**Wednesday, February 24, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

 The Senate assembled at 11:45 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT *Pro Tempore*.

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

The prophet, Isaiah, reminds us that we are to:

 “ ‘Sing praises to the Lord, for he has done gloriously; let this be known in all the earth.’ ” (Isaiah 12:5)

 Please join me as we pray:

 We do sing praises to You, dear Lord. You have indeed blessed us in South Carolina in many ways. And among our richest, most treasured blessings is the work of those who are dedicated to helping our children and young people grow in wisdom and in understanding. The world around us is incredibly complex; there is indeed much for all of us to know, for each of us to learn. We are grateful, O God, for those teachers and administrators who accomplish much, often with very little. Guide these Senators, Lord, as they struggle to find meaningful ways to enhance learning. May all of us in South Carolina continue to remain committed to improving education in this State. In Your name we pray, loving Lord.

 Amen.

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

**Doctor of the Day**

 Senator GROOMS introduced Dr. William Hueston of Charleston, S.C., Doctor of the Day.

**Leave of Absence**

 At 5:12 P.M., Senator SHOOPMAN requested a leave of absence for the balance of the day.

**Leave of Absence**

 At 6:15 P.M., Senator GROOMS requested a leave of absence from 9:00 A.M. - 3:00 P.M. tomorrow.

**CO-SPONSORS ADDED**

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

S. 1216 Sens. Pinckney, Jackson

**CO-SPONSOR REMOVED**

The following co-sponsor was removed from the respective Bill:

S. 191 Sen. Ford

**Committee to Escort**

 The PRESIDENT appointed Senators WILLIAMS, CAMPBELL, ELLIOTT, SCOTT and LARRY MARTIN to escort the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, and members of her party to the House of Representatives for the Joint Assembly.

**RECESS**

 At 11:55 A.M., the Senate receded from business for the purpose of attending the Joint Assembly.

**JOINT ASSEMBLY**

**Chief Justice of the South Carolina Supreme Court**

 At 12:00 Noon, the Senate appeared in the Hall of the House.

 The PRESIDENT of the Senate called the Joint Assembly to order and announced that it had convened under the terms of H. 4370, a Concurrent Resolution adopted by both Houses.

 The Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, and members of her party, were escorted to the rostrum by Senators WILLIAMS, CAMPBELL, ELLIOTT, SCOTT and LARRY MARTIN and Representatives Cole, Weeks, Hearn, Scott and Funderburk.

 The PRESIDENT introduced the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court.

 Chief Justice Toal addressed the Joint Assembly as follows:

**State of the Judiciary**

**Address by Chief Justice Toal**

 Mr. PRESIDENT, Mr. Speaker, Mr. Speaker *Pro Tempore* and Members of the Joint Assembly:

 Oliver Wendell Holmes, Jr. authored a 1921 U.S. Supreme Court opinion interpreting a section of the then very newly adopted Internal Revenue Code. He famously wrote, ‘Upon this point, a page of history is worth a volume of logic.’ Things have not changed very much since trying to construe the Internal Revenue Code in 1921.

 As I present this address, I will be looking back in our history to give some context to the current situation in which your judiciary finds itself. But I guess, that’s as it should be. An appellate judge spends much of her time examining the past in order to find an answer to the controversy presented by a case. That past may be in history books, court decisions, the legislation you enact, constitutional provisions or executive decisions.

 As a prelude to today’s address on the state of your judiciary, a page of history is in order. Today is the 25th anniversary of your annual invitation to the Chief Justice of South Carolina to deliver the State of the Judiciary Address to the Joint Assembly. This milestone is an enduring symbol of the harmony between the legislative branch and the judicial branch, and it was not always so. 1985 is the mark of the year which resolved a long-standing and very bitter dispute between the branches that began as I began my service in the House in 1975. The spirit of respect for each branch’s constitutional authority and responsibility has, I think, remained the hallmark of your relationship with the judicial branch and the judicial branch’s relationship with the legislature.

 No one will ever come to service on the South Carolina Supreme Court who has the depth and quality of appellant experience that Justice Hearn brings to our court. Her career as a lawyer began as a law clerk to a Justice on our court, Julius B. Ness. After a distinguished career as a lawyer and as a family court judge, Justice Hearn’s four years as a member of the Court of Appeals and over ten years as its Chief, makes her a highly skilled member of our court.

 We rejoice in your selection of John Few as the new Chief Judge of the Court of Appeals. A ten-year veteran of circuit court service, he is energetic and he has already begun work in his new role.

 Before we get to finances, I want to look again at a page of history to set the context at where we stand. 35 years ago, I sat in your seats as a freshman legislator. Senators JOHN LAND and JOHN MATTHEWS, Rep. Dan Cooper’s father -- Rep. Dolly Cooper -- and Rep. Cathy Harvin’s late husband -- Alex Harvin -- and I were in a group of 52 new members who came to service the first year of single-member districts in the House. Mr. Speaker, we could have elected a freshman speaker, if we would have been bold enough. Our first term as freshmen legislators ended in 1976, with the beginning of a national financial crisis that was every bit as tough as the financial crisis we are facing today. “Stagflation”-- a combination of a stagnant economy and rampant inflation, and the beginning of a severe Mid-East conflict centered in Iran -- brought gas shortages, 17% interest rates and unemployment in South Carolina which in some counties topped out at 27%.

 So how did South Carolina and America come out of this profound economic crisis of the 1970s? In South Carolina, the governmental structure began to change with judicial modernization. We developed a uniform system based on a business model, which brings social order and stability. We also modernized the Office of the Governor by amending the Constitution to allow a governor to serve two terms. Dick Riley spearheaded these two efforts and they set the stage for a new approach in South Carolina to economic development under Gov. Carroll Campbell that resulted in such business relocations and success stories as BMW, Michelin, Pirelli and many other national relocations. On the legislative side, we re-engineered the way we do business as a new generation of House and Senate leadership developed a sophisticated staff of highly trained research personnel for all committees. The General Assembly began to be equipped to make independent decisions about the direction of this State. On the national scene, economic prosperity that began in the Reagan years sustained a period of unprecedented national and global business growth through several successive generations of presidents and state and local leaders. Today, we face another enormous state and national challenge.

 The stability of your court system is the bedrock of social order and stability in this State. We will not continue to attract new investment in our State -- which is the key to moving out of the economic crisis in which we lag at this time -- if our court system unravels. And, our court system is beginning to unravel. This is a snapshot of the funding sources and expenditures in recent years for your court system.

 As I began my tenure as your Chief Justice ten years ago, it took about $46.5 million to run the state court system and almost all of it was raised by regular general appropriations funds. There were no federal funds and very little in the way of state fees. Nine years later I approached this fiscal year with general appropriations money of only $28 million and state fines and fees of $18 million and $6.5 million of federal funds. All of the federal funds I have acquired over the last ten years have been used to re-engineer automation of the court systems to place new automation and new high speed connectivity in every county of South Carolina. No state funds there. As I approached this past year, we had already sustained $6 million in a shortfall the year before and I made it up by cuts to travel, by other cuts within the department and by some use of carryover funds.

 This year the across-the-board cuts left me $7.5 million in a deficit and right at the last of the session last year, you replaced $4 million of recurring money with stimulus money, ARRA money, one time money that won’t be repeated this year. Your court system is $11.5 million down at this time and about to run out of the little bit of carryover money that I carefully hoarded year after year to expend on nonrecurring projects -- which includes repairs to the two buildings that I rent from the State. But the State does not have the ability to repair on this very campus the Supreme Court Building and the Court of Appeals Building. We can’t continue to operate like this. You can see that the operation is almost entirely salaries and benefits. The operation is only $12 million and $6 million of that is comprised of federal funds, that have been gotten every year to automate the court system and to automate the counties.

 I can’t operate your court system on the $46 million that was appropriated ten years ago and what will that mean if that can’t happen? Courts will have to close in counties, terms of court will have to be eliminated, and other very, very severe steps will have to be taken.

 What have we already done? We’ve done a lot. We’ve reduced judges’ travel. We have eliminated it for law clerks. We’ve restricted travel for court reporters and the rest of the things you see listed in the slide, including hiring freezes, cutting reimbursements to judges for monthly judges’ allowances. We now have a freeze on, such that you as a judge lose your secretary, we make you double up with someone else, except in counties where there is only one of you. We are doing everything we can with the resources we have right now, but I can’t run the system for you without some major negative decisions. So what will those next steps be?

 Of course I, like you, am inundated with calls from law clerks. They are my newest hires and, therefore, would have to be the ones upon whom the initial reductions in force would fall. I sent out a letter last fall so people would have plenty of time to plan letting the law clerks know that I might not be able to keep them on past March. It’s in the balance right now and the finance director of the branch and I look at these figures many times each week to see how long I can keep going. The Court of Appeals staff has already been asked to reduce their staff from 3 to 2 staff persons. They can eliminate their secretary/administra-

tive assistant. They can eliminate a law clerk, but I have got to have some cut in personnel.

 Reduction of court reporters is now being considered. I would be forced to keep everything open to run a deficit, and I cannot live with myself doing that. I am in a scrum of other entities and state government who are budgeted in the same subcommittees of the House and Senate that I am budgeted in and when they run a deficit, it has to come from someplace else in the subcommittee and that’s how I got the $4 million in ARRA money last year. It penalizes anybody who runs an entity of state government on a business model. You cannot penalize a whole branch of state government -- and particularly one that is as fundamental to the rule of law and public order. Public order is at stake here.

 Gang activity is up all around this State. When you look at some of the communities that are cursed with the increase in murders, violent crime and gang activity, you know very well that if they are not brought to justice, that kind of activity escalates. We can’t afford to turn into the kinds of countries we see around the world where social order has been torn, because the ability to exist as a people is destroyed by that. Any ability we have to say in this small state that we’ve got something that is so attractive that you should come here and do business is destroyed if basic social order cannot be maintained. I have not talked in this dire a tone the entire time I have addressed you for the ten years I have been your Chief.

 I am a “can do” person about moving forward, but I don’t whine. I am desperately afraid that if we don’t change the way we are funding the judicial system, we are going to have a major breakdown in our ability to deliver court services. There is a plus side to delivering court services.

 The slide I show you of the United States and South Carolina is in the red. We have been cut more than any other state court in the country by National Center for State Court standards.

 Our case loads continue to be the highest per judge of any state in the country, which means we have less trial judges per 100,000 population than anybody else in the country. We are running a very lean ship in your judicial department. There isn’t any fat there. For years I have asked for more judges.

 We haven’t created a new trial judgeship in 13 years. I have tried to re-engineer the way we do business to make up for that, but if you cut travel and everything else, you just don’t have the ability to place the judges and, frankly, I don’t have the ability to pay them. Judicial elections are now in a free situation and I think very rightly so until the judicial matters affecting selection are disposed. When they are disposed and judicial elections get back on the table, will I have to come to the Judicial Merit Selection Committee and say, “Don’t elect any more judges because I can’t pay them?” That’s how dire this situation is.

 Our trial court case load continues to move up, and particularly on the civil side, it is exploding now because of foreclosures and other things associated with a bad economy. I am trying to move heaven and earth to rejigger the way we try those cases and move them through the system. I passed an administrative order from the Chief this summer that gave debtors some relief until banks were able to counsel with them about their rights under the new ARRA legislation. That has given some relief, but we have got to move these matters through the system; otherwise, business and economics grind to a halt in this State.

 The plus side of the picture is we are doing a lot of very good things. Need creates inventiveness and that’s a good thing. Justice Pleicones has taken on the re-engineering of the General Sessions system and it continues on with a good deal of pressure being put on the solicitors to adopt a more business-like approach to the way they call cases. We are still the only State in the country where the prosecutor controls the docket. I have said to the solicitors that I don’t want to interfere with that, but I insist you adopt an organized business-like standardized way of moving cases forward and not just put on the back burner the cases that are old and the cases where you don’t have the witnesses to prosecute. You have got to make some tough decisions about your docket if you’re going to control it. We are providing help in that regard and that is what Justice Pleicones is managing.

 We have also taken a creative approach to condemnation cases with special beginning-to-end management. We have taken sophisticated construction cases and given them beginning-to-end management and we are disposing a lot of them now. There might be 20 lawyers in a case and if you keep the pressure on them, they’ll generally settle these cases eventually. You’ve got to keep the cases moving with regular attention by a judge that would fall to the bottom if we can’t reelect the judges and place them out in the courthouses. We are using ADR; we’re using fast track jury trials, and business courts have been a wonderful success, and that has been a key impact on talking to businesses who are thinking about locating in South Carolina.

 We are not competitive with Georgia, North Carolina and surrounding states in being able to say that you can process your business through the court system if you have business-to-business disputes. We now have a business court set up that gives some relief there and there are a lot more things that we could do if we can get back to any kind of a normal funding situation. What can we do about it? Many of you know that the raising of fees for filing cases is being discussed. I know there is some concern about access to justice issues and about where the lines ought to be drawn. It is fair to have those who use the system pay for it. If you went from $150 to file a civil lawsuit to $300, it would be a cheap price to pay for access to a court system that can resolve a dispute. Smaller disputes don’t cost that.

 You are now giving your magistrate courts $7,500 in jurisdiction. That could go up and, of course, the expense it costs to try a case in magistrate court is less. We also have the ability to deal with indigent plaintiffs and their access. We have got to do something to keep our courthouses open. Other positive things that are taking place in the system by way of new initiatives, include a task force on criminal procedure. Howard King headed up that effort for a year. We have had public hearings on criminal procedure innovations and we hope to be able to submit to the General Assembly next year, the process of vetting these new changes. They are aimed at trying to streamline the criminal docket and set a level playing field of exchange of information between the defense and prosecution. We also made amendments in the rule that requires lawyers to accept no pay appointments -- that’s Rule 608 -- I believe we have come up with a more equitable system.

 Many would like us to stop appointing lawyers if they cannot be paid on indigent criminal cases and family court cases. I would love to stop that, too, but the U.S. Supreme Court decisions in this area require representation and that’s the only place we have to go.

