**Thursday, February 25, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 11:16 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

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

In I Chronicles we read that David challenged his son, Solomon, to:

“ ‘Be strong, and of good courage. Do not be afraid or dismayed.’ ”

(I Chronicles 22:13b)

Let us pray:

O God, this coming Saturday we mark the 215th anniversary of the death of Francis Marion, the “Swamp Fox.” Finally buried at his brother’s Belle Isle Plantation, Marion led bold raids against the British in the late 1700’s, served in the Senate of this State, and demonstrated patriotism and courage of the highest sort. Lord, by Your Spirit’s grace allow each of these Senators to be equally strong and of good courage. Fill them with an understanding of what has to be done and of what can be done for the greater good of South Carolinians today and then empower them to act fearlessly. For in many ways the battles of old continue even now, and they likely require the same determination and patriotism which motivated the Swamp Fox and his men. Guide these leaders and bless them richly. In Your name we pray, Lord.

Amen.

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

­­­­­­­­­­**MESSAGE FROM THE GOVERNOR**

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

**Statewide Appointment**

Initial Appointment, South Carolina State Board of Veterinary Medical Examiners, with the term to commence April 6, 2009, and to expire April 6, 2015

1st Congressional District:

Bryan K. Cribb, Oakbrook Veterinary Clinic, 1705 Old Trolley Road, Summerville, SC 29485 *VICE* Paul Patrick

Referred to the Committee on Agriculture and Natural Resources.

**Local Appointments**

Reappointment, Charleston County Master-in-Equity, with the term to commence December 24, 2010, and to expire December 24, 2016

At-Large:

Mikell R. Scarborough, 100 Broad Street, Suite 266, Charleston, SC 29401

Reappointment, Greenville County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Gerald W. Barron, 20 Farrell Kirk Lane, Greenville, SC 29615

Reappointment, Greenville County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

Charles F. Crump, 217 Covington Road, Greenville, SC 29617

Reappointment, Greenville County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

William E. Lynch, 211 Pimlico Road, Greenville, SC 29607

**Doctor of the Day**

Senator LAND introduced Dr. Sharon I. Eden of Columbia, S.C., Doctor of the Day.

**Leave of Absence**

At 11:05 A.M., Senator FAIR requested a leave of absence from 1:00 - 3:00 P.M. today.

**Leave of Absence**

On motion of Senator FAIR, at 11:05 A.M., Senator THOMAS was granted a leave of absence for today.

**Leave of Absence**

On motion of Senator KNOTTS, at 11:05 A.M., Senator CAMPBELL was granted a leave of absence for today.

**Leave of Absence**

At 12:00 Noon, Senator LOURIE requested a leave of absence for the balance of the day.

**Leave of Absence**

At 1:10 P.M., Senator SHEHEEN requested a leave of absence for the balance of the day.

**CO-SPONSORS ADDED**

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

S. 450 Sen. Massey

S. 932 Sen. Campsen

S. 1023 Sen. Knotts

S. 1128 Sen. Shoopman

S. 1208 Sen. Shoopman

**RECALLED AND ADOPTED**

S. 1121 -- Senators Mulvaney and Sheheen: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE ON SANDHILL ROAD IN KERSHAW, SOUTH CAROLINA AS THE “LEIGH ALLISON SHEPARD MEMORIAL BRIDGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THE WORDS “LEIGH ALLISON SHEPARD MEMORIAL BRIDGE”.

Senator MULVANEY asked unanimous consent to make a motion to recall the Concurrent Resolution from the Committee on Transportation.

Senator MULVANEY spoke on the Concurrent Resolution.

Senator MULVANEY asked unanimous consent to make a motion to take the Concurrent Resolution up for immediate consideration.

There was no objection.

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1224 -- Senator Thomas: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT MICHELLE'S LAW BY ADDING SECTIONS 38-71-355 AND 38-71-785 SO AS TO REQUIRE HEALTH INSURANCE ISSUERS TO PERMIT A DEPENDENT CHILD ON A MEDICALLY NECESSARY LEAVE OF ABSENCE FROM A POSTSECONDARY EDUCATIONAL INSTITUTION TO CONTINUE DEPENDENT COVERAGE AND TO PROVIDE FOR THE REQUIREMENTS RELATED TO THAT COVERAGE; TO AMEND SECTION 38-71-850, RELATING TO THE DEFINITION OF "CREDITABLE COVERAGE" FOR GROUP HEALTH INSURANCE COVERAGE AND SPECIAL ENROLLMENT IN GROUP HEALTH INSURANCE COVERAGE, BOTH UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, SO AS TO ADD COVERAGE OF AN INDIVIDUAL UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM AND TO ENACT FEDERAL REQUIREMENTS SET FORTH IN THE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009 TO PROVIDE FOR SPECIAL ENROLLMENT OF AN EMPLOYEE OR AN EMPLOYEE'S DEPENDENT IN THE CASE OF TERMINATION OF MEDICAID COVERAGE OR COVERAGE UNDER A STATE CHILDREN'S HEALTH INSURANCE PROGRAM OR THE INDIVIDUAL BECOMING ELIGIBLE FOR ASSISTANCE IN THE PURCHASE OF EMPLOYMENT-BASED COVERAGE; TO AMEND SECTION 38-74-10, AS AMENDED, RELATING TO THE DEFINITION OF "CREDITABLE COVERAGE" FOR THE SOUTH CAROLINA HEALTH INSURANCE POOL, SO AS TO ADD COVERAGE OF AN INDIVIDUAL UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM; TO AMEND SECTIONS 38-90-40, AS AMENDED, 38-90-45, AND 38-90-50, AS AMENDED, RELATING TO CAPITALIZATION REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE THAT THE DIRECTOR OF INSURANCE MAY CONSIDER THE NET AMOUNT OF RISK RETAINED FOR AN INDIVIDUAL RISK WHEN ARRIVING AT A FINDING RELATING TO ADDITIONAL CAPITAL OR NET ASSETS REQUIREMENTS; TO AMEND SECTION 38-90-70, AS AMENDED, RELATING TO REPORTS REQUIRED TO BE SUBMITTED BY A CAPTIVE INSURANCE COMPANY TO THE DIRECTOR, SO AS TO REQUIRE AN ASSOCIATION CAPTIVE INSURANCE COMPANY AND INDUSTRIAL INSURED GROUP TO SUBMIT ITS REPORT IN THE MANNER REQUIRED BY SECTION 38-13-80; TO AMEND SECTION 38-90-80, AS AMENDED, RELATING TO INSPECTIONS AND EXAMINATIONS OF A CAPTIVE INSURANCE COMPANY, SO AS TO PERMIT THE DIRECTOR TO GRANT ACCESS TO, USE, AND MAKE PUBLIC CERTAIN INFORMATION DISCOVERED OR DEVELOPED DURING THE COURSE OF AN EXAMINATION; TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO THE APPLICATION OF THE PROVISIONS OF TITLE 38 TO CAPTIVE INSURANCE COMPANIES, SO AS TO SPECIFY THAT REGULATIONS PROMULGATED PURSUANT TO APPLICABLE STATUTES ALSO APPLY TO CAPTIVE INSURANCE COMPANIES AND TO PROVIDE A LISTING OF THOSE PROVISIONS OF TITLE 38 THAT APPLY TO CERTAIN CAPTIVE INSURANCE COMPANIES; TO AMEND SECTION 38-90-430, AS AMENDED, RELATING TO THE APPLICATION OF THE PROVISIONS OF TITLE 38 TO SPECIAL PURPOSE FINANCIAL CAPTIVES, SO AS TO SPECIFY THAT REGULATIONS PROMULGATED PURSUANT TO APPLICABLE STATUTES ALSO APPLY TO SPECIAL PURPOSE FINANCIAL CAPTIVES; AND TO AMEND CHAPTER 93, TITLE 38, RELATING TO THE PRIVACY OF GENETIC INFORMATION, SO AS TO ENACT FEDERAL REQUIREMENTS SET FORTH IN THE GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 TO PROHIBIT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION, PROVIDE FOR THE REQUIREMENTS RELATING TO THE COLLECTION OF GENETIC INFORMATION, AND TO PROVIDE FOR THE SCOPE OF THE CHAPTER.

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

S. 1225 -- Senator Cleary: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-39-45 SO AS TO CREATE THE COASTAL ZONE MANAGEMENT ADVISORY COUNCIL TO ADVISE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL OFFICE OF OCEAN AND COASTAL RESOURCES MANAGEMENT, TO PROVIDE FOR THE COMPOSITION, MANNER OF SELECTION, AND TERMS OF THE COUNCIL, TO PROVIDE THE DUTIES OF THE COUNCIL, AND TO PROVIDE ADVICE AND COUNSEL OF THE COUNCIL IS NOT BINDING ON THE DEPARTMENT.

