RANKIN, REESE, ROSE, RYBERG, SCOTT, SHEHEEN, SHOOPMAN, THOMAS, VERDIN and WILLIAMS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Nathaniel Ross Phillips of Lexington, S.C., beloved son of Sam and Alison Phillips and grandson of Bill and Jenny Ross. Although he had many disabilities with which to contend, he was an inspiration to those who knew him.

**ADJOURNMENT**

At 5:15 P.M., on motion of Senator LARRY MARTIN, with unanimous consent, the Senate adjourned to meet tomorrow at 11:00 A.M.

\* \* \*