 Your increased funding in the Office of Indigent Defense and your reorganization of that office has been a major step forward in the creation of circuit public defenders. We are making a lot of progress even with some tough situations funding-wise to push along the General Sessions docket. Technology has been the signature of my administration as you know and ten years after we got started, we are looked at across this country as a leader in using an internet-based platform to do the business of the court. That was a wild, way-out idea ten years ago and I came to it because we didn’t have the money to buy the big mainframe computers it would take to automate the whole state court system. We decided to use an internet-based system. I got a series of federal congressionally mandated awards and other grants to set this system up.

 When you have got California and Massachusetts coming to South Carolina to look at a model system, and see how a rural State can use broadband and high speed connectivity to manage its business, we’ve arrived. We have got a lot to be proud of. The people who have made it work are the people in the smallest places in South Carolina -- in magistrates’ offices and clerks’ offices because that’s where the automation starts. It doesn’t start in the big shot offices in Columbia. It starts in the most rural areas of the State. Our decision was that we were not going to pick the low hanging fruit and leave the people out in the country to fend for themselves. The biggest grants we’ve made without asking for any payback have been in the small counties that just can’t afford the wiring, the computers and whatever it takes to get them up and moving. It is a wonderful success story that shows what you can do. We now own that system. We charge modest maintenance fees. My next step is going to be to try to get some grants to go to electronic filing. The lawyers want it very badly and the general public does, too. I don’t have the money now to create that system, but I am putting in for some grants to see if I can start it, and if I do, South Carolina will own it. And we’ll use every bit of the proceeds that come from electronic filings to try to see if we can reduce what counties have to pay to zero for the maintenance of our statewide case management system.

 Sustainability is a part of what we are doing and, again, business looks at this system we have engineered as the most successful automation of a governmental system that has ever been in this State and in many other states. So again, we have a lot to be proud for. The gold on the map indicates the counties that are now automated. We are in progress in the green, and the blue are the next counties we are going to. That will leave a few small counties and, frankly, this probably needs some updating because we have already been in Saluda, Union and several other counties to talk about how we’ll get started. I hope to be able to show you a gold map next year.

 The solicitors have been almost totally automated. Their system interfaces with the court system. Again, they did not have to pay a nickel for it. I got grants. They helped me develop the system and they now have all the tools they need from a technological standpoint to move their cases along.

 Sentencing is a South Carolina crisis and one of the finest things this body has done was to create last year a Sentencing Reform Commission. The Pugh Charitable Trust thought so much of what South Carolina was willing to do, that they invested major grant money in making this system a success. When you look down at the members of your bodies that have worked on this thing -- GERALD MALLOY, JAKE KNOTTS, CHIP CAMPSEN, Murrell Smith, Doug Jennings, and Keith Kelly -- they deserve major, major credit for staying with it. They’ve got a report. It’s not the most dramatic thing that can be done, but it is a wonderful start toward looking at a saner way of dealing with sentencing in South Carolina, so that we use our precious dollars to keep in jail the people that are violent and need to be kept in jail and put into some kind of alternative programs the people whose lives we really could change and get back into productive citizenship. I am very proud of Aphrodite Konduros, Billy Keesley and Don Beatty on my court. Don has taken the court’s leadership position on this particular activity and I think much good will come of it.

 The slide that deals with the details of sentencing -- I won’t go over it in detail -- but it will be on my website. It paints a picture of what kind of costs we are into now for housing the inmate population. You don’t even have to do anything more than to look at what happens every year with the deficit spending they have to do in their budget just to keep the burgeoning population in the penitentiaries to know that we’ve got to do something different.

 We have a deep interest in outreach programs that reach school children and teachers and assist them in educating them about the Constitution and government. They call it social studies now and I think they are kind of a victim of the name that is given to them. I don’t know what social studies is -- it sounds vaguely like something that I don’t want to be a part of. In my old-fashioned days it was government, history, civics and economics. It is foundational to anyone who is going to be a productive, decent and law abiding citizen in South Carolina that they know something about government.

 I have partnered with Sandra Conners’ court project. In retirement she is as busy as anybody you could ever imagine. She decided to reach out and develop an on-line, web-based program for middle schoolers and high schoolers that would teach them about government. Kids spend over 44 hours a week in front of their computers on an average. Some spend a lot more time than that and they love playing on-line games. So, she went to Steven Spielberg and got him to develop for her on-line games that teach them how the court operates and they are wonderful. I decided to get involved for South Carolina and now we have got a group of teachers together. We are going to initiate this in our schools. We’ve got lesson plans that teachers can use and we are going to develop a program of scholarships for teachers to get educational credit toward their Masters or Ph.D. for learning how to use web-based programs in the classroom. It is a wonderful outreach program that we are really excited about.

 Just as Associate Justice Kittredge heads up the commission on the profession, the slide will give you all the things that they are about. And I will simply say that this is a commission about so much good to help to increase professionalism and increase the quality of the way lawyers operate and the way judges operate in South Carolina. And, also, whether its mentoring programs for the youngest lawyers or judicial internship programs or looking at lawyer education or looking at lawyer conduct and discipline and judicial conduct rules, this commission has deeply looked at some of the most enduring problems about assuring the quality of South Carolina’s legal profession. We all owe Justice Kittredge and his commission our support and our deep gratitude for what they are doing for the good of the order.

 In my view tomorrow we will look back on today as a time when we changed the world or the world changed us. I believe with all my heart that with every crisis, there comes opportunity. Those little pages of history I gave you as I move through this address I think demonstrate that South Carolina and South Carolinians are “can do” people and we can move through this time as I moved through it when I sat in your seats.

 Government will be the better for it and we as South Carolinians will be the better for it. The best way out of where we are now is to be sure that there is a new generation that will take the lead.

 You know I always finish with my grandson. There is Patrick in Washington, D.C., at “Snowmageddon” in his ice fort. I thought Star Wars was the edge of technology 15 years ago. Patrick made a R2D2 costume for Halloween and there he is as a droid. He is also making biscuits with his Pop. That is the future we’re working for in South Carolina. That’s the future I’m dedicated to and you’re dedicated to. I thank you from the bottom of my heart and on behalf of all who wear the robe in South Carolina for looking deeply and seriously at your court system in helping us move forward in a wise way.

 Godspeed.

 The purposes of the Joint Assembly having been accomplished, the PRESIDENT declared it adjourned, whereupon the Senate returned to its Chamber and was called to order by the PRESIDENT.

 At 12:40 P.M., the Senate resumed.

 At 12:41 P.M., by prior motion of Senator McCONNELL, the Senate receded until 2:00 P.M.

**AFTERNOON SESSION**

 The Senate reassembled at 2:08 P.M. and was called to order by the PRESIDENT *Pro Tempore*.

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

 The following were introduced:

 S. 1218 -- Senator S. Martin: A BILL TO AMEND SECTION 59-5-65 OF THE 1976 CODE, RELATING TO THE POWERS AND RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION, TO PROVIDE THAT THE BOARD MUST DEVELOP RULES AND REGULATIONS CONCERNING RESOLVING DISPUTES THAT ARISE UNDER SECTION 59-5-66; AND TO AMEND CHAPTER 5, TITLE 59 BY ADDING SECTION 59-5-66 TO PROVIDE THAT PUBLIC HIGH SCHOOLS MAY APPEAL FINAL DECISIONS OF STATEWIDE HIGH SCHOOL ATHLETIC LEAGUES TO THE STATE BOARD OF EDUCATION.

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

 S. 1219 -- Senators Lourie, Ford and Williams: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27-1-70 SO AS TO DEFINE CERTAIN TERMS RELATED TO A HOMEOWNERS' ASSOCIATION AND TO PROVIDE REQUIREMENTS FOR A HOMEOWNERS' ASSOCIATION IN REGARD TO THE COLLECTION OF DUES AND EXPENDITURE OF FUNDS.

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

 S. 1220 -- Senator Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39-1-120 SO AS TO PROHIBIT A SALES REPRESENTATIVE OF A PHARMACEUTICAL COMPANY FROM SELLING OR MARKETING PHARMACEUTICAL PRODUCTS ON THE PREMISES OF A HOSPITAL.

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 Read the first time and referred to the Committee on Medical Affairs.

 S. 1221 -- Senator Knotts: A CONCURRENT RESOLUTION TO FIX WEDNESDAY, APRIL 14, 2010, AT NOON AS THE DATE AND TIME FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO MEET IN JOINT SESSION IN THE HALL OF THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE OF ELECTING MEMBERS OF THE BOARDS OF TRUSTEES FOR THE CITADEL, CLEMSON UNIVERSITY, COLLEGE OF CHARLESTON, COASTAL CAROLINA UNIVERSITY, FRANCIS MARION UNIVERSITY, LANDER UNIVERSITY, THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, SOUTH CAROLINA STATE UNIVERSITY, THE UNIVERSITY OF SOUTH CAROLINA, WIL LOU GRAY OPPORTUNITY SCHOOL, AND WINTHROP UNIVERSITY TO SUCCEED THOSE MEMBERS WHOSE TERMS EXPIRE IN 2010, OR WHOSE POSITIONS OTHERWISE MUST BE FILLED; AND TO ESTABLISH A PROCEDURE REGARDING NOMINATIONS AND SECONDING SPEECHES FOR THE CANDIDATES FOR THESE OFFICES DURING THE JOINT SESSION.

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

 S. 1222 -- Senator Cleary: A JOINT RESOLUTION TO EXTEND CERTAIN GOVERNMENT APPROVALS AFFECTING THE DEVELOPMENT OF REAL PROPERTY WITHIN THE STATE.

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

 S. 1223 -- Senator Grooms: A SENATE RESOLUTION TO COMMEMORATE THE INAUGURAL CALL OF THE MSC RITA ON CHARLESTON, SOUTH CAROLINA, TO WELCOME THE CAPTAIN, CREW, AND COMPANY, AND TO WELCOME FUTURE SHIPS IN THE GOLDEN GATE SERVICE ROTATION.

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 The Senate Resolution was adopted.

 H. 4575 -- Rep. D. C. Moss: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 5 IN YORK COUNTY FROM ITS INTERSECTION WITH UNITED STATES HIGHWAY 321 TO THE YORK-CHEROKEE COUNTY LINE THE "REPRESENTATIVE ARTHUR LINDSAY BLACK MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS "REPRESENTATIVE ARTHUR LINDSAY BLACK MEMORIAL HIGHWAY".

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

 H. 4611 -- Reps. Haley, E. H. Pitts and Huggins: A CONCURRENT RESOLUTION TO EXPRESS PROFOUND SORROW UPON THE UNTIMELY PASSING OF NATHANIEL ROSS PHILLIPS OF LEXINGTON COUNTY, AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY, HIS CAREGIVERS, AND HIS MANY FRIENDS AND ADMIRERS.

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

 H. 4612 -- Reps. Harrell, 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, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D. C. Moss, V. S. Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE LIFEPOINT, INC., FOR ITS MANY YEARS OF ASSISTING DONORS IN GIVING THE GIFT OF LIFE THROUGH ORGAN, TISSUE, AND EYE RECOVERY, TO COMMEND NANCY A. KAY, PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE ORGANIZATION, FOR HER QUARTER CENTURY OF DEDICATED SERVICE TO LIFEPOINT AND ITS CLIENTS, AND TO CONGRATULATE LIFEPOINT ON THE OCCASION OF ITS TWENTY-FIFTH ANNIVERSARY.

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

**REPORTS OF STANDING COMMITTEES**

**Invitations Accepted**

The following invitations were polled favorably from the Invitations Committee and the members voted as follows:

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Alexander Campsen Cromer

Elliott Ford Knotts

Malloy McGill O’Dell

Reese Verdin

**Total-- 11**

**NAYS**

**Total-- 0**

**Tuesday, March 2, 2010 - 6:00 p.m. - 7:00 p.m.**

Members of the Senate and Staff, Reception, Columbia Metropolitan Convention Center, by **SC realtors**

**Tuesday, March 2, 2010 - 6:00 p.m. - 7:30 p.m.**

Members of the Senate, Reception, Columbia Hilton Hotel, by **SC CENTERS OF ECONOMIC EXCELLENCE, HEALTH SCIENCES SC AND SC RESEARCH AUTHORITY**

**Wednesday, March 3, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate, Biscuit Breakfast, Room 112, Blatt Building, by **SC AVIATION ASSOCIATION**

**Wednesday, March 3, 2010 - 12:00 - 2:00 p.m.**

Members of the Senate, Luncheon, Room 112, Blatt Building, by **SC PUBLIC DEFENDER ASSOCIATION**

**Wednesday, March 3, 2010 - 6:00 p.m. - 8:00 p.m.**

Members of the Senate and Staff, Reception, Clarion Townhouse Hotel, by **AMERICAN LEGISLATIVE EXCHANGE COUNCIL**

**Wednesday, March 3, 2010 - 7:00 p.m.**

Members of the Senate, Townes Award Dinner, Marriott Hotel, by **SC GOVERNOR’S SCHOOL FOR SCIENCE AND MATHEMATICS FOUNDATION**

**Thursday, March 4, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate, Breakfast, Room 112, Blatt Building, by **BEHAVIORAL HEALTH SERVICES ASSOCIATION**

**Wednesday, March 10, 2010 - 11:30 - 2:00 p.m.**

Members of the Senate and Staff, “Jasper on the Move” Shrimp Boil, State House Grounds by **JASPER COUNTY CHAMBER OF COMMERCE**

**Wednesday, March 10, 2010 - 6:00 p.m.**

Members of the Senate and Staff, Reception and Barbecue, The Coop, by **MECHANICAL CONTRACTORS ASSOCIATION OF SC**

**Wednesday, March 10, 2010 - 6:00 p.m. - 8:30 p.m.**

Members of the Senate, Reception, Seawell’s Restaurant, by **SC SUMMARY COURT JUDGES ASSOCIATION**

**Tuesday, March 16, 2010 - 1:00 p.m. - 2:00 p.m.**

Members of the Senate and Staff, Luncheon, State House Grounds, by **STATE FARM INSURANCE COMPANIES**