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

S. 1226 -- Senators Cleary, Pinckney, Verdin, Grooms, Bright, Ford, Elliott, Scott, Ryberg, Bryant, Hutto, Rankin, Campbell, Setzler, Land, Shoopman, Campsen, Rose, Peeler, Leventis, Reese, Lourie, Fair, Thomas, Alexander, S. Martin, McConnell, Hayes and O'Dell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 16 TO CHAPTER 53, TITLE 44 TO ENACT THE "UTILIZATION OF UNUSED PRESCRIPTION DRUGS ACT" SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, IN CONSULTATION WITH THE BOARD OF PHARMACY, SHALL DEVELOP A VOLUNTARY PROGRAM WHEREBY HEALTH CARE FACILITIES CAN DONATE UNUSED PRESCRIPTION DRUGS OF PATIENTS WHO NO LONGER NEED THEM AND WHO HAVE VOLUNTARILY AGREED TO DONATE THEIR PRESCRIPTION DRUGS TO CHARITABLE CLINICS PROVIDING SERVICES TO MEDICALLY INDIGENT PERSONS; TO PROVIDE THAT CERTAIN PROGRAM PROCEDURES AND REQUIREMENTS MUST BE PROMULGATED IN REGULATION BY THE DEPARTMENT AND BY THE BOARD OF PHARMACY, INDIVIDUALLY, TO CARRY OUT THE PROVISIONS OF THIS ARTICLE; AND TO CREATE AN ADVISORY COUNCIL TO OVERSEE AND ADVISE THE DEPARTMENT IN ESTABLISHING THIS PROGRAM AND IN CARRYING OUT THE RESPONSIBILITIES UNDER THIS ARTICLE; BY ADDING SECTION 44-53-60 SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, IN CONJUNCTION WITH THE BOARD OF PHARMACY, SHALL DEVELOP A PROGRAM TO RECEIVE AND DISPOSE OF UNUSED MEDICATIONS FROM THE PUBLIC AND SHALL DEVELOP GUIDELINES FOR THE SAFE AND PROPER DISPOSAL OF MEDICATIONS WHICH MUST BE AVAILABLE AND DISTRIBUTED TO THE PUBLIC.

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

S. 1227 -- Senator Lourie: A CONCURRENT RESOLUTION TO ENCOURAGE ALL CITIZENS OF SOUTH CAROLINA AND ALL BRANCHES OF SOUTH CAROLINA STATE AND LOCAL GOVERNMENT TO PARTICIPATE IN EARTH HOUR 2010 BY TURNING OFF ALL NONESSENTIAL LIGHTS FOR A ONE-HOUR PERIOD, BEGINNING AT 8:30 P.M. ON SATURDAY, MARCH 27, 2010.

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

S. 1228 -- Senator Elliott: A CONCURRENT RESOLUTION TO HONOR THE 173RD AIRBORNE BRIGADE FOR THE DEDICATED SERVICE, HEROISM, AND SACRIFICE IT HAS DISPLAYED THROUGHOUT ITS HISTORY, AND TO PROCLAIM JUNE 3-7, 2010, "173RD AIRBORNE BRIGADE ASSOCIATION DAYS" IN SOUTH CAROLINA.

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On motion of Senator SHEHEEN, with unanimous consent, the Concurrent Resolution was adopted and ordered sent to the House.

S. 1229 -- Senators Davis, Mulvaney, Shoopman, Campsen, Bryant, Rose, Verdin and Bright: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 66 TO TITLE 12 SO AS TO PROVIDE THAT LEGISLATION PROVIDING TAX INCENTIVES OR SUBSIDIES MUST BE INTRODUCED IN SEPARATE BILLS AND IS SUBJECT TO A RECORDED VOTE, TO PROVIDE THAT TAX INCENTIVES AND SUBSIDIES ARE TO BE GRANTED AS FORGIVABLE LOANS, TO PROVIDE THE CONDITIONS THAT MUST BE MET FOR THE LOANS TO BE FORGIVEN, TO PROVIDE THE REQUIREMENTS FOR TAX INCENTIVE AND SUBSIDY APPLICATIONS, TO PROVIDE THAT THE BOARD OF ECONOMIC ADVISORS AND DEPARTMENT OF COMMERCE SHALL CONDUCT ANALYSES AND REVIEWS OF TAX INCENTIVES AND SUBSIDIES; AND TO AMEND SECTION 30-4-40, RELATING TO MATTERS EXEMPT FROM DISCLOSURE PURSUANT TO THE FREEDOM OF INFORMATION ACT, SO AS TO PROVIDE THAT CERTAIN EXEMPTIONS ARE SUBJECT TO DISCLOSURE AS REQUIRED BY CHAPTER 66, TITLE 12.

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

S. 1230 -- Senator Elliott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-103-145 SO AS TO ENACT THE "HIGHER EDUCATION EQUITY FUNDING ACT", TO ESTABLISH IN THE COMMISSION ON HIGHER EDUCATION A FUND NAMED THE "HIGHER EDUCATION EQUITY FUND" COMPOSED OF TWO ACCOUNTS FINANCED BY ALL NEW OR INCREASED FUNDS ALLOCATED TO PUBLIC COLLEGES AND UNIVERSITIES IN THE GENERAL APPROPRIATIONS ACT, EXCLUDING CERTAIN FUNDS, TO PROVIDE WHAT THE ACCOUNTS MUST CONTAIN, TO PROVIDE HOW FUNDS CONTAINED IN THE ACCOUNTS MUST BE REMITTED, AND TO PROVIDE FOR THE CLOSING OF THE ACCOUNTS ONCE EQUITABLE FUNDING IS REACHED AMONG ALL PUBLIC COLLEGES AND UNIVERSITIES.

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

S. 1231 -- 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 PRIVATE FIRST CLASS ROBERT E. FOSTER, JR. OF THE UNITED STATES ARMY DURING HIS TOUR OF MILITARY DUTY AT FORT POLK, LOUISIANA, AND TO EXPRESS TO HIS FAMILY THE DEEPEST APPRECIATION OF A GRATEFUL STATE AND NATION FOR HIS LIFE, SACRIFICE, AND SERVICE.

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

**REPORTS OF STANDING COMMITTEES**

Senator THOMAS from the Committee on Banking and Insurance submitted a favorable with amendment report on:

S. 613 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑732 SO AS TO REQUIRE HEALTH INSURANCE COVERAGE, INCLUDING COVERAGE UNDER THE STATE HEALTH PLAN, FOR AN INSURED WHO PARTICIPATES IN AN APPROVED CANCER CLINICAL TRIAL.

Ordered for consideration tomorrow.

Senator COURSON from the Committee on Education submitted a favorable report on:

S. 964 -- Senator Pinckney: A BILL TO AMEND SECTION 59‑53‑2410, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITIES, SO AS TO CREATE THE TECHNICAL COLLEGE OF THE LOWCOUNTRY ENTERPRISE CAMPUS AUTHORITY.

Ordered for consideration tomorrow.

**HOUSE CONCURRENCE**

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

Returned with concurrence.

Received as information.

**Message from the House**

Columbia, S.C., February 18, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has confirmed the appointment:

Local Appointment

Reappointment, Charleston County Master-in-Equity, with the term to commence December 24, 2010, and to expire December 24, 2016

At-Large:

Mikell R. Scarborough, 100 Broad Street, Suite 266, Charleston, SC 29401

Very respectfully,

Speaker of the House

Received as information.

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

**THIRD READING BILLS**

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

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, 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.

**S. 1096--Recorded Vote**

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

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

Senator PEELER explained the Bill.

**S. 907--Recorded Vote**

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

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.

**S. 1127--Recorded Vote**

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

**SECOND READING BILL**

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

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.

Senator VERDIN explained the Bill.

**READ THE SECOND TIME**

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.

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

Senator VERDIN spoke on the Bill.