**Tuesday, March 16, 2010 - 6:00 p.m. - 8:00 p.m.**

Members of the Senate and Staff, Reception, Clarion Town House Hotel, by **CONCRETE AND CEMENT INDUSTRIES OF SC**

**Wednesday, March 17, 2010 - 12:00 - 2:00 p.m.**

Members of the Senate and Staff, Luncheon, State House Grounds, by **SC HEMOPHILIA FOUNDATION**

**Wednesday, March 17, 2010 - 6:30 p.m. - 8:30 p.m.**

Members of the Senate and Staff, Reception and Photography Exhibit, 701 Whaley Street, by **SC HOSPITAL ASSOCIATION**

**Wednesday, March 17, 2010 - 6:00 - 7:30 p.m.**

Members of the Senate, Reception, Columbia Metropolitan Convention Center, by **PALMETTO LAND TITLE ASSOCIATION**

**Thursday, March 18, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate and Staff, Breakfast, Room 112, Blatt Building, by **SC EDUCATION ASSOCIATION**

**Tuesday, March 23, 2010 - 6:00 p.m. - 8:00 p.m.**

Members of the Senate, Florence County Day Reception, Columbia Museum of Art, by **FLORENCE COUNTY ECONOMIC DEVELOPMENT PARTNERSHIP AND THE GREATER FLORENCE CHAMBER OF COMMERCE**

**Wednesday, March 24, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate, Breakfast, Room 112, Blatt Building, by **SC YOUTH CHALLENGE**

**Wednesday, March 24, 2010 - 12:00**

Members of the Senate and Staff, Luncheon, State House Grounds, by **SC STATE FIREFIGHTERS’ ASSOCIATION**

**Wednesday, March 24, 2010 - 12:00 - 2:00 p.m.**

Members of the Senate and Staff, Luncheon, Room 112, Blatt Building, by **SC APARTMENT ASSOCIATION**

**Wednesday, March 24, 2010 - 6:30 p.m. - 9:00 p.m.**

Members of the Senate, Reception and Bird Supper, Marriott Hotel, by

**HOME BUILDERS ASSOCIATION OF SC**

**Thursday, March 25, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate, Breakfast, Room 112, Blatt Building, by **SC GOVERNOR’S SCHOOL FOR SCIENCE AND MATHEMATICS FOUNDATION**

Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable report on:

S. 913 -- Senators Land and Elliott: A BILL TO AMEND SECTION 47‑5‑60 OF THE 1976 CODE, RELATING TO PET INOCULATION AGAINST RABIES, TO RAISE THE MAXIMUM FEE ALLOWED TO BE CHARGED FROM THREE TO SIX DOLLARS.

 Ordered for consideration tomorrow.

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

S. 932 -- Senator L. Martin: A BILL TO AMEND SECTION 50‑16‑25 OF THE 1976 CODE, RELATING TO THE RELEASE OF PIGS FOR HUNTING PURPOSES, TO PROVIDE THAT IT IS UNLAWFUL TO POSSESS, BUY, SELL, OFFER FOR SALE, TRANSFER, RELEASE, OR TRANSPORT FOR THE PURPOSE OF RELEASE A MEMBER OF THE SUIDAE FAMILY FOR HUNTING OR TO SUPPLEMENT A FREE ROAMING POPULATION, TO PROVIDE THAT IT IS UNLAWFUL TO REMOVE A LIVE HOG FROM A TRAP OR FROM THE WOODS, FIELDS, OR MARSHES OF THIS STATE, AND TO CLARIFY THAT THIS SECTION DOES NOT APPLY TO ACCEPTED FARMING PRACTICES RELATED TO MEMBERS OF THE SUIDAE FAMILY.

Ordered for consideration tomorrow.

Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable report on:

 S. 948 -- Senator Verdin: A BILL TO REPEAL SECTION 47‑9‑65 OF THE 1976 CODE, AS ADDED BY ACT 75 OF 2009, RELATING TO POLO HORSE DRUG COMPOUNDS.

 Ordered for consideration tomorrow.

 Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable with amendment report on:

 S. 1023 -- Senators McConnell and Rose: A BILL TO AMEND CHAPTER 27, TITLE 46 OF THE 1976 CODE OF LAWS, BY ADDING SECTION 46‑27‑55 TO PERMIT A VENISON PROCESSOR THAT IS AN OFFICIAL ESTABLISHMENT CERTIFIED BY THE STATE LIVESTOCK-POULTRY HEALTH COMMISSION OR THE UNITED STATES DEPARTMENT OF AGRICULTURE TO SELL OR UTILIZE CERTAIN DEER PARTS FOR PET FOOD; AND TO AMEND SECTION 50‑11‑1910(A) TO PERMIT A VENISON PROCESSOR TO SELL CERTAIN DEER PARTS TO BE UTILIZED AS PET FOOD.

 Ordered for consideration tomorrow.

**HOUSE CONCURRENCES**

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

 S. 828 -- Senators Leventis and Land: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE SECTION OF HIGHWAY 76, IN SUMTER COUNTY, FROM THE SUMTER‑LEE COUNTY LINE TO ITS INTERSECTION WITH LAFAYETTE STREET THE “MAYOR WILLIE M. JEFFERSON HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY CONTAINING THE WORDS “MAYOR WILLIE M. JEFFERSON HIGHWAY”.

 S. 1211 -- 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 HONOR AND REMEMBER THE SUPREME SACRIFICE MADE BY CAPTAIN MARK R. MCDOWELL OF THE UNITED STATES AIR FORCE WHILE HE WAS SERVING A TOUR OF MILITARY DUTY IN AFGHANISTAN, AND TO EXPRESS TO HIS FAMILY THE DEEPEST APPRECIATION OF A GRATEFUL STATE AND NATION FOR HIS LIFE, SACRIFICE, AND SERVICE.

 S. 1212 -- 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 HONOR AND RECOGNIZE THE VALOR OF UNITED STATES MARINE CORPS LANCE CORPORAL MILLS PALMER BIGHAM FOR HIS SERVICE TO OUR NATION, AND TO COMMEND HIS FAMILY FOR FOUNDING HIDDEN WOUNDS IN ORDER TO HELP WAR VETERANS SUFFERING FROM POST TRAUMATIC STRESS DISORDER.

 S. 1213 -- 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 HONOR AND REMEMBER THE SUPREME SACRIFICE MADE BY PRIVATE FIRST CLASS JASON ROBERT WATSON OF THE UNITED STATES ARMY WHILE HE WAS SERVING A TOUR OF MILITARY DUTY IN AFGHANISTAN, AND TO EXPRESS TO HIS FAMILY THE PROFOUND APPRECIATION OF A GRATEFUL STATE AND NATION FOR HIS LIFE, SACRIFICE, AND SERVICE.

 S. 1214 -- 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 HONOR AND REMEMBER THE SERVICE OF SPECIALIST LARRY CURTIS APPLEGATE OF THE UNITED STATES ARMY DURING HIS TWO TOURS OF MILITARY DUTY IN IRAQ, AND TO EXPRESS TO HIS FAMILY THE DEEPEST APPRECIATION OF A GRATEFUL STATE AND NATION FOR HIS LIFE, SACRIFICE, AND SERVICE.

 S. 1216 -- Senators Sheheen, Ford, Malloy, Scott, Williams, Land, Anderson, McGill, Nicholson, Pinckney and Jackson: A CONCURRENT RESOLUTION TO HONOR AND CELEBRATE THE HISTORIC GATHERING OF THE AME, AME ZION, AND CME CHURCHES IN COLUMBIA, SOUTH CAROLINA, ON MARCH 1-3, 2010.

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

**HOUSE BILL RETURNED**

 The following House Bill was read the third time and ordered returned to the House with amendments:

 H. 3371 -- Reps. Harvin, Kennedy, Alexander, Funderburk, Gunn, Hart, McEachern, McLeod, Ott, J.E. Smith, Spires, Weeks and Bowers: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑243 SO AS TO REGULATE A PROVIDER OF HEALTH CARE AND THE ISSUER OF INDIVIDUAL HEALTH INSURANCE WHEN AN ISSUER NEGOTIATES RATES WITH A PROVIDER FOR COVERED HEALTH CARE SERVICES AND THEN TERMINATES OR OTHERWISE NONRENEWS THE PROVIDER’S CONTRACT.

**H. 3371--Recorded Vote**

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

**THIRD READING BILLS**

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

 S. 1195 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO REGULATIONS FOR SPECIES OR SUBSPECIES OF NON-GAME WILDLIFE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4069, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 1195--Recorded Vote**

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

 S. 1196 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO WILDLIFE MANAGEMENT AREA REGULATIONS AND TURKEY HUNTING RULES AND SEASONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4090, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 1196--Recorded Vote**

 Senator RYBERG desired to be recorded as voting in favor of the third reading of the Joint Resolution.

**PRESIDENT PRESIDES**

 At 2:16 P.M., the PRESIDENT assumed the Chair.

**SECOND READING BILL**

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

 S. 1127 -- Senators Campbell, Cleary, Alexander, Elliott, Grooms, Davis, McConnell, Verdin, Bryant, O’Dell, Peeler, Bright, Cromer, McGill, Shoopman, Leatherman, Rose and S. Martin: A BILL TO AMEND SECTION 48‑1‑83 OF THE 1976 CODE, RELATING TO DISSOLVED OXYGEN CONCENTRATION DEPRESSION, TO PROVIDE THAT THE STANDARD FOR DISSOLVED OXYGEN IS 0.1 MG/L.

 Senator CAMPBELL explained the Bill.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

 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, Ford, Elliott and Rose: 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.

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

 Senators KNOTTS and HUTTO proposed the following amendment (JUD1096.005), which was adopted:

 Amend the committee report, as and if amended, beginning on page [1096-4], by striking line 2 and inserting:

 / is entered. Any indebtedness created under the provisions of this section may be paid in full at any time before it is due without penalty./

 Amend the committee report further, as and if amended, beginning on page [1096-4], by striking line 34 and inserting:

 / the measures. The choice of a contractor to perform the work must be made by the owner of the residence. Upon request, the electricity provider or natural gas provider must provide the owner of the residence with a list of contractors qualified to do the work. Upon completion of the work, it must be inspected /

 Renumber sections to conform.

 Amend title to conform.

 Senator RANKIN explained the perfecting amendment.

 The perfecting amendment was adopted.

 The Committee on Judiciary proposed the following amendment (JUD1096.004), which was adopted:

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

 / A BILL

 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑37‑50, SO AS TO AUTHORIZE ELECTRICITY PROVIDERS AND NATURAL GAS PROVIDERS TO IMPLEMENT FINANCING AGREEMENTS FOR THE INSTALLATION OF ENERGY EFFICIENCY AND CONSERVATION IMPROVEMENTS, TO PROVIDE FOR THE RECOVERY OF THE FINANCING THROUGH CHARGES PAID FOR BY THE CUSTOMERS BENEFITTING FROM THE INSTALLATION OF THE ENERGY EFFICIENCY AND CONSERVATION MEASURES; TO PROTECT THE ENTITIES FROM LIABILITY FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF THE 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 THE MEASURES INSTALLED IN RENTAL PROPERTIES; TO AMEND SECTION 8‑21‑310, SO AS TO ALLOW CLERKS OF COURT AND REGISTERS OF DEEDS TO CHARGE A FEE FOR FILING A NOTICE OF METER CONSERVATION CHARGE; AND TO AMEND SECTION 27-50-40, SO AS TO REQUIRE THE DISCLOSURE OF A METER CONSERVATION CHARGE BY SELLERS OF REAL PROPERTY.

 Whereas, there are various factors putting upward pressure on the price of electricity and natural gas, and those factors are likely to increase in the foreseeable future; and

 Whereas, improvement of residential energy efficiency and conservation can protect South Carolina electricity and natural gas consumers from these price increases; and

 Whereas, the implementation of energy efficiency and conservation measures in South Carolina residences will benefit not only the residents of the homes in which the measures are installed, but also all residents of South Carolina by reducing the need for new and expensive sources of generation; and

 Whereas, the costs of energy efficiency and conservation measures and the availability of financing for these costs are now, and have been, major impediments to the widespread adoption of energy efficiency and conservation measures; and

 Whereas, South Carolina electricity providers and natural gas providers are in a position to assist their customers with the installation and financing of energy efficiency and conservation measures, provided that appropriate procedures are followed for the installation of the measures and the recovery of the costs of the measures; and

 Whereas, in order to make energy efficiency and conservation measures available to rental properties, it is appropriate to require the landlords who will benefit from the measures and who voluntarily agree to participate to give notice to tenants who will be living in the rental units in which the energy efficiency and conservation measures are installed. Now, therefore,

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

 SECTION 1. Chapter 37, Title 58 of the 1976 Code is amended by adding:

 “Section 58‑37‑50. (A) As used in this section:

 (1) ‘Electricity provider’ means an electric cooperative, an investor-owned electric utility, the South Carolina Public Service Authority, or a municipality or municipal board or commission of public works that owns and operates an electric utility system.

 (2) ‘Natural gas provider’ means an investor-owned natural gas utility or publicly owned natural gas provider.

 (3) ‘Meter conservation charge’ means the charge placed on a customer’s account by which electricity providers and natural gas providers recover the costs, including financing costs, of energy efficiency and conservation measures.

 (4) ‘Notice of meter conservation charge’ means the written notice by which subsequent purchasers or tenants will be given notice that they will be required to pay a meter conservation charge.

 (5) ‘Customer’ means a homeowner or tenant receiving electricity or natural gas as a retail customer.

 (B) Electricity providers and natural gas providers may enter into written agreements with customers and landlords of customers for the financing of the purchase price and installation costs of energy efficiency and conservation measures. These agreements may provide that the costs must be recovered by a meter conservation charge on the customer’s electricity or natural gas account, provided that the electricity providers and natural gas providers comply with the provisions of this section. A failure to pay the meter conservation charge may be treated by the electricity provider or natural gas provider as a failure to pay the electricity or natural gas account, and the electricity provider or natural gas provider may disconnect electricity or natural gas service for nonpayment of the meter conservation charge, provided the electricity provider or natural gas provider complies with the provisions of Article 25, Chapter 31, Title 5; Article 17, Chapter 11, Title 6; Article 17, Chapter 49, Title 33; Article 11, Chapter 5, Title 58; Article 21, Chapter 27, Title 58; Article 5, Chapter 31, Title 58; and any applicable rules, regulations, or ordinances relating to disconnections.