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

**Ayes 27; Nays 12**

**AYES**

Alexander Anderson Campsen

Cleary Davis Ford

Hayes Hutto Jackson

Land Leatherman Leventis

Lourie *Martin, Larry* Massey

Matthews McGill Nicholson

Peeler Pinckney Rankin

Ryberg Scott Setzler

Sheheen Verdin Williams

**Total--27**

**NAYS**

Bright Bryant Courson

Cromer Knotts Malloy

*Martin, Shane* McConnell Mulvaney

O’Dell Rose Shoopman

**Total--12**

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

**Statement by Senator McCONNELL**

I voted against S. 913 for several reasons. First, the current law smacks of price regulation. The Bill in my opinion reinforces that by adjusting the price upward. Frankly, the Bill should have just repealed the law or amended it to let the price move with the market. The free enterprise system should be allowed to work.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

S. 974 -- Senator Campsen: A BILL TO AMEND SECTION 50‑9‑20 OF THE 1976 CODE, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, TO PROVIDE THAT ANNUAL HUNTING AND FISHING LICENSES SHALL BE VALID FOR ONE YEAR FROM THE DATE OF ISSUANCE AND TO PROVIDE THAT THREE‑YEAR HUNTING AND FISHING LICENSES SHALL BE VALID FOR THREE YEARS FROM THE DATE OF ISSUANCE; BY ADDING SECTION 50‑9‑560, TO PROVIDE THAT THE DEPARTMENT MAY ISSUE THREE‑YEAR COMBINATION LICENSES, SPORTSMAN LICENSES, JUNIOR SPORTSMAN LICENSES, BIG GAME PERMITS, AND WILDLIFE MANAGEMENT AREA PERMITS; TO AMEND SECTION 50‑9‑920, RELATING TO REVENUE FROM THE SALE OF LIFETIME LICENSES, TO ESTABLISH THE THREE‑YEAR HUNTING AND FISHING LICENSE FUND, TO PROVIDE THAT THREE‑YEAR LICENSE FEES ARE DEPOSITED IN THE FUND, TO PROVIDE THAT ONE THIRD OF THE FUND MUST BE DISTRIBUTED TO THE GAME PROTECTION FUND, TO ESTABLISH THE THREE‑YEAR WILDLIFE MANAGEMENT AREA PERMIT FUND, TO PROVIDE THAT THREE‑YEAR WILDLIFE MANAGEMENT AREA PERMIT FEES ARE DEPOSITED IN THE FUND, TO PROVIDE THAT ONE‑THIRD OF THE FUND MUST BE DISTRIBUTED TO THE WILDLIFE ENDOWMENT FUND; AND TO MAKE CONFORMING AMENDMENTS.

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.

Senators CAMPSEN and LEATHERMAN proposed the following amendment (NBD\11967AC10), which was adopted:

Amend the committee amendment, as and if amended, by deleting Section 50‑9‑510(A)(3) on page 974‑12, lines 30 through 36 and inserting:

/ (3) a nonresident shall purchase:

(a) a three day temporary statewide hunting license for forty dollars, one dollar of which the issuing sales vendor may retain;

(b) a ten day temporary statewide hunting license for seventy‑five dollars, two dollars of which the issuing sales vendor may retain; or

(c) an annual statewide hunting license for one hundred twenty‑five dollars, two dollars of which the issuing sales vendor may retain;

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Fish, Game and Forestry proposed the following amendment (NBD\11943AC10), which was adopted:

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

/SECTION 1. Section 50‑9‑20 of the 1976 Code, as last amended by Act 15 of 2009, is further amended to read:

“Section 50‑9‑20. ~~Annual licenses, permits, stamps, and tags issued by the department are valid July first through June thirtieth of the following year. Temporary licenses and permits are valid for the consecutive days of issue.~~ (A) The duration for hunting and fishing licenses, permits, stamps, and tags is as follows:

(1) A temporary privilege expires after the specified number of consecutive days from the start date inclusive of the start date and expiration date.

(2) An annual privilege expires on the last day of the license year for which the license was issued.

(3) A three year privilege expires on the last day of the third license year of issue.

(4) A three year disability license expires three years from the date of issue.

(5) The Catawba Indian license ends October 27, 2092.

(B) License year means: period beginning July first and ending June thirtieth.

(C) This section does not alter the start date or expiration date of a permit which by law has other terms.”

SECTION 2. Section 50‑9‑30 of the 1976 Code is amended to read:

“Section 50‑9‑30. (A) For the purposes of obtaining:

(1) ~~an annual or a lesser short‑term resident license, “resident” means a United States citizen who has been domiciled in this State for thirty consecutive days or more immediately preceding the date of application for a license, permit, or stamp issued pursuant to this title. The following are considered residents pursuant to this section:~~

~~(a) regularly enrolled full‑time students in high schools, technical schools, colleges, or universities within South Carolina;~~

~~(b) members of the United States Armed Forces and their dependents stationed in South Carolina for sixty days or longer or who are domiciled in this State;~~

~~(2) a lifetime license, “resident” means a United States citizen who has been domiciled in this State for one hundred eighty consecutive days or more immediately preceding the date of the application for the lifetime license;~~

~~(3) an annual or lesser short‑term nonresident license. “Nonresident” means a citizen of a foreign country or a United States citizen who is not domiciled in this State or who maintains a permanent residence in another state.~~

a recreational license, permit, or tag with a duration of three hundred sixty‑five days or less, ‘resident’ means a United States citizen who has been domiciled in this State for thirty consecutive days or more immediately preceding the date of application;

(2) a multi‑year recreational license, ‘resident’ means a United States citizen who has been domiciled in this State for one hundred eighty consecutive days or more immediately preceding the date of application;

(3) a recreational license, permit, or tag in item (1) or (2), the following are considered residents:

(a) a regularly enrolled full‑time student in a high school, technical school, college, or university within this State;

(b) an active member of the United States Armed Forces, and the member’s dependents, stationed in this State for sixty days or longer or who is domiciled in this State;

(4) a lifetime recreational license, ‘resident’ means a United States citizen who has been domiciled in this State for one hundred eighty consecutive days or more immediately preceding the date of application;

(5) a disability recreational license, ‘resident’ means a United States citizen who has been domiciled in this State for three hundred sixty‑five consecutive days or more immediately preceding the date of application;

(6)(a) a commercial license, permit, or tag, ‘resident’ means a United States citizen who has been domiciled in this State for three hundred sixty‑ five consecutive days or more immediately preceding the date of application;

(b) a commercial license or permit, issued for a business, ‘resident’ means a business that has been incorporated and operating in this State for three hundred sixty five days or more immediately preceding the date of application.

(B) ~~Applicants for resident licenses shall furnish proof of residency to sales agents.~~ An applicant for a resident license must furnish proof of residency as may be required by the department.

(C)(1) ‘Nonresident’ means a citizen of a foreign country or a United States citizen who is not domiciled in this State or who maintains a permanent residence in another state or who does not otherwise meet the definition of a resident.

(2) For a business, a ‘nonresident’ means a business that is not incorporated in this State or that does not otherwise meet the definition of resident in subitem(A)(6)(b).”

SECTION 3. Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑35. A person who obtains a license, permit, stamp, or tag as a resident and subsequently transfers their domiciled residency outside of this State, does not lose the privileges for the duration of the license. However, a privilege required to engage in hunting and fishing activities not authorized by the license must be obtained as a nonresident.”

SECTION 4. Section 50‑9‑40 of the 1976 Code, as last amended by Act 15 of 2009, is further amended to read:

“Section 50‑9‑40. ~~Licenses for fishing privileges regulated by this chapter, unless otherwise specified, apply to recreational freshwater fishing.~~ (A) The department shall prescribe the form of the license and method by which licenses, permits and tags must be distributed and sold.

(B) The department shall establish procedures and agreements for allowing license sales vendors to sell and distribute certain department licenses and permits.

(C) License and permit fees collected by a license sales vendor, except for any sales vendor’s retained fee, must be remitted to the department in the time and manner prescribed by the department.

SECTION 5. Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑45. An active duty member of the armed forces of the United States whose home of record is South Carolina and who is stationed outside of the State, shall, upon presentation of his leave and earnings statement, be allowed to fish and hunt without purchasing a fishing or hunting license.”

SECTION 6. Section 50‑9‑75 of the 1976 Code is amended to read:

“Section 50‑9‑75. (A) It ~~shall be~~ is unlawful to purchase, acquire, or possess or attempt to purchase, acquire, or possess ~~any~~ a license, permit, stamp, or tag while privileges allowed by the license, permit, stamp, or tag are suspended.

(B) A combination license holder who has a portion of his privileges suspended must surrender the combination license. To engage in those activities from which he has not been suspended he must obtain a separate license.

(C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars ~~nor~~ and not more than five hundred dollars or imprisoned for not more than thirty days. A person convicted pursuant to this section forfeits all hunting and fishing privileges for an additional two years.”

SECTION 7. Article 3, Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑350. To encourage the recruitment of persons as responsible hunters:

(1) The certificate of completion requirement may be waived for one license year, and a person may only receive such a waiver one time. An apprentice hunting license may be issued if the applicant:

(a) is at least sixteen years of age and otherwise required to obtain a certificate of completion to obtain a hunting license;

(b) has not been convicted of or received deferred adjudication for violation of the hunter education requirement in this State; and

(c) has not been convicted of a hunting violation.

(2) In addition to obtaining the apprentice hunting license, the applicant must obtain any other license, permit, receipt, stamp, and tag required to participate in a specific hunting activity.

(3) While afield, the apprentice hunter must be accompanied by a licensed hunter who:

(a) has attained the age of twenty‑one years;

(b) is not licensed as an apprentice hunter;

(c) stays within a distance that enables uninterrupted, unaided, visual and oral communication with the apprentice hunter and provides adequate direction to the apprentice.

(4) The apprentice license is valid only during the license year in which it is issued, and the duration of any other hunting permits obtained with this license may not exceed that of the apprentice license.”

SECTION 8. Chapter 9, Title 50 of the 1976 Code is amended to read:

“Article 5

Hunting and Fishing Licenses

~~Section 50‑9‑510. The following licenses are authorized for sale and, unless otherwise indicated, are for the privilege of hunting small game only:~~

~~(1) For the privilege of hunting throughout South Carolina, a resident of the State shall purchase an annual statewide license for twelve dollars, of which one dollar may be retained by the issuing agent.~~

~~(2) For the privilege of hunting only in the county in which the applicant is a resident, a resident of the State shall purchase a county hunting license for five dollars, of which one dollar may be retained by the issuing agent. County licenses are only valid when issued to residents of that county.~~

~~(3) For the privilege of hunting and fishing, including the privilege of hunting big game throughout South Carolina, a resident of the State shall purchase a combination fishing and hunting license for twenty‑five dollars, of which two dollars may be retained by the issuing agent.~~

~~(4) For the privilege of hunting and fishing throughout South Carolina, including the privileges of hunting big game and hunting on wildlife management area land, a resident of the State shall purchase a sportsman license for fifty dollars, of which two dollars may be retained by the issuing agent.~~

~~(5) For the privilege of hunting throughout South Carolina, a resident of the State may obtain a lifetime statewide license from the department at its designated licensing locations for three hundred dollars.~~

~~(6) For the privilege of hunting throughout South Carolina July first through June thirtieth, a nonresident shall purchase an annual statewide license for one hundred twenty‑five dollars, of which two dollars may be retained by the issuing agent.~~

~~(7) For the privilege of hunting throughout South Carolina during the regular hunting season for any ten consecutive days, a nonresident shall purchase a ten‑day temporary license for seventy‑five dollars, of which two dollars may be retained by the issuing agent.~~

~~(8) For the privilege of hunting throughout South Carolina during the regular hunting season for any three consecutive days, a nonresident may purchase a statewide three‑day temporary license for forty dollars, of which one dollar may be retained by the issuing agent.~~

~~(9) For the privilege of hunting big game including deer, bear, and turkey throughout South Carolina, a resident shall purchase a big game permit in addition to the required resident hunter’s license for six dollars, of which one dollar may be retained by the issuing agent.~~

~~(10) For the privilege of hunting big game including deer, bear, and turkey throughout South Carolina, a nonresident shall purchase a big game permit in addition to the required nonresident hunters license for one hundred dollars, of which two dollars may be retained by the issuing agent.~~

~~(11) For the privilege of hunting on wildlife management area lands throughout South Carolina, a resident shall purchase a wildlife management area permit in addition to the required resident hunter’s license for thirty dollars and fifty cents, of which one dollar may be retained by the issuing agent.~~

~~(12) For the privilege of hunting on wildlife management area lands throughout South Carolina, a nonresident shall purchase a wildlife management area permit in addition to the required nonresident hunter’s license for seventy‑six dollars, of which one dollar may be retained by the issuing agent.~~

~~(13) The department may issue resident wildlife management area permits from the Columbia office for five dollars and fifty cents, each of which are valid only for department‑specified events.~~

~~(14) For the privilege of hunting and fishing throughout South Carolina, including the privilege of hunting big game and hunting on wildlife management area lands, a resident who is at least sixteen years of age but who has not reached his eighteenth year may purchase a junior sportsman’s license for sixteen dollars, of which one dollar may be retained by the issuing agent. This license must be countersigned by the parent or guardian as certification of the age and residence of the individual.~~

~~(15) A resident of South Carolina who has attained the age of sixty‑four years may obtain a statewide lifetime hunting and fishing license for nine dollars; provided, that those persons who have attained the age of sixty‑ five on or before July 1, 2005, may obtain this license at no cost. This license includes the privilege of hunting big game, hunting on wildlife management area lands, and state migratory waterfowl and of saltwater fishing.~~

~~(16) A person who has been a domiciled resident of South Carolina for at least one year preceding the date of application and who is determined to be totally disabled under a program for Social Security, federal civil service, the South Carolina State Retirement System, the Railroad Retirement Board, the Veterans Administration, or Medicaid assistance, or their successor agencies or programs, may obtain a three‑year disability license for either statewide fishing and hunting or statewide fishing at no cost. It must be issued by the department from its designated offices and is valid for three years from the date of issue. Disability recertification is required for renewal. To recertify, applicant must furnish proof, in the manner determined by the department, that he or she is currently receiving disability benefits, and is a domiciled resident of South Carolina. A person on the date of application, with quadriplegia or paraplegia, who is certified as totally disabled, must be issued a lifetime disability license and disability recertification or renewal of this license is not required. Statewide fishing privileges include freshwater fishing and saltwater fishing. Statewide hunting privileges include small game, big game, state migratory waterfowl, and wildlife management area lands.~~

~~(17) For the privilege of hunting on licensed shooting preserves, a person may purchase a statewide shooting preserve license for specified released species only for not more than eight dollars and fifty cents in lieu of a hunting license.~~

~~(18) Persons certified as disabled before July 1, 1996, and who are licensed to hunt or fish pursuant to that disability before July 1, 1996, upon recertification as required herein, may continue to exercise privileges of a disability licensee as provided herein at no cost.~~

~~Section 50‑9‑515. Any member of the armed forces of the United States who is a resident of South Carolina stationed outside of the State, shall upon presentation of his official furlough or leave papers, be allowed to fish and hunt without purchasing a fishing or hunting license.~~

~~Section 50‑9‑520. (A) A resident of this State may obtain a lifetime combination license which grants the same privileges as a statewide combination license from the department at its designated licensing locations. The licensing fees are:~~

~~(1) for a Type 3 if at the time of application the individual is under two years of age: three hundred dollars;~~

~~(2) for a Type 4 if at the time of application the individual is at least two years of age but under sixteen years of age: four hundred dollars;~~

~~(3) for a Type 5 if at the time of application the individual is at least sixteen years of age but under sixty‑four years of age: five hundred dollars.~~

~~(B) A resident holder of a lifetime combination license may add the privilege of statewide saltwater recreational fishing for the following fees:~~

~~(1) for a Type 13 if at the time of application the individual is under two years of age: one hundred twenty dollars;~~

~~(2) for a Type 14 if at the time of application the individual is at least two years of age but under sixteen years of age: one hundred sixty dollars;~~

~~(3) for a Type 15 if at the time of application the individual is at least sixteen years of age but under sixty‑four years of age: two hundred dollars.~~

~~(C) A resident age sixty‑three who holds either a lifetime combination, lifetime hunting, lifetime freshwater fishing, or lifetime saltwater recreational fisheries license upon attaining the age of sixty‑four, may convert that license to a senior lifetime license which grants the following privileges: statewide hunting, hunting big game, hunting on wildlife management area lands, state migratory waterfowl permit, freshwater fishing, and saltwater recreational fishing for nine dollars upon obtaining the required hunter education certificates.~~

~~Section 50‑9‑530.~~ ~~For purposes of this chapter:~~

~~(1) “Migratory waterfowl” means members of the family Anatidae, including brants, ducks, geese, and swans. For the privilege of hunting or taking migratory waterfowl in this State, in addition to a hunting license, a person must purchase a migratory waterfowl permit for five dollars and fifty cents. Evidence of purchase must be endorsed on the hunting license. Fifty cents of the cost may be retained by the issuing sales agent, and the balance must be paid to the department. Permits expire June thirtieth of each year.~~

~~(2) The department shall produce commemorative stamps as collector’s items which must be sold at a price of not less than five dollars and fifty cents. Commemorative stamps are not valid for hunting. These proceeds must be retained by the department. Anyone who purchases a migratory waterfowl permit may obtain a commemorative stamp at no additional cost.~~

~~(3) Revenue derived from the sale of the permit and commemorative stamp may be used only for the cost of printing, promoting, and producing the stamp and for those migratory waterfowl projects specified by the board for the development, protection, and propagation of waterfowl in this State. None of the funds may be expended for administrative salaries. All balances must be carried forward from year to year so none of the funds revert to the general fund.~~

~~Section 50‑9‑535.~~ ~~It is unlawful to hunt, take, or possess migratory game birds without first obtaining a migratory game bird permit. The department may not charge a fee for this permit unless approved by the General Assembly. The permit required by this section must be integrated into and made a part of all hunting licenses after final implementation of the Department of the Interior Fish and Wildlife Service 50 C.F.R. Part 20, Migratory Bird Harvest Information Program. Migratory game birds include doves, ducks, geese, woodcock, marsh hens, rails, common snipe, common moorhens, and purple gallinules (families: Columbidae, Anatidae, Rallidae, and Scolopacidae).~~

~~South Carolina residents who have attained the age of sixty‑four and hold a statewide lifetime hunting and fishing license are not required to have a state migratory game bird permit.~~

~~Section 50‑9‑540. (A) For the privilege of recreational freshwater fishing throughout South Carolina, a resident of this State shall purchase an annual statewide recreational freshwater fishing license for ten dollars, of which one dollar may be retained by the issuing agent.~~

~~(B) In lieu of obtaining an annual, statewide resident recreational freshwater fishing license, a resident may purchase a temporary statewide recreational freshwater fishing license valid for fourteen specified consecutive days for five dollars, of which one dollar may be retained by the issuing agent.~~