 (C) Any agreement permitted by subsection (B) must state plainly the interest rate to be charged to finance the costs of the energy efficiency and conservation measures. The interest rate must be a fixed rate over the term of the agreement and must not exceed four percent above the stated yield for one‑year treasury bills as published by the Federal Reserve at the time the agreement is entered.

 (D) An electricity provider or natural gas provider may recover the costs, including financing costs, of these measures from its members or customers directly benefiting from the installation of the energy efficiency and conservation measures. Recovery must be through a meter conservation charge to the account of the member or customer and must be shown by a separate line item on the account.

 (E) An electricity provider or natural gas provider shall assume no liability for the installation, operation, or maintenance of energy efficiency and conservation measures when the measures are performed by a third party, and shall not provide any warranty as to the merchantability of the measures or the fitness for a particular purpose of the measures, and no action may be maintained against the electricity provider or natural gas provider relating to the failure of the measures. Nothing in this section may be construed to limit any rights or remedies of utility customers and landlords of utility customers against other parties to a transaction involving the purchase and installation of energy efficiency and conservation measures.

 (F) Before entering into an agreement contemplated by this section, the electricity provider or natural gas provider shall cause to be performed an energy audit on the residence considered for the energy efficiency measures. The energy audit must be conducted by an energy auditor certified by the Building Performance Institute or similar organization. The audit must provide an estimate of the costs of the proposed energy efficiency and conservation measures and the expected savings associated with the measures, and it must recommend measures appropriately sized for the specific use contemplated. An agreement entered following completion of an energy audit shall specify the measures to be completed and the contractor responsible for completion of the measures. Upon completion of the work, it must be inspected by an energy auditor certified by the Building Performance Institute or similar organization. Any work that is determined to have been done improperly or to be inappropriately sized for the intended use must be remedied by the responsible contractor. Until the work has been remedied, funds due to the contractor must be held in escrow by the electricity provider or natural gas provider.

 (G) An electricity provider or natural gas provider that enters into an agreement as provided in this section may recover the costs, including financing costs, of energy efficiency and conservation measures from subsequent purchasers of the residence in which the measures are installed, provided the electricity provider or natural gas provider gives record notice that the residence is subject to the agreement. Notice must be given, at the expense of the filer, by filing a notice of meter conservation charge with the appropriate office for the county in which the residence is located, pursuant to Section 30‑5‑10. The notice of meter conservation charge does not constitute a lien on the property but is intended to give a purchaser of the residence notice that the residence is subject to a meter conservation charge. Notice is deemed to have been given if a search of the property records of the county discloses the existence of the charge and informs a prospective purchaser: (1) how to ascertain the amount of the charge and the length of time it is expected to remain in effect, and (2) of his obligation to notify a tenant if the purchaser leases the property as provided in subsection (H)(3).

 (H) An electricity provider or natural gas provider may enter into agreements for the installation of energy efficiency and conservation measures and the recovery of the costs, including financing costs, of the measures with respect to rental properties by filing a notice of meter conservation charge as provided in subsection (G) and by complying with the provisions of this subsection:

 (1) The energy audit required by subsection (F) above must be conducted and the results provided to both the landlord and the tenant living in the rental property at the time the agreement is entered.

 (2) If both the landlord and tenant agree, the electricity provider or natural gas provider may recover the costs of the energy efficiency and conservation measures, including financing costs, through a meter conservation charge on the tenant’s electricity or natural gas account. The agreement must provide notice to the landlord of the provisions contained in subsection (H)(3).

 (3) With respect to a subsequent tenant occupying a rental unit benefiting from the installation of energy efficiency and conservation measures, the electricity provider or natural gas provider may continue to recover the costs, including financing costs, of the measures through a meter conservation charge on the electricity or natural gas account of the subsequent tenant. With respect to a subsequent tenant, the landlord must give a written notice of meter conservation charge in the same manner as required by Section 27‑40‑420. If the landlord fails to give the subsequent tenant the required notice of meter conservation charge, the tenant may deduct from his rent, for no more than one-half of the term of the rental agreement, the amount of the meter conservation charge paid to the electricity provider or natural gas provider.

 (I) Agreements entered pursuant to the provisions of this section are exempt from the provisions of the South Carolina Consumer Protection Code, Chapter 2, Title 37.

 (J) An electricity provider or natural gas provider may contract with third parties to perform functions permitted under this section, including the financing of the costs of energy efficiency and conservation measures. A third party must comply with all applicable provisions of this section.

 (K) The provisions of this section apply only to energy efficiency and conservation measures for a residence already occupied at the time the measures are taken. The procedures allowed by this section may not be used with respect to a new residence or a residence under construction. The provisions of this section may not be used to implement energy efficiency or conservation measures that result in the replacement of natural gas appliances or equipment with electric appliances or equipment or that result in the replacement of electric appliances or equipment with natural gas appliances or equipment unless the customer who seeks to install the energy efficiency or conservation measure is being provided electric and natural gas service by the same provider.

 (L) Electricity providers or natural gas providers may offer their customers other types of financing agreements available by law, instead of the option established in this section, for the types of energy efficiency or conservation measures described in this section.”

 SECTION 2. Section 8‑21‑310 of the 1976 Code, as last amended by Act 329 of 2002, is further amended by adding a new item at the end to read:

 “(23) for filing a notice of meter conservation charge as permitted by Section 58‑37‑50, ten dollars.”

 SECTION 3. Section 27-50-40 (A) of the 1976 Code is amended by adding an item at the end to read:

 “(8) existence of a meter conservation charge, as permitted by Section 58-37-50, that applies to electricity or natural gas service to the property.”

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

 Renumber sections to conform.

 Amend title to conform.

 Senator LARRY MARTIN explained the committee amendment.

 The committee amendment was adopted.

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

 S. 1130 -- Senator Grooms: A BILL TO AMEND SECTION 50‑15‑65, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ALLIGATOR MANAGEMENT PROGRAM AND CONDITIONS UNDER WHICH ALLIGATORS MAY BE HUNTED OR TAKEN, SO AS TO PROHIBIT A DEPREDATION PERMIT HOLDER TO SELL, BARTER, OR TRADE THE PRIVILEGE TO TAKE AN ALLIGATOR; TO AMEND SECTION 50‑9‑20, AS AMENDED, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, PERMITS, STAMPS, AND TAGS, SO AS TO FURTHER SPECIFY THESE DURATIONAL REQUIREMENTS; TO AMEND SECTION 50‑9‑30, RELATING TO THE REQUIREMENTS FOR OBTAINING A RESIDENT HUNTING OR FISHING LICENSE, SO AS TO FURTHER SPECIFY RESIDENCY REQUIREMENTS; TO AMEND SECTION 50‑9‑920, RELATING TO THE DEPOSITING OF REVENUE GENERATED BY THE SALE OF LICENSES INTO CERTAIN FUNDS, SO AS TO CHANGE THE NAME OF THE GAME PROTECTION FUND TO THE FISH AND WILDLIFE PROTECTION FUND AND TO PROVIDE THAT REVENUE GENERATED FROM APPLICATION FEES, PERMITS, AND TAGS FOR THE PRIVILEGE OF TAKING ALLIGATORS MUST BE USED TO SUPPORT THE ALLIGATOR MANAGEMENT PROGRAM; AND BY ADDING ARTICLE 6 TO CHAPTER 9, TITLE 50 SO AS TO PROVIDE APPLICATION REQUIREMENTS AND FEES FOR THE PRIVILEGE OF TAKING ALLIGATORS.

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

 The Committee on Fish, Game and Forestry proposed the following amendment (NBD\11974AC10), which was adopted:

 Amend the bill, as and if amended, by deleting Section 2 of the bill in its entirety.

 Amend the bill, further, page 6, line 40 by deleting /Section 50-9-650/ and inserting /Section 50-9-660/.

 Renumber sections to conform.

 Amend title to conform.

 The committee amendment was adopted.

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

**COMMITTEE AMENDMENT ADOPTED**

**CARRIED OVER**

 S. 907 -- Senator Peeler: A BILL TO REPEAL ARTICLE 1, CHAPTER 61, TITLE 44 OF THE 1976 CODE, RELATING TO EMERGENCY MEDICAL SERVICES.

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

 The Committee on Medical Affairs proposed the following amendment (S-907 EMS), which was adopted:

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

 / SECTION 1. Article 1, Chapter 61, Title 44 of the 1976 Code is amended to read:

 “Section 44‑61‑10. This article may be cited as the ‘Emergency Medical Services Act of South Carolina’.

 ‘Section 44‑61‑20. As used in this article, and unless otherwise specified, the term:

 ~~(a)~~ ~~‘Ambulance’ means a vehicle maintained or operated by a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.~~

 ~~(b)~~ ~~‘Attendant’ means a trained and qualified individual responsible for the operation of an ambulance and the care of the patients, regardless of whether the attendant also serves as driver.~~

 ~~(c)~~ ~~‘Attendant‑driver’ means a person who is qualified as an attendant and a driver.~~

 ~~(d)~~ ~~‘Driver’ means an individual who drives or otherwise operates an ambulance.~~

 ~~(e)~~ ~~‘Permit’ means an authorization issued for an ambulance vehicle which meets the standards adopted pursuant to this article.~~

 ~~(f)~~ ~~‘License’ means an authorization to a person, firm, corporation, or governmental division or agency to provide emergency medical, services in the State.~~

 ~~(g)~~ ~~‘Licensee’ means any person, firm, corporation, or governmental division or agency possessing authorization, permit, license, or certification to provide emergency medical service in this State.~~

 ~~(h)~~ ~~‘Certificate’ means official acknowledgment by the department that an individual has completed successfully one of the appropriate emergency medical technician training courses referred to in this article in addition to completing successfully the requisite examinations, which entitles that individual to perform the functions and duties as delineated by the classification for which the certificate was issued.~~

 ~~(i)~~ ~~‘Board’ means the governing body of the Department of Health and Environmental Control or its designated representative.~~

 ~~(j)~~ ~~‘Emergency medical service system’ means the arrangement of personnel, facilities, and equipment for the delivery of health care services under emergency conditions.~~

 ~~(k)~~ ~~‘Emergency medical technician’ (technician or EMT) means an individual possessing a valid, basic, intermediate, or paramedic certificate issued by the State pursuant to the provisions of this article.~~

 ~~(l)~~ ~~‘Standards’ means the required measurable components of an emergency medical service system having permanent and recognized value that provide adequate emergency health care delivery.~~

 ~~(m)~~ ~~‘Authorized agent’ means any individual designated to represent the department.~~

 ~~(n)~~ ~~‘Patient’ means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.~~

 ~~(o)~~ ~~‘Operator’ means an individual, firm, partnership, association, corporation, company, group, or individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.~~

 ~~(p)~~ ~~‘Department’ means the administrative agency known as the Department of Health and Environmental Control.~~

 ~~(q)~~ ~~‘National Registry of Emergency Medical Technicians Registration’ is given to an individual who has completed successfully the National Registry of Emergency Medical Technicians examination and its requirements.~~

 ~~(r)~~ ~~‘In‑service training’ means a course of training approved by the department that is conducted by the licensed provider for his personnel at his prime location.~~

 ~~(s)~~ ~~‘Convalescent vehicle’ means a vehicle that is used for making nonemergency calls such as scheduled visits to a physician’s office or hospital for treatment, routine physical examinations, x‑rays or laboratory tests, or is used for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or other nonemergency calls.~~

 ~~(t)~~ ~~‘EMT First Responder Agency’ means a licensed agency providing medical care at the EMT Basic level or above, as a nontransporting first responder.~~

 ~~(u)~~ ~~‘Emergency transport’ means services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity including severe pain that the absence of medical attention could reasonably be expected to result in the following:~~

 ~~(1)~~ ~~placing the patient’s health in serious jeopardy;~~

 ~~(2)~~ ~~causing serious impairment to bodily functions;~~

 ~~(3)~~ ~~causing serious dysfunction of bodily organ or part; or~~

 ~~(4)~~ ~~a situation that resulted from an accident, injury, acute illness, unconsciousness, or shock, for example, required oxygen or other emergency treatment, required the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.~~

 ~~(v)~~ ~~‘Nonemergency transport’ means services and transportation provided to a patient whose condition is considered stable. A stable patient is one whose condition reasonably can be expected to remain the same throughout the transport and for whom none of the criteria for emergency transport has been met. Prearranged transports scheduled at the convenience of the service or medical facility will be classified as a nonemergency transport.~~

 ~~(w)~~ ~~‘Moral turpitude’ means behavior that is not in conformity with and is considered deviant by societal standards.~~

 ~~(x)~~ ~~‘Condition requiring an emergency response’ means the sudden onset of a medical condition manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:~~

 ~~(1)~~ ~~serious illness or disability;~~

 ~~(2)~~ ~~impairment of a bodily function;~~

 ~~(3)~~ ~~dysfunction of the body; or~~

 ~~(4)~~ ~~prolonged pain, psychiatric disturbance, or symptoms of withdrawal.~~

 ~~(y)~~ ~~‘Revocation’ means that the department has permanently voided a license, permit, or certificate and the holder no longer may perform the function associated with the license, permit, or certificate. The department will not reissue the license, permit, or certificate for a period of two years for a license or permit and three years for a certificate. At the end of this period, the holder may petition for reinstatement.~~

 ~~(z)~~ ~~‘Suspension’ means that the department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the department.~~

 (1) ‘Ambulance’ means a vehicle maintained or operated by a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

 (2) ‘Attendant’ means a trained and qualified individual responsible for the operation of an ambulance and the care of the patients, regardless of whether the attendant also serves as driver.

 (3) ‘Attendant‑driver’ means a person who is qualified as an attendant and a driver.

 (4) ‘Authorized agent’ means any individual designated to represent the department.

 (5) ‘Board’ means the governing body of the Department of Health and Environmental Control or its designated representative.