~~(C) For the privilege of recreational freshwater fishing throughout South Carolina, a resident of this State may obtain a lifetime statewide recreational freshwater fishing license from the department at its designated licensing locations for three hundred dollars.~~

~~(D) For the privilege of recreational freshwater fishing throughout South Carolina, a nonresident of this State shall purchase an annual statewide recreational freshwater fishing license for thirty‑five dollars, of which one dollar may be retained by the issuing agent.~~

~~(E) In lieu of obtaining a regular annual statewide nonresident freshwater fishing license, a nonresident may purchase a temporary statewide recreational freshwater fishing license valid for seven specified consecutive days for eleven dollars, of which one dollar may be retained by the issuing agent.~~

~~(F) For the privilege of recreational saltwater fishing, a resident of this State may obtain a lifetime recreational saltwater fishing license from the department for three hundred dollars at its designated licensing locations.~~

~~Section 50‑9‑550.~~  ~~In lieu of obtaining a regular annual statewide resident fishing license, a resident of the State may purchase a special reservoir, lakes, and streams freshwater permit to fish with nonmanufactured tackle or natural bait in the waters described in this section. It is unlawful for any resident to fish in the waters of this State described in this section with nonmanufactured tackle or natural bait unless he has either the required fishing license or the required permit. No person licensed under the provisions of Section 50‑9‑510(3), 50‑9‑510(4), or 50‑9‑540(A) is required to purchase a permit.~~

~~The permits must be obtained from the department at a fee of three dollars. One dollar of the fee must be retained by the agent issuing the permit, and the remaining portion of the proceeds of the sale of the permit must be remitted to the department and held in a separate fund for use in the protection and propagation of game and other fish within the waters described in this section in the counties adjacent to them. The provisions of this section apply to the following bodies of water within this State:~~

~~(1) the waters or backwaters of the Catawba and Wateree rivers within Chester, Fairfield, Kershaw, and Lancaster counties, except waters lying more than one hundred yards south of the Wateree Dam in Kershaw County;~~

~~(2) Lake Marion;~~

~~(3) Lake Moultrie, the Diversion Canal, and the Tail Canal;~~

~~(4) Lake Murray;~~

~~(5) all of the waters of the Savannah River between the Stevens Creek Dam and the highway bridge between Calhoun Falls, South Carolina, and Elberton, Georgia, including the waters impounded between Stevens Creek Dam and Clark Hill Dam;~~

~~(6) Keowee‑Toxaway Lake in Oconee and Pickens Counties;~~

~~(7) Lake Jocassee;~~

~~(8) Lake Greenwood;~~

~~(9) Hartwell Reservoir;~~

~~(10) Lake Richard B. Russell;~~

~~(11) Lake Wiley;~~

~~(12) the Parr Hydroelectric Project Fish and Game Management Area:~~

~~(a) Parr Reservoir;~~

~~(b) Monticello Reservoir;~~

~~(c) Monticello Reservoir Sub‑Impoundment;~~

~~(13) Lake Ashwood in Lee County.~~

~~The provisions of this section do not affect in any way any reciprocal agreement with the State of Georgia as to recognition of residents’ fishing licenses or permits. Any person exempt from licensing requirements under Article 7 of this chapter is exempt from the requirement to purchase a permit as provided in this section.~~

~~Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than thirty days.~~

~~Section 50‑9‑560.~~ ~~(A) For the privilege of recreational fishing in the saltwaters of this State:~~

~~(1) a resident shall purchase an annual recreational saltwater fishing license for ten dollars, of which one dollar may be retained by the issuing agent;~~

~~(2) in lieu of obtaining an annual recreational saltwater fishing license, a resident may purchase a temporary recreational saltwater fishing license valid for fourteen specified consecutive days for five dollars, of which one dollar may be retained by the issuing agent;~~

~~(3) a nonresident shall purchase an annual recreational saltwater fishing license for thirty‑five dollars, of which one dollar may be retained by the issuing agent; and~~

~~(4) in lieu of obtaining an annual recreational saltwater fishing license, a nonresident may purchase a temporary recreational saltwater fishing license valid for fourteen specified consecutive days for eleven dollars, of which one dollar may be retained by the issuing agent.~~

~~(B) For the privilege of operating a public fishing pier in the salt waters of this State, the owner or operator must purchase an annual saltwater public fishing pier license for:~~

~~(1) one hundred fifty dollars for a pier one hundred feet or less in total length; or~~

~~(2) three hundred fifty dollars for a pier greater than one hundred feet in total length.~~

~~(C) For the privilege of operating a charter fishing vessel in the salt waters of this State, the owner or operator must purchase an annual charter vessel license for each vessel for the following fee to:~~

~~(1) carry six or fewer passengers, one hundred fifty dollars;~~

~~(2) carry seven to forty‑nine passengers, two hundred fifty dollars; and~~

~~(3) carry fifty or more passengers, three hundred fifty dollars.~~

Section 50‑9‑510. (A) For the privilege of hunting small game:

(1) a resident shall purchase:

(a) an annual county hunting license, which is valid only in the licensee’s county of residence, for five dollars, one dollar of which the issuing sales vendor may retain;

(b) an annual statewide hunting license for twelve dollars, one dollar of which the issuing sales vendor may retain;

(c) a three year statewide hunting license for thirty‑six dollars, three dollars of which the issuing sales vendor may retain; or

(d) a lifetime statewide hunting license for three hundred dollars at designated licensing locations;

(2) a resident who meets the qualifications as an apprentice hunter shall purchase an annual statewide apprentice hunting license for twelve dollars, one dollar of which the issuing sales vendor may retain;

(3) a nonresident shall purchase:

(a) a ten day temporary statewide hunting license for seventy‑five dollars, two dollars of which the issuing sales vendor may retain; or

(b) an annual statewide hunting license for one hundred twenty‑five dollars, two dollars of which the issuing sales vendor may retain;

(4) a nonresident who meets the qualifications as an apprentice hunter shall purchase an annual statewide apprentice hunting license for one hundred twenty‑five dollars, two dollars of which the issuing sales vendor may retain.

(B) For the privilege of hunting big game including bear, deer, and wild turkey:

(1) a resident shall purchase:

(a) an annual big game permit, in addition to the required hunting license, for six dollars, one dollar of which the issuing sales vendor may retain; or

(b) a three year big game permit for eighteen dollars, three dollars of which the issuing sales vendor may retain; however the three year permit is only available to a person:

(i) purchasing a three year hunting license;

(ii) holding a three year hunting license in the first year of issue; or

(iii) holding a lifetime hunting license;

(2) a nonresident shall purchase in addition to the required hunting license, a big game permit for one hundred dollars, two dollars of which the issuing sales vendor may retain.

(C)(1) On wildlife management areas a resident shall purchase:

(a) an annual wildlife management area permit for thirty dollars and fifty cents, one dollar of which the issuing sales vendor may retain; or

(b) a three year wildlife management area permit for ninety‑one dollars and fifty cents, three dollars of which the issuing sales vendor may retain; however, the three year permit is only available to a person:

(i) purchasing a three year hunting license ;

(ii) holding a three year hunting license in its first year; or

(iii) holding a lifetime hunting license.

(2) On wildlife management areas, the department may issue residents temporary wildlife management area permits from the department’s designated licensing locations for department specified hunting events for five dollars and fifty cents.

(3) On wildlife management areas lands, in addition to the required hunting license, a nonresident shall purchase a wildlife management area permit for seventy‑six dollars, one dollar of which the issuing sales vendor may retain.

(D) For the privilege of hunting migratory game birds, in addition to the required hunting license:

(1) a resident must obtain an annual migratory game bird permit at no cost;

(2) a nonresident must obtain an annual migratory game bird permit at no cost;

(E) For the privilege of hunting migratory waterfowl, in addition to the required hunting license and permits:

(1) a resident shall purchase a migratory waterfowl permit for five dollars and fifty cents, one dollar of which the issuing sales vendor may retain;

(2) a nonresident shall purchase a migratory waterfowl permit for five dollars and fifty cents, one dollar of which the issuing sales vendor may retain.

(F) For the privilege of hunting only the authorized released species on a licensed shooting preserve, in lieu of a hunting license, an individual may purchase an annual statewide shooting preserve license for eight dollars and fifty cents, one dollar of which the issuing sales vendor may retain.

Section 50‑9‑515. For the combined statewide privilege of: (1) hunting, including the privilege of hunting big game and freshwater fishing, a resident may purchase:

(a) an annual combination license for twenty‑five dollars, two dollars of which the issuing sales vendor may retain; or

(b) a three year combination license for seventy‑five dollars, six dollars of which the issuing sales vendor may retain.

(2) hunting, including the privilege of hunting big game and hunting on wildlife management area lands and freshwater fishing:

(a) a resident may purchase:

(i) an annual sportsman’s license for fifty dollars, two dollars of which the issuing sales vendor may retain; or

(ii) a three year sportsman’s license for one hundred fifty dollars, six dollars of which the issuing sales vendor may retain.

(b) a resident who is at least sixteen years of age but who has not reached eighteen years of age may purchase an annual junior sportsman license for sixteen dollars, one dollar of which the issuing sales vendor may retain.

Section 50‑9‑520. (A) A resident may obtain a lifetime statewide combination license from the department at its designated licensing locations, which grants the same privileges as an annual combination license. The license fee is based on the age of the applicant. If at the time of application the individual is:

(1) under two years of age, the fee is three hundred dollars;

(2) at least two years of age, but less than sixteen years of age, the fee is four hundred dollars;

(3) at least sixteen years of age but less than sixty‑four years of age, the fee is five hundred dollars.

(B) A resident who holds a lifetime combination license may obtain the privilege of statewide saltwater recreational fishing from the department at its designated licensing locations. The license fee is based on the age of the applicant. If at the time of application the individual is:

(1) under two years of age, the fee is one hundred twenty dollars;

(2) at least two years of age but less than sixteen years of age, the fee is one hundred sixty dollars;

(3) at least sixteen years of age but less than sixty‑four years of age, the fee is two hundred dollars.

(C) A resident who holds a lifetime combination license may obtain the privilege of hunting migratory waterfowl from the department at its designated licensing locations. The permit fee is based on the age of the applicant. If at the time of application the individual is:

(1) under two years of age, the fee is sixty‑six dollars;

(2) at least two years of age but less than sixteen years of age, the fee is eighty‑eight dollars;

(3) at least sixteen years of age but less than sixty‑four years of age, the fee is one hundred ten dollars.

(D) Privileges in subsections (B) and (C) also may be obtained simultaneously when application is made for licenses in section (A).

Section 50‑9‑525. (A) A resident who is determined to be totally disabled under a Social Security program, the Civil Service Retirement System, the South Carolina State Retirement System, the Railroad Retirement Board, the Veterans Administration, or Medicaid, or their successor agencies or programs, may obtain a three‑year disability combination license or a three year disability fishing license at no cost. The license must be issued by the department from its designated offices and is valid for three years from the date of issue. Disability recertification is required for renewal. To recertify, an applicant must furnish proof, in the manner prescribed by the department, that he or she is currently receiving disability benefits and is a domiciled resident of this State.

(B) A resident on the date of application for a disability license, with quadriplegia or paraplegia, who is certified as totally disabled, must be issued a lifetime disability combination license or a lifetime disability fishing license at no cost. Disability recertification or renewal of this license is not required.

(C) A resident born after June 30, 1979, who has not completed the required hunter education certification only may obtain a disability fishing license at no cost. Upon completion of the hunter education certification the licensee may apply to the department for the additional disability hunting privileges at no cost.

(D) A disability license issued to a person who is no longer domiciled in this State is void and the person must obtain the required nonresident licenses, permits, stamps, and tags to hunt and fish in this State.

(E)(1) A disability combination license includes the statewide privileges of hunting small game, hunting big game, hunting migratory waterfowl, hunting on wildlife management area lands, freshwater fishing, and saltwater fishing.

(2) A disability fishing license includes the privileges of freshwater fishing and saltwater fishing.

Section 50‑9‑530. (A) A resident born before July 1, 1940, may obtain from the department at its designated licensing locations a gratis lifetime hunting and fishing license at no cost.

(B) A resident born after June 30, 1940, who has attained the age of sixty‑four years may obtain from the department at its designated licensing locations a senior lifetime hunting and fishing license for nine dollars, one dollar of which the issuing sales vendor may retain.

(C) A resident born after June 30, 1979, who has attained the age of sixty‑four years and who has not completed the required hunter education certification, may obtain a senior lifetime fishing license for nine dollars, one dollar of which the issuing sales vendor may retain. Upon completion of the hunter education certification the licensee may apply to the department for the additional senior lifetime hunting privileges at no cost.

(D) A member of the Catawba Indian Tribe, who is a resident of this State, upon application to the department at its designated licensing locations may obtain a Catawba hunting and fishing license at no cost. A certification must be included with the application from the Chief of the Catawba Indian Tribe stating the applicant is a bona fide member of the tribe.

(E) A member of the Catawba Indian Tribe, who is a resident of this state born after June 30, 1979, and who has not completed the required hunter education certification, may obtain a Catawba fishing license at no cost. Upon completion of the hunter education certification the licensee may apply to the department for the additional Catawba hunting privileges at no cost.

(F) Gratis, senior, and Catawba licenses hunting privileges include statewide hunting, hunting big game, hunting on wildlife management area lands, and hunting migratory waterfowl. The fishing privileges of these licenses include of freshwater fishing, freshwater fishing using a set hook, and saltwater fishing.

Section 50‑9‑535. A resident who holds a lifetime hunting, lifetime combination, lifetime freshwater fishing, or lifetime saltwater recreational fishing license, upon attaining the age of sixty‑four, may convert that license to a senior lifetime license for a fee of nine dollars, one dollar of which the issuing sales vendor may retain.

Section 50‑9‑540. (A)For the privilege of recreational statewide fishing in saltwater:

(1) a resident shall purchase:

(a) a fourteen day temporary saltwater fishing license for five dollars, one dollar of which the issuing sales vendor may retain;

(b) an annual saltwater fishing license for ten dollars, one dollar of which the issuing sales vendor may retain;

(c) a three year saltwater fishing license for thirty dollars, one dollar of which the issuing sales vendor may retain; or

(d) a lifetime statewide saltwater fishing license for three hundred dollars at designated licensing locations;

(2) a nonresident shall purchase:

(a) a fourteen day temporary saltwater fishing license for eleven dollars, one dollar of which the issuing sales vendor may retain;

(b) an annual saltwater fishing license for thirty‑five dollars, one dollar of which the issuing sales vendor may retain; or

(c) a three year saltwater fishing license for one hundred five dollars, three dollars of which the issuing sales vendor may retain.

(B) For the privilege of recreational statewide fishing in freshwater:

(1) a resident shall purchase:

(a) a fourteen day temporary freshwater fishing license for five dollars, one dollar of which the issuing sales vendor may retain;

(b) an annual freshwater fishing license for ten dollars, one dollar of which the issuing sales vendor may retain;

(c) a three year freshwater fishing license for thirty dollars, three dollars of which the issuing sales vendor may retain; or

(d) a lifetime statewide freshwater fishing license for three hundred dollars at designated licensing locations;

(2) a nonresident shall purchase:

(a) a seven day temporary freshwater fishing license for eleven dollars, one dollar of which the issuing sales vendor may retain;

(b) an annual freshwater fishing license for thirty‑five dollars, one dollar of which the issuing sales vendor may retain; or

(c) a three year freshwater fishing license for one hundred five dollars, three dollars of which the issuing sales vendor may retain.

(C) In lieu of obtaining an annual freshwater fishing license, a resident may purchase a lakes and reservoirs permit for three dollars, one dollar of which the issuing sales vendor may retain. The permit is only valid when used with nonmanufactured tackle or natural bait in the following waters:

(1) Catawba and Wateree rivers within Chester, Fairfield, Kershaw, and Lancaster counties, except waters lying more than one hundred yards south of the Wateree Dam in Kershaw County;

(2) Savannah River between the Stevens Creek Dam and the S.C. State Highway 72 bridge, including the waters impounded between Stevens Creek Dam and J. Strom Thurmond Dam;

(3) Lake Ashwood in Lee County;

(4) Lake Greenwood;

(5) Lake Hartwell;

(6) Lake Jocassee;

(7) Lake Keowee;

(8) Lake Marion;

(9) Lake Moultrie, the Diversion Canal, and the Tailrace Canal;

(10) Lake Murray;

(11) Lake Richard B. Russell;

(12) Lake Wiley;

(13) the Parr Hydroelectric Project Fish and Game Management Area:

(a) Parr Reservoir;

(b) Monticello Reservoir;

(c) Monticello Reservoir Sub Impoundment.

The provisions of this subsection do not affect in any way any reciprocal agreement with the State of Georgia as to recognition of residents’ fishing licenses or permits.

(D) For the privilege of operating a public fishing pier in the salt waters of this State, the owner or operator must purchase an annual saltwater public fishing pier license. For a pier with a total length:

(1) of one hundred feet or less, the fee is one hundred fifty dollars;

(2) greater than one hundred feet, the fee is three hundred fifty dollars.

(E) For the privilege of operating a charter fishing vessel in the salt waters of this State, the owner or operator shall purchase an annual charter vessel license for each vessel. For a vessel:

(1) to carry six or fewer passengers, the fee is one hundred fifty dollars;

(2) to carry seven but no more than forty‑nine passengers, the fee is two hundred fifty dollars;

(3) to carry fifty or more passengers, the fee is three hundred fifty dollars.