 (6) ‘Certificate’ means official acknowledgment by the department that an individual has completed successfully one of the appropriate emergency medical technician training courses referred to in this article in addition to completing successfully the requisite examinations, which entitles that individual to perform the functions and duties as delineated by the classification for which the certificate was issued.

 (7) ‘Condition requiring an emergency response’ means the sudden onset of a medical condition manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:

 (a) serious illness or disability;

 (b) impairment of a bodily function;

 (c) dysfunction of the body; or

 (d) prolonged pain, psychiatric disturbance, or symptoms of withdrawal.

 (8) ‘Department’ means the administrative agency known as the Department of Health and Environmental Control.

 (9) ‘Driver’ means an individual who drives or otherwise operates an ambulance.

 (10) ‘Emergency medical responder agency’ means a licensed agency providing medical care at the EMT level or above, as a nontransporting emergency medical responder.

 (11) ‘Emergency medical service system’ means the arrangement of personnel, facilities, and equipment for the delivery of health care services under emergency conditions.

 (12) ‘Emergency medical technician’ (EMT) when used in general terms for emergency medical personnel, means an individual possessing a valid EMT, advanced EMT (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

 (13) ‘Emergency transport’ means services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity including severe pain that the absence of medical attention could reasonably be expected to result in the following:

 (a) placing the patient’s health in serious jeopardy;

 (b) causing serious impairment to bodily functions;

 (c) causing serious dysfunction of bodily organ or part; or

 (d) a situation that resulted from an accident, injury, acute illness, unconsciousness, or shock, for example, required oxygen or other emergency treatment, required the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.

 (14) ‘Immediate family’ means a person’s spouse, parents, children, brothers, sisters, grandparents, and grandchildren.

 (15) ‘In‑service training’ means a course of training approved by the department that is conducted by the licensed provider for his personnel at his prime location.

 (16) ‘Investigative Review Committee’ means a professional peer review committee that is convened by the department when the findings of an official investigation against an entity or an individual regulated by the department may warrant suspension or revocation of a license or certification. This committee consists of the State Medical Control Physician, three regional EMS office representatives, at least one paramedic, and at least one emergency room physician who is also a medical control physician. Appointment is made to this committee by the Director of the Division of EMS and Trauma.

 (17) ‘Legal guardian’ means a person who is lawfully invested with the power, and charged with the obligation of, taking care of and managing the property and rights of a person who, because of age, understanding, or self‑control, is considered incapable of administering his or her own affairs.

 (18) ‘Legal Representative’ of a person is his executor or the administrator, general guardian, guardian, or conservator of his property or estate.

 (19) ‘License’ means an authorization to a person, firm, corporation, or governmental division or agency to provide emergency medical, services in the State.

 (20) ‘Licensee’ means any person, firm, corporation, or governmental division or agency possessing authorization, permit, license, or certification to provide emergency medical service in this State.

 (21) ‘Moral turpitude’ means behavior that is not in conformity with and is considered deviant by societal standards.

 (22) ‘National Registry of Emergency Medical Technicians Registration’ is given to an individual who has completed successfully the National Registry of Emergency Medical Technicians examination and its requirements.

 (23) ‘Nonemergency ambulance transport’ means services and transportation provided to a patient whose condition is considered stable. A stable patient is one whose condition reasonably can be expected to remain the same throughout the transport and for whom none of the criteria for emergency transport has been met. Prearranged transports scheduled at the convenience of the service or medical facility will be classified as a nonemergency transport.

 (24) ‘Nonemergency ambulance transport service’ means an ambulance service that provides for routine transportation of patients that require medical monitoring in a nonemergency setting including, but not limited to, prearranged transports.

 (25) ‘Operator’ means an individual, firm, partnership, association, corporation, company, group, or individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.

 (26) ‘Patient’ means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

 (27) ‘Permit’ means an authorization issued for an ambulance vehicle which meets the standards adopted pursuant to this article.

 (28) ‘Revocation’ means that the department has permanently voided a license or certificate and the holder no longer may perform the function associated with the license or certificate. The department will not reissue the license or certificate for a period of two years for a license or permit and four years for a certificate. At the end of this period, the holder may petition for reinstatement.

 (29) ‘Standards’ means the required measurable components of an emergency medical service system having permanent and recognized value that provide adequate emergency health care delivery.

 (30) ‘State Medical Control Physician’ means a physician who shall be contracted with the department to oversee all medical aspects of the EMS Program. The contracted physician must both reside and be licensed to practice in this State. Duties of the State Medical Control Physician shall include, but not be limited to, the following:

 (a) protocol development;

 (b) establishment of the scope of practice for EMTs at all levels;

 (c) provide recommendations for disciplinary actions in cases involving inappropriate patient care; and

 (d) serve as Chairman of the State Medical Control Committee and the State Emergency Medical Services Advisory Council.

 (31) ‘Suspension’ means that the department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the department.

 Section 44‑61‑30. ~~(a)~~(A) The Department of Health and Environmental Control, with the advice of the Emergency Medical Services Advisory Council and the State Medical Control Physician, shall develop standards and ~~prescribe~~ promulgate regulations for the improvement of emergency medical services (hereinafter referred to as EMS) in the State. All administrative responsibility for this program is vested in the department.

 ~~(b)~~(B) The EMS Program shall include:

 (1) the regulation and licensing of public, private, volunteer, or other type ambulance services; however, in developing these programs for regulating and licensing ambulance services, the programs must be formulated in such a manner so as not to restrict or restrain competition;

 (2) inspection and issuance of permits for ambulance vehicles;

 (3) the licensing of emergency medical ~~EMT first~~ responder agencies;

 (4) training and certification of EMS personnel;

 (5) development, adoption, and implementation of EMS standards and state plan;

 (6) the development and coordination of an EMS communications system; ~~and~~

 (7) designation of trauma centers and the categorization of hospital emergency departments; and

 (8) the establishment of an electronic patient care reporting system to provide data to the National EMS Information System database for betterment of EMS across the nation.

 ~~(c)~~(C) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Health and Environmental Control, the South Carolina Medical Association, the South Carolina Committee on Trauma, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, ~~State Board for Technical and Comprehensive Education, Governor’s Office of Highway Safety,~~ Department of Health and Human Services, four members representing the regional Emergency Medical Services councils, ~~and~~ one member representing an emergency responder ~~EMT first responder~~ agency, three members representing organized rescue squads operating in this State, three members representing private emergency services systems, three members representing county emergency medical services systems, and the State Medical Control Physician who shall serve as chair. ~~Membership on the council must be by appointment by the board. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems.~~ The advisory council shall be appointed by the board. The advisory council shall serve without compensation, mileage, per diem, or subsistence.

 Section 44‑61‑40. ~~(a)~~(A) A person, firm, corporation, association, county, district, municipality, or metropolitan government or agency, either as owner, agent, or otherwise, may not furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing ~~EMT first~~ emergency medical response or ambulance service, or both, without obtaining a ~~valid~~ license and ambulance permit issued by the department. Failure to furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing emergency medical response or ambulance service without the proper license or permit, or both, from the department results in a Class I civil penalty, as defined in Regulation 61‑7(304).

 ~~(b)~~(B) Applicants shall file license applications with the appropriate official of the department having authority over emergency services. At a minimum, license applications shall contain evidence of ability to conform to the standards and regulations established by the board and such other information as may be required by the department. If the application is approved, the license will be issued. If the application is disapproved, the applicant may appeal in a manner pursuant to  ~~the Administrative Procedures Act beginning at Section 1‑23‑310~~ Article 3, Chapter 23 of Title 1.

 ~~(c)~~(C) An applicant shall retain a medical control physician to maintain quality control of the patient care provided by the applicant’s service. No medical control physician acting in good faith who participates in the review or evaluation of the services provided by the applicant to help improve the quality of patient care is liable for any civil damages as a result of any act or omission by the physician in the course of a review or evaluation.

 (D) Applicants shall renew licenses and permits every two years.

 Section 44‑61‑50. A vehicle must not be operated as an ambulance, unless its licensed owner applies for and receives an ambulance permit issued by the department for that vehicle. Prior to issuing an original permit for an ambulance, the vehicle for which the permit is issued shall meet all requirements as to vehicle design, construction, staffing, medical and communication equipment and supplies, and sanitation as set forth in this article or in the standards and regulations ~~established~~ promulgated by the board. Absent revocation or suspension, permits issued for ambulances are valid for a period not to exceed two years.

 Section 44‑61‑60. ~~(a)~~(A) Such equipment as deemed necessary by the department must be required of organizations applying for ambulance permits. Each licensee of an ambulance shall comply with regulations as may be promulgated by the board and shall maintain in each ambulance, when it is in use as such, all equipment as may be prescribed by the board.

 ~~(b)~~(B) The transportation of patients and the provision of emergency medical services shall conform to standards ~~adopted~~ promulgated by the board.

 Section 44‑61‑65. Organizations applying for ~~first~~ emergency medical responder licensure must comply with equipment, training, and certification standards and other requirements promulgated by the department in regulation.

 Section 44‑61‑70.~~(a)~~(A) The department may enforce rules, regulations, and standards promulgated ~~and set~~ pursuant to this article. An enforcement action taken by the department may be appealed pursuant to ~~the Administrative Procedures Act beginning with Section 1‑23‑310~~ Article 3, Chapter 23 of Title 1.

 ~~(b)~~(B) Grounds for an enforcement action against an authorization, license, or permit exist for violation of a ~~rule or~~ regulation promulgated pursuant to this article. The department may suspend a license pending an investigation of an alleged violation or complaint. The department may impose a civil monetary penalty up to five hundred dollars per offense per day to a maximum of ten thousand dollars and revoke or suspend the provider’s license or permit if the department finds that a service has:

 (1) allowed uncertified personnel to perform patient care;

 (2) falsified required forms or paperwork as required by the department;

 (3) failed to maintain required equipment as evidenced by past compliance history;

 (4) failed to maintain a medical control physician;

 (5) failed to maintain equipment in working order; or

 (6) failed to respond to a call within the response area of the service without providing for response by an alternate service.

 ~~(c)~~(C) Whoever hinders, obstructs, or interferes with a duly authorized agent of the department while in the performance of his duties or violates a provision of this article ~~or rule~~ or regulation of the board promulgated pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars and not more than five thousand dollars or by imprisonment for not less than ten days nor more than six months for each offense. Information pertaining to the license or permit is admissible in evidence in all prosecutions under this article if it is consistent with applicable statutory provisions.

 ~~(d)~~(D) If a permitted ambulance or licensed ~~first~~ emergency medical responder service fails inspection or loses points upon initial inspection, a civil monetary penalty must not be levied. Instead, a copy of the inspection report will be given to the service indicating deficiencies found and a request for a letter of compliance and a time period by which to correct the deficiencies will be issued. Upon reinspection, any deficiencies found will be assigned a point value and fine schedule or the permit will be revoked, or both. The fine schedule is found in Regulation 61‑7.

 Section 44‑61‑80. ~~(a)~~(A) All ambulance attendants shall obtain a valid emergency medical technician certificate unless an exception is granted pursuant to regulations promulgated by the department. A person who provides patient care that is within the scope of an emergency medical technician without obtaining proper certification from the department shall be sanctioned in accordance with a Class I civil penalty as defined in Regulation 61‑7(304), unless an exception was granted as provided for in this subsection.

 ~~(b)~~(B) The department shall develop and approve ~~curricula~~ educational standards for the necessary classification of emergency medical technicians and approve the training program for the necessary classifications of emergency medical technicians.

 ~~(c)~~(C) A person seeking EMT certification must pass the National Registry of Emergency Medical Technicians examination for the level of certification desired and meet other requirements established by the department. The department will make a determination of the applicant’s qualifications and, if appropriate, issue a certificate to the applicant.

 ~~(d)~~(D) A person seeking EMT certification or recertification must undergo a state criminal ~~records~~ history background check, supported by fingerprints~~,~~ by the South Carolina Law Enforcement Division (SLED), and a national criminal ~~records~~ history background check, supported by fingerprints~~,~~ by the Federal Bureau of Investigation (FBI). The results of these criminal ~~records~~ history background checks must be reported to the department. SLED is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The cost of the state criminal ~~records~~ history background check must not exceed eight dollars and must be paid ~~to the department~~ by the EMT or the EMS agency upon application for the state check. The cost of the national criminal history background ~~records~~ check is established by the FBI and must be paid ~~to the department~~ by the EMT or the EMS agency upon application for the national check. The state and national criminal ~~records~~ history background checks are not required for an EMT employed as of July 1, 2008, until the EMT applies for recertification. The department may deny certification to applicants with certain past felony convictions and to those who are under felony indictment. Applications for certification of individuals convicted of or under indictment for the following crimes will be denied in all cases:

 (1) felonies involving criminal sexual conduct;

 (2) felonies involving the physical or sexual abuse of children, the elderly, or the infirm including, but not limited to, criminal sexual ~~misconduct with a child,~~ conduct with a minor, making or distributing child pornography or using a child in a sexual display, incest involving a child, or assault on a vulnerable adult;

 (3) a crime in which the victim is a patient or resident of a health care facility, including abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant.

 Applications from individuals convicted of, or under indictment for, other offenses not listed above will be reviewed by the department on a case by case basis.

 ~~(e)~~(E) EMT certification is valid for a period not exceeding ~~three~~ four years from the date of issuance and must be renewed by undergoing a state and national criminal ~~records~~ history background check as provided for in subsection ~~(d)~~ (D) and ~~completing a refresher course and examination during the three‑year certification period as required by the department and provided for by this article. Upon successful completion of an approved in‑service training program directed by the medical control physician during the three‑year certification period and passage of the skills evaluation as provided for by the department, the refresher course requirements and the practical skills evaluation may be waived. Failure to pass the written examination after three attempts will require completion of another refresher course and reexamination. The curriculum for in‑service training programs required in this subsection must include, but not be limited to, subject matter prescribed by the department. The in‑service training programs shall consist of classroom and skills phases that may be conducted at licensed services, educational facilities, or hospitals throughout the State. The medical control physician who evaluates the skills of an emergency medical technician applying for certificate renewal also may grant a waiver of taking the written exam. The waiver must certify that the emergency medical technician is knowledgeable, proficient, and capable of performing the duties of an emergency medical technician. The accomplished waiver substitutes for the written exam, but all others are required to take the prescribed written exam before renewal. Those who are nationally registered may exempt the state practical and written exam upon submission of appropriate documentation~~ providing documentation to the department of current national registration for the appropriate level of certification and any other credential as required by the department. The national registry credential must be renewed in accordance with National Registry of Emergency Medical Technicians policies and procedures. An individual who was certified in this State before October 2006, and has continuously maintained certification, may continue to renew certification without a national registry credential if the individual has successfully completed all other requirements as established by the department in regulation.