Section 50‑9‑570. (A) It is unlawful to hunt, take, or possess migratory game birds without first obtaining a migratory game bird permit. Migratory game birds include mourning dove, Wilson snipe, woodcock, the Anatidae (commonly known as goose, brant, and duck), and the Rallidae (commonly known as marsh hen, coot, gallinule, and rail).

(B) Residents who have attained the age of sixty‑four and hold a lifetime statewide hunting license, lifetime statewide combination license, gratis lifetime hunting and fishing license, senior lifetime hunting and fishing license, or Catawba hunting and fishing license are not required to obtain a migratory game bird permit.”

SECTION 9. Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Article 6

Permits and Tags

Section 50‑9‑650. (A) For the privilege of taking antlerless deer, in addition to the required hunting license and big game permit, a hunter shall obtain an annual individual antlerless deer tag issued in his name, and the fee:

(1) for a resident is five dollars per tag;

(2) for a nonresident is five dollars per tag.

(B) A landowner or lessee may apply to the Antlerless Deer Quota Program for an antlerless deer quota permit at a cost of fifty dollars per land tract. The department shall determine an appropriate quota of tags to be issued under each permit, and there is no cost for these tags.

Section 50‑9‑670. (A) For purposes of this chapter ‘migratory waterfowl’ means members of the family Anatidae, including brants, ducks, geese, and swans. For the privilege of hunting or taking migratory waterfowl in this State, in addition to a hunting license, a person shall purchase a migratory waterfowl permit.

(B) The department shall produce commemorative stamps as collector’s items which must be sold at a price of not less than five dollars and fifty cents. Commemorative stamps are not valid for hunting. These proceeds must be retained by the department. Anyone who purchases a migratory waterfowl permit may obtain a commemorative stamp at no additional cost.

(C) Revenue derived from the sale of the permit and commemorative stamp may be used only for the cost of printing, promoting, and producing the stamp and for those migratory waterfowl projects specified by the board for the development, protection, and propagation of waterfowl in this State. None of the funds may be expended for administrative salaries. All balances must be retained and carried forward annually.”

SECTION 10. Section 50‑9‑710 of the 1976 Code is amended to read:

“Section 50‑9‑710. (A) Except as required by law, children under sixteen years of age are not required to procure or possess a hunting or fishing license or any other permit or license required for hunting or fishing unless that child engages in the taking of wildlife or fish for commercial purposes.

(B) ~~No~~ A person is not required to possess a recreational freshwater fishing license if fishing in a private pond. However, if the pond is used for commercial purposes, it is not considered a private pond.

(C) Resident and nonresident patrons of commercial fishing lakes or pay‑ to‑fish commercial businesses are exempt from the requirement to purchase ~~an individual annual~~ a recreational freshwater fishing license~~; provided,~~ if the commercial fishing lake or pay‑to‑fish commercial business has a valid aquaculture permit or registration issued by the department ~~of Natural Resources~~.”

SECTION 11. Article 9, Chapter 9, Title 50 of the 1976 Code is amended to read:

“Article 9

Revenue

Section 50‑9‑910. (A) Revenue from fines and forfeitures for violations of Chapters 1 through 16~~, except for violations of marine resources laws,~~ must be transmitted to the treasurer of the county where the revenue was collected. The treasurer shall transmit the revenue to the ~~director of the~~ department accompanied by a statement showing the names of persons fined, the amount of each fine, the summons or warrant number, and the court in which each fine was collected. The revenue must be remitted to the State Treasurer and credited to the County Game and Fish Fund subaccount for the county from which the revenue was collected.

(B) ~~The revenue provided for in subsection (A) and one‑half of the revenue generated from the sale of annual nonresident freshwater fishing licenses must be credited to the county game fund of the county in which the licenses were sold or revenue was collected. These licenses when sold through nontraditional means such as the Internet, call centers, and department mass mailings must be equally allocated to each county.~~

~~(C) The funds provided for in subsection (B) must be expended in the respective counties for the protection, promotion, propagation, and management of wildlife and fish and the enforcement of related laws.~~ Revenue from fines and forfeitures for violations on wildlife management area lands must be used for the management and the procurement of wildlife management area lands.

(C) Unless otherwise specified, revenue from the fines and forfeitures for violations of other sections of this title and for all other offenses investigated or prosecuted by the department must be used exclusively for law enforcement operations and any remaining balances must be retained and carried forward by the department and used for the same purposes.”

Section 50‑9‑920. (A) Revenue generated from the sale of lifetime privileges must be deposited in the Wildlife Endowment Fund. ~~This revenue must be expended by the department as set forth in Chapter 3 Article 7 of this title.~~

(B) ~~All wildlife management area revenue must be retained by the department and used exclusively for the management and the procurement of wildlife management area lands.~~

~~(C)~~ Revenue generated from the sale of other hunting and freshwater fishing licenses, ~~and~~ permits, and tags ~~except wildlife management area revenue, and revenue from the fines and forfeitures for violations of other sections of this title and for all other offenses investigated or prosecuted by the department,~~ must be ~~deposited with~~ remitted to the State ~~Treasury~~ Treasurer and credited to the ~~credit of the~~ Fish and Wildlife Protection Fund. ~~This revenue must be expended by the department for the protection, promotion, propagation, and management of wildlife and fish, the enforcement of related laws, and the dissemination of information, facts, and findings the department considers necessary Provided that~~ Revenue from each:

(1) Wildlife management area permit must only be used for the management and the procurement of wildlife management area lands.

(2) A nonresident annual statewide hunting license must be used as follows:

(a) one dollar for the propagation, management, and protection of ducks and geese in this State;

(b) one dollar contributed by the department to proper agencies along the Atlantic Flyway for the propagation, management, and protection of ducks and geese; and

(c) the balance to the Fish and Wildlife Protection Fund.

(3) A nonresident temporary statewide hunting license must be used as follows:

(a) fifty cents for the propagation, management and protection of ducks and geese in this State;

(b) fifty cents contributed by the department to proper agencies in Canada for the propagation, management, and protection of ducks and geese; and

(c) the balance to the Fish and Wildlife Protection Fund.

(4) A nonresident annual freshwater fishing license must be distributed as follows:

(a) fifty percent to the County Game and Fish Fund account for the respective county in which the license was sold, except that these licenses sold through a central point such as online, call centers, and department mass mailings must be equally allocated to the counties; and

(b) the balance to the Fish and Wildlife Protection Fund.

(5) Application and other fees, permits, and tags for the privilege of taking alligators must be used by the department to support the alligator management program.

(6) Antlerless deer quota permit (ADQP) must be exclusively used to administer the ADQP program and for deer management and research.

(7) Individual antlerless deer tags must be used as follows: (a) eighty percent to administer the tag program, deer management, and research; and

(b) the remaining twenty percent for law enforcement.

(8) A nonresident annual freshwater fishing license must be distributed as follows:

(a) fifty percent to the County Game and Fish Fund account for the respective county in which the license was sold, except that these licenses sold through a central point such as online, call centers, and department mass mailings must be equally allocated to each county; and

(b) the balance to the Fish and Wildlife Protection Fund.

(9) Lakes and reservoirs permits must be equally distributed to the County Game and Fish Fund of those counties in which the specified bodies of water are found in whole or in part.

(C) Revenue generated from the sale of recreational and commercial marine licenses, permits, and tags must be deposited to the Marine Resources Fund. Revenue must be distributed as follows, from each:

(1) annual or temporary recreational saltwater fishing license:

(a) twenty‑five cents to saltwater administration;

(b) one dollar to law enforcement; and

(c) the balance to recreational saltwater programs;

(2) charter vessel license:

(a) five percent to saltwater administration;

(b) twenty percent to law enforcement; and

(c) the balance to recreational saltwater programs;

(3) saltwater fishing pier license:

(a) five percent to saltwater administration;

(b) twenty percent to law enforcement; and

(c) the balance to recreational saltwater programs;

(4) shrimp baiting license:

(a) seventy percent for additional enforcement efforts during the established shrimp baiting period to assist existing law enforcement personnel in monitoring and enforcement of the shrimp baiting laws; and

(b) the balance to the Marine Resources Fund;

(5) sale of stamps, prints, and related articles:

(a) five percent to saltwater administration;

(b) twenty percent to saltwater enforcement; and

(c) the balance to recreational saltwater programs.

(D) Two‑thirds of the revenue generated from the sale of multi‑year recreational saltwater licenses must be allocated to the Marine Resources Deferred License Fund.

(E) Two‑thirds of the revenue generated from the sale of multi‑year recreational freshwater fishing and hunting licenses must be allocated to the Fish and Wildlife Deferred License Fund.

(F) Revenue generated from the sale of duplicate or replacement licenses, permits, and tags must be credited to the Fish and Wildlife Protection Fund.