 ~~(f)~~(F) The department may take enforcement action against the holder of a certificate at any time it is determined that the holder no longer meets the prescribed qualifications set forth by the department or has failed to provide to patients emergency medical treatment of a quality deemed acceptable by the department or is guilty of misconduct ~~as outlined by the rules and regulations~~. Misconduct means that, while holding a certificate, the holder:

 (1) used a false, fraudulent, or forged statement or document or practiced a fraudulent, deceitful, or dishonest act in connection with the certification requirements or official documents required by the department;

 (2) was convicted of or currently under indictment for a felony or another crime involving moral turpitude, drugs, or gross immorality;

 (3) was addicted to alcohol or drugs to such a degree as to render him unfit to perform as an EMT;

 (4) sustained a mental or physical disability that renders further practice by him dangerous to the public;

 (5) obtained fees or assisted another in obtaining fees under dishonorable, false, or fraudulent circumstances;

 (6) disregarded an appropriate order by a physician concerning emergency treatment or transportation;

 (7) at the scene of an accident or illness, refused to administer emergency care based on the age, sex, race, religion, creed, or national origin of the patient;

 (8) after initiating care of a patient at the scene of an accident or illness, discontinued care or abandoned the patient without the patient’s consent or without providing for the further administration of care by an equal or higher medical authority;

 (9) revealed confidences entrusted to him in the course of medical attendance, unless this revelation was required by law or is necessary in order to protect the welfare of the individual or the community;

 (10) by action or omission and without mitigating circumstance, contributed to or furthered the injury or illness of a patient under his care;

 (11) was careless, reckless, or irresponsible in the operation of an emergency vehicle;

 (12) performed skills above the level for which he was certified or performed skills that he was not trained to do;

 (13) observed the administration of substandard care by another EMT or other medical provider without documenting the event and notifying a supervisor;

 (14) by his actions or inactions, created a substantial possibility that death or serious physical harm could result;

 (15) did not take or complete remedial training or other courses of action as directed by the department as a result of an investigation or inquiry;

 (16) was found to be guilty of the falsification of documentation as required by the department;

 (17) breached a section of the Emergency Medical Services Act of South Carolina or a subsequent amendment of the act or any rules or regulations published pursuant to the act.

 The department is further authorized to suspend a certificate pending the investigation of any complaint or allegation regarding the commission of an offense including, but not limited to, those listed above.

 ~~(g)~~(G) All instructors of emergency medical technician training courses must be certified by the department pursuant to requirements established by the board; and all such training courses shall be supervised by certified instructors.

 Section 44‑61‑90. Each licensee shall maintain records that include approved patient care report forms, ~~employee/member~~ employee or member rosters or both, and training records. These records must be available for inspection by the department at any reasonable time and copies must be furnished to the department upon request.

 Section 44‑61‑100. The following are exempted from the provisions of this article:

 ~~(a)~~(A) ambulances owned and operated by the Federal Government;

 ~~(b)~~(B) a vehicle or vehicles, including associated personnel, rendering assistance to community ambulances in the case of a catastrophe when licensed ambulances in the locality are insufficient to render the required services;

 ~~(c)~~(C) the use of a privately or publicly owned vehicle, not ordinarily utilized in the transportation of persons who are sick, injured, or otherwise incapacitated and operating pursuant to Section 15‑1‑310 (Good Samaritan Act) in the prevention of loss of life and alleviation of suffering;

 ~~(d)~~(D) the use of out‑of‑state ambulance services and personnel to assist with treatment and transport of patients during a disaster or catastrophe when licensed services in the locality are insufficient to render the required services.

 Section 44‑61‑110. No financial grants or funds administered by the State for emergency medical services pertinent to this article shall be made available to counties or municipalities not in compliance with the provisions of this article.

 Section 44‑61‑120. The department shall develop a comprehensive statewide emergency medical services plan to implement and ensure the delivery of adequate emergency medical services to every citizen. This plan ~~must~~ shall include guidelines for ~~basic, intermediate, and paramedic~~ emergency medical technicians at all levels for the administration of epinephrine to a person suffering or believed to be suffering from anaphylaxis.

 Section 44‑61‑130. A certified emergency medical technician may perform any function consistent with his certification, according to guidelines and regulations that the board may prescribe. Emergency medical technicians, trained to provide advanced life support and possessing current Department of Health and Environmental Control certification while on duty with a licensed service, are authorized to possess limited quantities of drugs, including controlled substances, as may be approved by the Department of Health and Environmental Control for administration to patients during the regular course of duties of emergency medical technicians, pursuant to the written or verbal order of a physician possessing a valid license to practice medicine in this State; however, the physician must be registered pursuant to state and federal laws pertaining to controlled substances.

 Section 44‑61‑140. This article must not be construed as limiting presently operating rescue units from utilizing their existing equipment and performing the functions they are now allowed to do so long as they do not conflict with licensed agencies contained in ~~subsection (a)of~~ Section 44‑61‑40(A).

 Section 44‑61‑160. ~~(a)~~(A) The identities of patients~~, emergency, and critical care medical services personnel and emergency and critical care medical services~~ and emergency medical technicians mentioned, referenced, or otherwise appearing in information and data collected or prepared by ~~or in connection with~~ emergency medical services must be treated as ~~strictly~~ confidential. The identities of these persons ~~or entities~~ are not available to the public under the Freedom of Information Act nor are they subject to subpoena in any administrative, civil, or criminal proceeding, and they are not otherwise available except pursuant to court order. An individual~~’s~~ in attendance at a proceeding must not be required to testify as to the identity of a ~~person or entity~~ patient except pursuant to court order. A person, medical facility, or other organization providing or releasing information in accordance with this article must not be held liable in a civil or criminal action for divulging confidential information unless the individual or organization acted in bad faith or with malicious purpose. However, the name of emergency medical technicians, and information and data collected or prepared by emergency medical services must be released to the patient upon his request. In the event the patient is incapacitated or deceased, the name of emergency medical technicians, information, and data collected or prepared by emergency medical services must be released to the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative upon their request.

 ~~(b)~~(B) The identity of a patient~~, physician, or hospital~~ is confidential and must not be released except that the identity of a patient may be released upon ~~written~~ consent of the patient, the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative~~; the identity of a physician may be released upon written consent of the physician; and the identity of a hospital may be released upon written consent of the hospital~~.

 ~~(c)~~ ~~The contents of an official investigation or inquiry conducted by the Emergency Medical Services Section within the Department of Health and Environmental Control must be treated as confidential and only may be released in a legal proceeding involving the question of licensing, certification, or revocation of a license or certificate. The proceedings, records, and information acquired or produced by the emergency practices review committee is confidential pursuant to Section 40‑71‑20. The emergency practices review committee is a professional committee that reviews the information on official investigations into the actions of a certified EMT at any level or a licensed emergency medical service.~~

 (C) An official investigation or inquiry shall be conducted by an Investigative Review Committee. The fact of suspension or restriction of a license, and the fact of any subsequent related action taken by the department is public information under the Freedom of Information Act after issuance of an administrative order.

 ~~(d)~~(D) ~~Information~~ Except as otherwise provided in this section, patient information must not be released except to:

 (1) appropriate staff of the ~~Emergency Medical Services Section within the Department of Health and Environmental Control,~~ department’s Division of Emergency Medical Services and Trauma, the South Carolina Data Oversight Council, and State Budget and Control Board, Office of Research and Statistics;

 (2) submitting hospitals or their designees;

 (3) a person engaged in an approved research project, except that information identifying a subject of a report or a reporter must not be made available to a researcher unless consent is obtained pursuant to this section.

 ~~(e)~~(E) For purposes of maintaining the data base collected pursuant to this article, the department and the Office of Research and Statistics may access and provide access to appropriate confidential data reported in accordance with  ~~Section 44‑61‑160~~ this section.

 ~~(f)~~(F) A person subject to this article who intentionally fails to comply with reporting, confidentiality, or disclosure requirements of this article is subject to a civil penalty of not more than one hundred dollars ~~for a violation the first time a person fails to comply~~ for a first offense and not more than five thousand dollars for ~~a~~ each subsequent violation.

 ~~(g)~~(G) The department, or a person or entity licensed or certified under this section is required to disclose to the solicitor or his designee information received that could aid in the investigation or prosecution of criminal activity. This includes, but is not limited to, information concerning child abuse, felony driving under the influence, assaults, or other crimes regardless of whether the information is obtained before, during, or after treatment. All information received by the solicitor shall be held confidential by the solicitor or his designee unless such information is necessary for criminal investigation and prosecution.

 (H) This section supersedes any other provision of law, with the exception of federal law, which may be contrary to requirements set forth in this section.”

 SECTION 2. Sections 44‑61‑105 and 44‑61‑150 of the 1976 Code are repealed.

 SECTION 3. Article 3, Chapter 61, Title 44 of the 1976 Code is amended to read:

 “Section 44‑61‑300. This article may be cited as the ‘Children’s Emergency Medical Services Act’.

 Section 44‑61‑310. As used in this article:

 (1) ‘Advanced life support’ means an advanced level of prehospital, interhospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized by the department pursuant to regulations.

 (2) ‘Basic life support’ means a basic level of prehospital care which includes patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization, and other techniques and procedures authorized by the department pursuant to regulations.

 (3) ~~‘Coordinator’ means the person coordinating the EMSC Program within the Department of Health and Environmental Control.~~ ‘Board’ means the governing body of the Department of Health and Environmental Control or its designated representative.

 (4) ‘Department’ means the Division of Emergency Medical Services and Trauma within the Department of Health and Environmental Control.

 (5) ‘Director’ means the Director of the Department of Health and Environmental Control.

 (6) ‘EMSC Program’ means the Emergency Medical Services for Children Program established pursuant to this article and other relevant programmatic activities conducted by the department in support of appropriate treatment, transport, and triage of ill or injured children.

 (7) ‘Emergency medical services personnel’ means persons trained and certified or licensed to provide emergency medical care, whether on a paid or volunteer basis, as part of a basic life support or advanced life support prehospital emergency care service or in an emergency department or pediatric critical care or specialty unit in a licensed hospital.

 (8) ‘Emergency medical technician’ or ‘EMT’ means, when used in general terms for emergency medical personnel, an individual possessing a valid, emergency medical technician (EMT), advanced emergency medical technician (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

 (9) ‘Manager’ means the person coordinating the EMSC Program within the Department of Health and Environmental Control.

 (10) ‘Prehospital care’ means the provision of emergency medical care or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency and while transporting sick or injured persons to a medical care facility or provider.

 Section 44‑61‑320. There is established within the Department of Health and Environmental Control, Division of Emergency Medical Services, the Emergency Medical Services and Trauma, for Children Program.

 Section 44‑61‑330. (A) The EMSC Program must include, but is not limited to, the establishment of:

 (1) initial and continuing education programs for emergency medical services personnel that include training in the emergency care of infants and children;

 (2) guidelines for referring children to the appropriate emergency treatment facility;

 (3) pediatric equipment guidelines for prehospital care and emergency department;

 (4) guidelines for ~~basic~~ EMT, ~~intermediate~~ AEMT, and paramedic emergency medical technician certification for administering epinephrine to children suffering from a severe allergic reaction;

 (5) ~~pediatric equipment guidelines for emergency departments~~ guidelines for the voluntary designation of pediatric emergency departments;

 (6) guidelines for pediatric trauma centers;

 (7) an interhospital transfer system for critically ill or injured children;

 (8) in conjunction with the South Carolina Data Oversight Council, the collection and analysis of statewide pediatric emergency and critical care medical services data from emergency and critical care medical services for the purpose of quality improvement by these facilities and services, subject to the confidentiality requirements of Section 44‑61‑350;

 (9) injury prevention programs for parents;

 (10) public education programs on accessing the emergency medical services system and what to do until the emergency medical services personnel arrive;

 (11) guidelines for the appropriate response to children and their families before, during, and after a disaster;

 (12) incorporation of pediatric disaster preparedness training into initial and continuing education programs for emergency medical services personnel;

 (13) assistance with the development of disaster plan strategies that address pediatric surge capacity before, during, and after a disaster for both injured and noninjured children.

 (B) In gathering statewide pediatric emergency and critical care medical services data, the department shall rely upon, to the extent possible, data from existing sources; however, the department may contact families and physicians for the purpose of gathering additional data and providing information on available public and private resources. Information requested from a physician’s office must be obtained pursuant to ~~Chapter 115~~ Section 44‑115‑10. Patient contact following data received from the State Budget and Control Board, Office of Research and Statistics must be conducted in accordance with regulations approved by the South Carolina Data Oversight Council and promulgated by the Office of Research and Statistics.

 Section 44‑61‑340. (A) The identities of patients~~, emergency and critical care medical services personnel, and emergency and critical care medical services facilities~~ and emergency medical technicians mentioned, referenced, or otherwise appearing in information or data collected or prepared by ~~or in connection with~~ the EMSC Program must be treated as ~~strictly~~ confidential. The identities of these persons ~~or entities~~ are not available to the public under the Freedom of Information Act ~~or discoverable or admissible in any administrative, civil, or criminal proceeding~~ nor are they subject to subpoena in any administrative, civil, or criminal proceeding, and they are not otherwise available except pursuant to court order. An individual in attendance at ~~any such~~ a proceeding ~~may~~ shall not be required to testify as to the identity of  ~~any such person or entity~~ a patient except pursuant to court order. ~~No~~ A person, medical facility, or other organization providing or releasing information in accordance with this article ~~may~~ shall not be held liable in a civil or criminal action for divulging confidential information unless the individual or organization acted in bad faith or with malicious purpose. However, the name of emergency medical technicians, and information and data collected or prepared by emergency medical services must be released to the patient or the patient’s legal guardian upon request. In the event the patient is incapacitated or deceased, the name of emergency medical technicians, information, and data collected or prepared by emergency medical services must be released to the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative upon their request.

 (B) The identity of a patient~~, physician, or hospital~~ is confidential and ~~may~~ shall not be released except that the identity of a patient may be released upon ~~informed~~ written consent of the patient, the patient’s immediate family, ~~or~~ the patient’s legal guardian, or the patient’s legal representative~~; the identity of a physician may be released upon written consent of the physician; and the identity of a hospital may be released upon written consent of the hospital~~.

 (C) ~~Information~~ Except as otherwise authorized in this section, patient information must not be released except to:

 (1) appropriate staff of the Division of Emergency Medical Services and Trauma within the Department of Health and Environmental Control, South Carolina Data Oversight Council, and State Budget and Control Board, Office of Research and Statistics;

 (2) submitting hospitals or their designees;

 (3) a person engaged in an approved research project, except that no information identifying a subject of a report or a reporter may be made available to a researcher unless consent is obtained pursuant to this section.

 (D) For purposes of maintaining the ~~data base~~ database collected pursuant to this article, the department and the Office of Research and Statistics may both access and provide access to appropriate confidential data reported in accordance with Section ~~44‑6‑170~~ 44‑61‑160.

 (E) A person subject to this article who intentionally fails to comply with reporting, confidentiality, or disclosure requirements of this article is subject to a civil penalty of not more than one hundred dollars for a ~~violation the first time a person fails to comply~~ first offense and not more than five thousand dollars for ~~a~~ each subsequent violation.

 (F) The department, or a person or entity licensed or certified under this section is required to disclose to the solicitor or his designee information received that could aid in the investigation or prosecution of criminal activity. This includes, but is not limited to, information concerning child abuse, felony driving under the influence, assaults, or other crimes regardless of whether the information is obtained before, during, or after treatment. All information received by the solicitor shall be held confidential by the solicitor or his designee unless such information is necessary for criminal investigation and prosecution.

 Section 44‑61‑350. (A) There is established the Emergency Medical Services for Children Advisory Committee to advise the department on matters concerning preventative, prehospital, hospital, rehabilitative, and other post‑hospital medical care for children.

 (B) Committee members must be appointed by the board.

 (C) The advisory committee is composed of a nurse with emergency pediatric experience, a physician with pediatric training, an emergency physician, an EMT/paramedic who is currently practicing, a ground level prehospital provider representative, an emergency medical services state agency representative, the EMSC Program principal investigator, the EMSC Program manager, and a family representative. All members must reside and, if applicable, be licensed or certified to practice in this State.

 (D) Members of the advisory committee shall serve without compensation, mileage, per diem, or subsistence.”

 SECTION 4. 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 PEELER spoke on the Bill.

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

**COMMITTED**

 S. 519 -- Senators Setzler, L. Martin, Reese, Anderson and Nicholson: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED BY STUDENTS RESIDING IN SCHOOL DISTRICTS THAT CLOSED DUE TO SNOW ON MARCH 2, 2009, IS EXEMPT FROM THE MAKE-UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

 Senator LARRY MARTIN asked unanimous consent to commit the Joint Resolution to the Committee on Education.

 There was no objection and the Resolution was committed to the Committee on Education.

**OBJECTION**

 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.

 Senator MALLOY objected to further consideration of the Bill.

**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.

**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 LARRY MARTIN, the Concurrent Resolution was carried over.

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

**AMENDED, READ THE SECOND TIME**

**RETURNED TO THE CATEGORY OF SPECIAL ORDER**

 S. 391 -- Senators Ryberg, McConnell, Verdin, Bryant, Cleary, Campsen, Shoopman, Campbell, Rose, Davis, Bright, S. Martin and Sheheen: 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 adoption of Amendment No. 28 (391R045.GFM) proposed by Senators McCONNELL, RANKIN, KNOTTS, MALLOY, LAND, SCOTT, ALEXANDER, NICHOLSON, McGILL, ELLIOTT, WILLIAMS, ANDERSON and FORD and printed in the Journal of Tuesday, February 23, 2010. Amendment No. 28 was tabled.

 Senator McCONNELL explained the amendment.

 Senator MASSEY argued contra to the adoption of the amendment

 Senator CAMPSEN argued contra to the adoption of the amendment.

 Senator RYBERG argued contra to the adoption of the amendment.

**ACTING PRESIDENT PRESIDES**

 At 3:47 P.M., Senator LARRY MARTIN assumed the Chair.

 Senator RYBERG argued contra to the adoption of the amendment.

 Senator RYBERG moved to lay the amendment on the table.

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

**Ayes 23; Nays 18**

**AYES**

Bright Bryant Campsen

Courson Davis Fair

Grooms Hutto Leventis

Lourie *Martin, Larry Martin, Shane*

Massey McGill Peeler

Reese Rose Ryberg

Setzler Sheheen Shoopman

Verdin Williams

**Total--23**

**NAYS**

Alexander Campbell Cleary

Cromer Elliott Ford

Hayes Jackson Knotts

Land Matthews McConnell

Nicholson O’Dell Pinckney

Rankin Scott Thomas

**Total--18**

 Amendment No. 28 was laid on the table.

**Statement by Senators McCONNELL, ALEXANDER**

**THOMAS, HAYES, and O’DELL**

 Amendment No. 28 was an attempt to take the best of the House Bill and the best of the Senate Bill to create a compromise. We based this on the fact the Senate was divided and the House was united in its position. We were working on the Senate Bill and it must go over to the House for votes. Since the House Bill got to the Senate first, the House may insist on us using the House vehicle. We believe it is important to get a Bill this Session and this Senate Bill had many reforms in it.

 This amendment put the selection on the basis of merit, not politics. It also opened the position to any qualified South Carolinian rather than one connected to a Governor. The executive director chosen by the Governor after screening would serve at his pleasure for the term as long as he did a good job.

 It was reform which could pass with certainty this year.

**Amendment No. 29**

 Senator ROSE proposed the following Amendment No. 29 (391R057.MTR), which was adopted:

 Amend the bill, as and if amended, page 79, after line 13, by adding an appropriately numbered SECTION to read:

 / SECTION \_\_\_. Chapter 13, Title 38 of the 1976 Code is amended by adding:

 “Article 7

 Examinations, Investigations, and Reports of the Department of Workforce

 Section 38‑13‑700. (A) At least every five years, or upon request pursuant to Section 38‑13‑710, the director must conduct an examination of the unemployment compensation fund administered by the Department of Workforce. Examinations scheduled by the director must include at least a detailed accounting of the revenue and expenditures of the fund and an analysis of the current and future solvency of the fund.

 (B) In scheduling and determining the nature, scope, and frequency of examinations, the director shall consider compliance with relevant federal and South Carolina laws and regulations, the results of previous examinations, changes in management, and reports of the audits performed by the Legislative Audit Council.

 (C) For purposes of completing an examination of an insurer under this article, the director may examine or investigate the Department of Workforce in a manner considered necessary or material by the director.

 Section 38‑13‑710. (A) An examination of the unemployment compensation fund may be initiated upon the request of either:

 (1) the chairman of the Senate Labor Commerce and Industry Committee or the Chairman of the Senate Finance Committee and the President Pro Tempore; or

 (2) the chairman of the House of Representatives Labor Commerce and Industry Committee or the Chairman of the House of Representatives Ways and Means Committee and the Speaker of the House of Representatives.

 (B) The request must describe the issues upon which the requestor would like for the examination to focus.

 (C) The director must consult with the requestors to determine the appropriate scope of the examination.

 Section 38‑13‑720. (A) The Department of Workforce must provide timely, convenient, and free access to all books, records, accounts, papers, documents, and computer or other recordings relating to the subject of the examination. If the director considers it necessary to the conduct of the examination, he may require that the Department of Workforce furnish the original books and records. The executive director of the Department of Workforce shall facilitate the examination and aid in the examination.

 (B) The director may issue subpoenas, administer oaths, and examine under oath a person as to matters pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the director may petition a court of competent jurisdiction, and upon proper showing the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court.

 (C) When making an examination pursuant to this article, the director may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners. The cost of the retainment must be borne by the Department of Workforce. Examination fees must be retained by the department and are considered ‘other funds’.

 Section 38‑13‑730. In addition to any other recognized and appropriate examination methodologies, when conducting an examination the department must utilize sample data testing to verify the accuracy of information provided by the Department of Workforce.

 Section 38‑13‑740. The results of each examination must be compiled in a report. Examination reports must be comprised of only facts appearing on the books, records, or other documents maintained by the Department of Workforce and as ascertained from the testimony of the executive director and any other employees examined concerning the subject of the examination, and the conclusions and recommendations of the director that he finds warranted from the facts. The reports must be submitted to the General Assembly and made available on the Internet websites maintained by the Department of Insurance and the Department of Workforce.

 Section 38‑13‑750. The director may not assign an examiner that has a conflict of interest.

 Section 38‑13‑760. The Department of Workforce shall pay the charges incurred in the examination, including the expenses of the director and the expenses and compensation of his examiners and assistants.

 Section 38‑13‑770. The director may require the Department of Workforce to answer any inquiry in relation to the administration of the unemployment compensation fund. The executive director of the Department of Workforce must promptly reply in writing.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator ROSE explained the amendment.

**Point of Order**

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

 Senator ROSE spoke on the Point of Order.

 The ACTING PRESIDENT overruled the Point of Order.

 Senator ROSE moved that the amendment be adopted.

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

**Ayes 33; Nays 9**

**AYES**

Alexander Anderson Bright

Bryant Campsen Cleary

Courson Cromer Davis

Elliott Ford Grooms

Hayes Jackson Lourie

*Martin, Larry Martin, Shane* Massey

Matthews McConnell McGill

O’Dell Peeler Pinckney

Rankin Reese Rose

Ryberg Sheheen Shoopman

Thomas Verdin Williams

**Total--33**

**NAYS**

Campbell Fair Hutto

Knotts Land Leventis

Nicholson Scott Setzler

**Total--9**

 The amendment was adopted.

**Amendment No. 31**

 Senators SCOTT and SHEHEEN proposed the following Amendment No. 31(391SCOTTRACEALL), which was adopted:

 Amend the bill, as and if amended, on page 79, after line 28 by adding an appropriately numbered new SECTION to read:

 / SECTION. . In making appointments and hiring decisions for positions pursuant to this act, the governing authority or individual tasked with making such appointment or hiring decision must consider race, gender, and other demographic factors to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. /

 Renumber sections to conform.

 Amend title to conform.

 Senator SCOTT explained the amendment.

 The amendment was adopted.

**Amendment No. 26**

 Senator SETZLER proposed the following Amendment No. 26 (391R055.NGS), which was adopted:

 Amend the bill, as and if amended, page 77 after line 21 by adding an appropriately numbered new SECTION to read:

 / SECTION \_\_\_. The Code Commissioner is directed to change all references to the “Department of Workforce” to the “Department of Employment and Workforce.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator SETZLER explained the amendment.

 The amendment was adopted.

 The question then was the second reading of the Bill.

 Senator RANKIN spoke on the Bill.

 With Senator RANKIN retaining the floor, Senator FORD, with unanimous consent, was granted leave to address the body with brief remarks.

**RECESS**

 At 5:24 P.M., with Senator RANKIN retaining the floor, on motion of Senator KNOTTS, with unanimous consent, the Senate receded from business subject to the call of the Chair.

 At 5:53 P.M., the Senate resumed.

 With Senator RANKIN retaining the floor, Senator RYBERG, with unanimous consent, was granted leave to address the body with brief remarks.

**Motion Adopted**

 Senator McCONNELL asked unanimous consent to make a motion that Amendment No. 39 be taken up for immediate consideration and adopted; and, further,

 S. 391 would be given a second reading with further amendments, except those correcting technical and clerical errors, being precluded from being offered unless waived under the provisions of Rule 26B; and, further,

 H. 3442 would be recalled from the Committee on Labor, Commerce and Industry and given a second reading; and, further,

 when S. 391 is given a third reading, H. 3442 would be amended and conformed to the Senate version; and, further,

 that after S. 391 has been given a third reading, H. 3442 would automatically receive a third reading, as amended with the Senate version, sending both Bills to the House simultaneously.

 There was no objection and the motion was adopted.

**Amendment No. 39**

 Senators RYBERG, McCONNELL, LAND, PEELER, L. MARTIN, RANKIN, KNOTTS, SETZLER, LOURIE and MASSEY proposed the following Amendment No. 39 (391R075.WGR), which was adopted:

 Amend the bill, as and if amended, by striking SECTION 6 in its entirety and inserting:

 / SECTION 6. Section 41‑29‑30 of the 1976 Code is repealed. /

 Amend the bill, as and if amended, page 4, by striking lines 36 - 42 and page 5, by striking lines 1 - 2 and inserting:

 / (2) No member of the General Assembly shall be elected to be a commissioner while the member is serving in the General Assembly; nor shall a member of the General Assembly be elected or appointed to be a commissioner 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. /

 Amend the bill, as and if amended, page 6, by striking lines 26‑39 and inserting:

 / “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 nominated by the State Department of Workforce Review Committee and appointed by the Governor. The term of the executive director is conterminous with that of the Governor and until a successor is appointed pursuant to this act. The executive director is subject to removal by the Governor as provided in Section 1‑3‑240(B). The executive 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 the purposes of this chapter, ‘department’ means the South Carolina Department of Workforce. /

 Amend the bill, as and if amended, page 77, after line 3, by adding new SECTIONS to read:

 / SECTION \_\_\_. Chapter 29, Title 41 of the 1976 Code is amended by adding:

 “Article 7

 South Carolina Department of Workforce Review Committee

 Section 41‑27‑700. There is created the Department of Workforce Review Committee which must exercise the powers and fulfill the duties described in this article.

 Section 41‑27‑710. (A) The committee must be composed of nine members, three of whom must be members of the House of Representatives appointed by the Speaker at least one of whom must be a member of the minority party; three of whom must be members of the Senate appointed by the President *pro Tempore* at least one of whom must be a member of the minority party; and three of whom shall be appointed by the governor from the general public at large, of which one must represent businesses with fewer than fifty employees and one of whom must represent businesses with fewer than five hundred employees. A member of the general public appointed by the governor may not be a member of the General Assembly.

 (B) The committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and other officers as the committee considers necessary. Afterward, the committee at least annually shall meet and at the call of the chairman or a majority of the members. A quorum consists of five members.

 (C) Unless the committee finds a person qualified to serve as the executive director of the Department of Workforce, the person may not be appointed.

 (D) The Governor must remove and replace a member of the committee from the general public that misses three consecutive scheduled meetings at which a quorum is present.

 Section 41‑27‑720. The committee shall:

 (1) nominate all qualified applicants for the Governor to consider in appointing the executive director. In order to be found qualified, the person must meet the minimum requirements as provided in Section 41‑29‑35. The committee must consider a person’s experience and expertise in matters related to unemployment, workforce development, and economic development. A person may not be appointed to serve as the permanent executive director unless he is found qualified by the committee. If the Governor rejects all of the nominees, the committee must reopen the nominating process;

 (2) conduct an annual performance review of the executive director, which must be submitted to the General Assembly. A draft of the executive director’s performance review must be submitted to him, and the executive director must be allowed an opportunity to be heard before the committee before the final draft of the performance review is submitted to the General Assembly;

 (3) submit to the General Assembly, on an annual basis, the committee’s evaluation of the performance of the Department of Workforce. A proposed draft of the evaluation must be submitted to the Department of Workforce before submission to the General Assembly, and the Department of Workforce must be given an opportunity to be heard before the committee before the completion of the evaluation and its submission to the General Assembly; and

 (4) assist in developing an annual workshop of at least six contact hours concerning ethics and the Administrative Procedures Act for the executive director and employees of the Department of Workforce as the committee considers appropriate;

 (5) make reports and recommendations to the General Assembly on matters relating to the powers and duties set forth in this section;

 (6) submit a letter to the General Assembly with the annual budget proposals of the Department of Workforce, indicating the committee has reviewed and approved the proposals; and

 (7) undertake additional studies or evaluations as the committee considers necessary.

 Section 41-27-725. (A) The committee in the discharge of its duties may administer oaths and affirmations, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary in connection committee’s investigation.

 (B) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the committee on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual shall be prosecuted or subjected to any criminal penalty based upon testimony or evidence submitted or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury and false swearing committed in so testifying.

 (C) In case of contumacy by any person or refusal to obey a subpoena issued to any person, any circuit court of this State or circuit judge thereof within the jurisdiction of which the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the committee may issue to the person an order requiring him to appear before the committee to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the court may be punished as a contempt hereof. Subpoenas shall be issued in the name of the committee and shall be signed by the committee chairman. Subpoenas shall be issued to those persons as the committee may designate.

 Section 41‑27‑730. (A) The committee members are entitled to mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which they are appointed. These expenses must be paid from the general fund of the State on warrants duly signed by the chairman of the committee and payable by the authorities from which they are appointed, except as provided in subsection (B) of this section.

 (B) The committee may request that it be reimbursed for expenses associated with its duties with funds from the employment security administration fund. The expenses of the committee must be advanced by a legislative body and the legislative body incurring this expense must be reimbursed by the State.

 Section 41‑27‑740. (A) The committee must use clerical and professional employees of the Senate Labor, Commerce, and Industry Committee and the House of Representatives Labor, Commerce, and Industry Committee for its staff, who must be made available to the committee.

 (B) The committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the committee.

 (C) Except as provided in Section 41‑27‑660(B), the costs and expenses of the committee must be funded in the annual state General Appropriations Act.

 Section 41‑27‑750. The committee may conduct a comprehensive study of other states’ unemployment and workforce agency structures, responsibilities, qualifications, and compensation. The committee may prepare and deliver this report along with its recommendations to the General Assembly.”

 SECTION \_\_\_. Chapter 29, Title 41 of the 1976 Code is amended by adding:

 “Section 41‑29‑35. (A) The executive director of the Department of Workforce must be appointed pursuant to the procedure set forth in Section 41‑27‑720.

 (B) The committee must nominate all applicants found qualified to serve as executive director for the Governor’s consideration. In making nominations to the Governor, the committee should consider race, gender, national origin, and other demographic factors to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State. The committee must also give due consideration to a person’s ability, area of expertise, dedication, compassion, common sense, and integrity.

 (1) A person may not be appointed to serve as permanent executive director unless the committee finds the person qualified.

 (2) The Governor must transmit the name of his appointee to the Senate for advice and consent.

 (3) If the Governor rejects all of the nominees, the committee must reopen the nominating process.

 (C) For the committee to find a person qualified, he must have:

 (1) a baccalaureate or more advanced degree from:

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

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

 (c) an institution of higher learning chartered before 1962; and

 (2) a background of substantial duration and expertise in business, labor and employment, employment benefits, human resource management, or five years experience as a practicing attorney.

 (D) The committee may find a person qualified although he does not have a background of substantial duration and expertise in one of the five enumerated areas contained in subsection (C)(2) of this section if two‑thirds of the committee vote to qualify this candidate and provide written justification of their decision in the report as to the qualifications of the candidates.

 (E) The Governor must forward a formal appointment nominated by the committee on or before April first of the year in which the term of the executive director begins.”

 SECTION \_\_\_. Chapter 29, Title 41 of the 1976 Code is amended by adding:

 “Section 41‑29‑25. (A) The executive director shall discharge his duties:

 (1) in good faith;

 (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

 (3) in a manner he reasonably believes to be in the best interests of the department. As used in this chapter, best interests means a balancing of the following:

 (a) achieving the purposes of the department;

 (b) preservation of the financial integrity of the department and its ongoing operations; and

 (c) exercise of the powers of the department in accordance with good business practices and the requirements of applicable laws, and regulations.

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

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

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

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

 (D) Nothing in this section gives rise to a cause of action against the executive director or any decision made by the executive director concerning departmental operations or development.”

 SECTION \_\_\_. The Governor must appoint a person meeting the requirements for executive director provided in this act to serve as interim executive director. The interim executive director serves until March 31, 2011 or until a successor is appointed pursuant to this act. The interim executive director is appointed upon the advice and consent of the Senate. /

 Renumber sections to conform.

 Amend title to conform.

 Senator RYBERG explained the amendment.

 The amendment was adopted.

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

**Expression of Personal Interest**

 Senator FORD rose for an Expression of Personal Interest.

**Remarks by Senator FORD**

 Mr. Chairman and gentlemen of the Senate, I have a very important announcement to make.

 The boycott sponsored by the NAACP is officially off… and the reason being, on this weekend, starting Sunday, February 28, 2010, the AME -- African-American Episcopal Church , CME -- Central Methodist Episcopal Church, and the AME Zion Church will hold a five day “Coming Together” seminar in Columbia, South Carolina, in which twelve thousand or more delegates will participate from all over the United States and abroad.

 This means for these powerful African-American leaders from across the world, whose religious philosophy is based on liberation, to have this conference in Columbia means that this boycott is officially over. Otherwise, they would be crossing the NAACP picket lines and ignoring the most powerful tools that were used during the Civil Rights movement. This also means that the NCAA -- National Collegiate Athletic Association -- and other national and international business franchises which refuse to locate in South Carolina can now consider South Carolina as a state to locate their businesses and athletic events.

 This is indeed great news especially in these economic hard times.

 On motion of Senator JACKSON, with unanimous consent, the remarks of Senator FORD were ordered printed in the Journal.

**RECALLED AND READ THE SECOND TIME**

H. 3442 -- Reps. Bingham, Harrell, Duncan, Harrison, Owens, Toole, Merrill, Brady, E.H. Pitts, G.M. Smith, Daning, Haley, Huggins, Cato, Ballentine, D.C. Smith, J.R. Smith, Rice, T.R. Young, Horne, Wylie, Bedingfield, Clemmons, Bales, Lucas, Neilson, Long, J.M. Neal and M.A. Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑29‑300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO PROVIDE FOR THE FILLING OF A VACANCY, TO REQUIRE THE PRESENT MEMBERS OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION MUST CONSTITUTE THE INITIAL MEMBERSHIP OF THE NEW PANEL, TO PROVIDE THE PANEL SHALL DISSOLVE WHEN THE MEMBERS’ TERMS EXPIRE IN 2012, AND TO PROVIDE RELATED APPELLATE PROCEDURES; BY ADDING SECTION 41‑29‑310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH; TO AMEND SECTION 41‑29‑10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT CERTAIN CHAPTERS WITHIN TITLE 41 MUST BE ADMINISTERED BY THE DEPARTMENT OF WORKFORCE AND TO DELETE REFERENCES TO THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 41‑29‑20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR AT HIS DISCRETION BY EXECUTIVE ORDER; TO AMEND SECTION 41‑29‑30, RELATING TO THE APPOINTMENT OF A SECRETARY OF THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WORKFORCE OR HIS DESIGNEE MUST RECEIVE ANNUAL COMPENSATION AS PROVIDED BY THE GENERAL ASSEMBLY AND OFFICIAL EXPENSES AS PROVIDED BY LAW FOR EXECUTING THE DUTIES AND FUNCTIONS OF THE DEPARTMENT; TO AMEND SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCESS, SO AS TO INCLUDE EMPLOYEES OF THE DEPARTMENT OF WORKFORCE AMONG THOSE EXEMPTED; TO AMEND SECTIONS 41‑27‑10, 41‑27‑30, 41‑27‑150, 41‑27‑160, 41‑27‑190, 41‑27‑210, AS AMENDED, 41‑27‑230, 41‑27‑235, AS AMENDED, 41‑27‑260, AS AMENDED, 41‑27‑360, 41‑27‑370, AS AMENDED, 41‑27‑380, 41‑27‑390, 41‑27‑510, 41‑27‑550, 41‑27‑560, 41‑27‑570, 41‑27‑580, 41‑27‑600, 41‑27‑610, 41‑27‑620, 41‑27‑630, 41‑27‑670, 41‑29‑40, 41‑29‑50, 41‑29‑60, 41‑29‑70, 41‑29‑80, 41‑29‑90, 41‑29‑100, 41‑29‑110, 41‑29‑120, AS AMENDED, 41‑29‑130, 41‑29‑140, 41‑29‑150, 41‑29‑170, AS AMENDED, 41‑29‑180, 41‑29‑190, 41‑29‑200, 41‑29‑210, 41‑29‑220, 41‑29‑230, 41‑29‑240, 41‑29‑250, 41‑29‑270, 41‑29‑280, 41‑29‑290, 41‑33‑10, 41‑33‑20, 41‑33‑30, 41‑33‑40, 41‑33‑45, 41‑33‑80, AS AMENDED, 41‑33‑90, 41‑33‑100, 41‑33‑110, 41‑33‑120, 41‑33‑130, 41‑33‑170, 41‑33‑180, 41‑33‑190, 41‑33‑200, 41‑33‑210, 41‑33‑430, 41‑33‑460, 41‑33‑470, 41‑33‑610, 41‑33‑710, 41‑35‑10, 41‑35‑30, 41‑35‑100, 41‑35‑110, AS AMENDED, 41‑35‑115, AS AMENDED, 41‑35‑120, AS AMENDED, 41‑35‑125, 41‑35‑126, 41‑35‑130, AS AMENDED, 41‑35‑140, 41‑35‑330, 41‑35‑340, 41‑35‑410, 41‑35‑420, AS AMENDED, 41‑35‑450, 41‑35‑610, 41‑35‑630, 41‑35‑640, AS AMENDED, 41‑35‑670, 41‑35‑680, AS AMENDED, 41‑35‑690, 41‑35‑700, 41‑35‑710, AS AMENDED, 41‑35‑720, 41‑35‑730, 41‑35‑740, 41‑35‑750, AS AMENDED, 41‑37‑20, 41‑37‑30, 41‑39‑30, 41‑39‑40, 41‑41‑20, AS AMENDED, 41‑41‑40, AS AMENDED, 41‑41‑50, 41‑42‑10, 41‑42‑20, 41‑42‑30, AND 41‑42‑40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; AND TO REPEAL SECTION 41‑29‑260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES.

 On motion of Senator McCONNELL, with unanimous consent, the Bill was recalled from the Committee on Labor, Commerce and Industry.

 On motion of Senator McCONNELL, with unanimous consent, the Senate proceeded to a consideration of the Bill. The question then was the second reading of the Bill.

 On motion of Senator McCONNELL, with unanimous consent, the Bill was read the second time, passed and ordered to a third reading.

**AMENDED, READ THE SECOND TIME**

 S. 907 -- Senator Peeler: A BILL TO REPEAL ARTICLE 1, CHAPTER 61, TITLE 44 OF THE 1976 CODE, RELATING TO EMERGENCY MEDICAL SERVICES.

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

 There was no objection.

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

 Senators HUTTO and PEELER proposed the following amendment (907R001.HSP), which was adopted:

 Amend the bill, as and if amended, by striking Section 44‑61‑20(14) and inserting:

 / (14) ‘Immediate family’ means a person’s spouse. In the event there is no spouse, ‘immediate family’ means a person’s parents and children. /

 Amend the bill further, as and if amended, by striking Section 44‑61‑20(18) and inserting:

 / (18) ‘Legal representative’ of a person is his personal representative, general guardian, or conservator of his property or estate, or the person to whom power of attorney has been granted ./

 Renumber sections to conform.

 Amend title to conform.

 Senator HUTTO explained the amendment.

 The amendment was adopted.

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

**ADJOURNMENT**

 At 6:20 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M.

**Recorded Vote**

 Senators BRIGHT and BRYANT desired to be recorded as voting against the motion to adjourn.