~~Section 50‑9‑925.~~ ~~(A) Revenue from the sale of the stamps, recreational saltwater licenses, prints, and related articles must be paid into a special account separate from the general fund. Revenues in the account are carried forward each year and may be used to match available federal funds. The revenue must be distributed as follows:~~

~~(1)~~ ~~from the sale of an annual or temporary recreational saltwater fishing license; twenty‑five cents to saltwater administration, one dollar to saltwater enforcement, and the balance to recreational saltwater programs;~~

~~(2)~~ ~~from the sale of a charter vessel license; five percent to saltwater administration, twenty percent to saltwater enforcement, and the balance to recreational saltwater programs; and~~

~~(3)~~ ~~from the sale of stamps, prints, and related articles; five percent to saltwater administration, twenty percent to saltwater enforcement, and the balance to recreational saltwater programs.~~

~~(B)~~ ~~Revenues distributed for recreational saltwater programs may be used only for the following programs which directly benefit recreational saltwater fisheries:~~

~~(1)~~ ~~development of recreational saltwater fishing facilities;~~

~~(2)~~ ~~scientific research and management of recreational saltwater fisheries;~~

~~(3)~~ ~~protection, maintenance, or enhancement of saltwater habitat important to the continued production of fish stocks and their food sources of significance to recreational saltwater fisheries;~~

~~(4) other programs directly benefiting recreational saltwater fisheries recommended by the Saltwater Recreational Fisheries Advisory Committee; and~~

~~(5) publish an annual report to be made available to stamp and license holders to indicate how the previous year’s funds were utilized.~~

~~(C) Revenue distributed for saltwater administrative activities must be used in support of activities authorized pursuant to the South Carolina Marine Resources Act of 2000.~~

~~(D) Revenue distributed for saltwater enforcement activities must be expended for enforcement of the laws and fishery management regulations relating to recreational saltwater fisheries, including habitat protection and other activities authorized pursuant to this chapter.~~

~~Section 50‑9‑940. Balances in the funds provided for in this article, less amounts paid to the Training and Continuing Education Division of the Department of Public Safety, must be carried forward annually.~~

Section 50‑9‑950. (A) The Fish and Wildlife Protection Fund is created for the purpose of receiving revenue generated from the following sources:

(1) revenue from the sale of freshwater fisheries and wildlife licenses, permits, stamps, and tags;

(2) application fees for recreational events and charges for room and board on state property where the property was procured with proceeds from the fund and its predecessor funds;

(3) revenue generated from the sale of timber and property procured with proceeds from the fund and its predecessor funds;

(4) revenue transmitted to the department from the Department of Motor Vehicles for specialty license plates;

(5) restricted interest income, contributions, and donations;

(6) any other source of revenue recognized by the United States Fish and Wildlife Service, where the disposition of such revenue to any other fund could be interpreted as a loss of control or misdirection of funds by the department.

These funds must be remitted to the State Treasurer and credited to a special account separate and distinct from the general fund.

(B) Revenue must be expended by the department for the protection, promotion, propagation, and management of freshwater fisheries and wildlife, the enforcement of related laws, the administration of the department, and the dissemination of information, facts, and findings the department considers necessary.

(C) Interest earned on balances in the Fish and Wildlife Protection Fund must be credited to the fund and expended for those same purposes.

(D) Balances in the fund must be retained and carried forward annually and may be used to match available federal funds.

Section 50‑9‑955. (A) The Fish and Wildlife Deferred License Fund is created for the purpose of receiving revenue generated from the sale of multi‑year hunting and freshwater fishing licenses, permits, stamps, and tags.

(B) Revenue generated in prior years for each new license year must be transferred to the Fish and Wildlife Protection Fund the first month of each license year. Not more than one transfer may be made each license year. When transferred, the revenue must be allocated as specified in 50‑9‑920(B).

(C) Interest earned on balances in the Fish and Wildlife Deferred License Fund must be credited to the fund and transferred in the same manner.

(D) Balances in the fund must be retained and carried forward annually.

Section 50‑9‑960. (A) The Marine Resources Fund is created for the purpose of receiving revenue generated from the following sources:

(1) revenue from the sale of saltwater licenses, permits, stamps, and tags;

(2) revenue generated from the sale of posters, prints, and related articles;

(3) revenue transmitted to the department from the Department of Motor Vehicles for specialty license plates;

(4) restricted interest income, contributions, and donations;

(5) any other source of revenue recognized by the United States Fish and Wildlife Service, where the disposition of such revenue to any other fund could be interpreted as a loss of control or misdirection of funds by the department.

(B) Revenue generated from the sale of:

(1) recreational saltwater privileges must be expended by the department for purposes authorized pursuant to the South Carolina Marine Resources Act of 2000. The Saltwater Recreational Fishing Advisory Committee shall assist in prioritizing the expenditure of saltwater license funds for:

(a) the protection, maintenance, or enhancement of saltwater habitat important to the continued production of marine fish stocks and their food sources of significance to recreational saltwater fisheries;

(b) development of recreational saltwater fishing facilities;

(c) scientific research and management of recreational

saltwater fisheries;

(d) other programs directly benefiting recreational saltwater fisheries recommended by the Saltwater Recreational Fisheries Advisory Committee;

(e) an annual report made available on the department web site indicating how the previous year’s funds were expended;

(2) commercial saltwater privileges, culture and mariculture permits, and marine permits must be expended for the administration and implementation of programs in the Marine Resources Division.

(C) Funds generated pursuant to this section must be remitted to the State Treasurer and credited a special account separate and distinct from the general fund.

(D) Interest earned on balances in the Marine Resources Fund must be credited to the fund and expended for the same purposes.

(E) Balances in the fund must be retained and carried forward annually and may be used to match available federal funds.

Section 50‑9‑965. (A) The Marine Resources Deferred License Fund is created for the purpose of receiving revenue generated from the sale of multi‑year saltwater licenses, permits, stamps, and tags.

(B) Revenue generated in prior years for each new license year must be transferred to the Marine Resources Fund the first month of each license year. Not more than one transfer may be made each license year. When transferred, the revenue must be allocated as specified in 50‑9‑920(C).

(C) Interest earned on balances in the Marine Resources Deferred License Fund must be credited to the fund and transferred in the same manner.

(D) Balances in the fund must be retained and carried forward annually.

Section 50‑9‑970. (A) The County Game and Fish Fund is created for the purpose of receiving revenue generated from the following sources:

(1) the designated portion of each annual nonresident freshwater fishing license;

(2) revenue from fines, fees, and forfeitures for violations of Chapters 1 through 16;

(3) unexpended revenue from prior years;

(4) restricted interest income;

(5) revenue generated from the disposal of surplus equipment.

These funds must be remitted to the State Treasurer and credited to a special account separate and distinct from the general fund. The funds only may be used for the purposes set forth in this section.

(B) Revenue must be expended by the department for the protection, promotion, propagation, and management of fisheries and wildlife, the enforcement of related laws, the administration of the department, and the dissemination of information, facts, and findings the department considers necessary.

(C) The fund must be further separated into forty‑six subaccounts, one for each county. A report must be made annually to each member of the forty‑six county delegations as to the balances in these accounts. Following the annual report distribution, the most recent report of balances available must be furnished to a delegation member making a request. Each county delegation may make recommendations to the department regarding the expenditure of funds from the County Game And Fish Fund for the protection, promotion, propagation, and management of fisheries and wildlife. The department must give these recommendations primary consideration over any other projects.

(D) If any equipment purchased by the department with these funds is sold, the proceeds of the sale retained by the department must be credited to the county fund from which the original purchase was made.

(E) Expenditures from this fund that have the approval of the county delegation are exempt from Act 651 of 1978, as amended.

(F) Interest earned on revenues deposited to the County Game and Fish Fund must be credited to the fund and expended for those same purposes.

(G) Balances must be retained and carried forward annually and may be used to match available federal funds.”

SECTION 12. Section 50‑11‑390 of the 1976 Code is amended to read:

“Section 50‑11‑390. (A) The Department of Natural Resources may permit the taking of antlerless deer between September 15 and January 1, inclusive. The department may set bag limits and methods for hunting and taking of antlerless deer and other restrictions for the proper control of hunting and taking of antlerless deer.

(B) In all game zones, the department may issue individual tags for antlerless deer ~~at a cost of five dollars each~~ which must be used as prescribed by the department. These tags are valid statewide, except on properties receiving antlerless deer quota permits pursuant to subsection (C) ~~of this section~~, and must be possessed and used only by the individuals to whom they are issued ~~Revenue generated from the sale of individual tags must be used to administer the tag program and for deer management and research. The department shall utilize twenty percent of this revenue for law enforcement~~.

(C) In all game zones, the department may issue antlerless deer quota permits to landowners or lessees ~~at a cost of fifty dollars each. Revenue generated from the quota permits must be used to administer the tag program and for deer management and research~~.

(D) Antlerless deer taken pursuant to individual tags or quota permits must be tagged with a valid antlerless deer tag and reported to the department as prescribed. Each tag must be attached to the deer as prescribed by the department before the animal is moved from the point of kill. Antlerless deer taken pursuant to quota permits must be tagged, even if taken on designated either‑sex days.

(E) The department may suspend the taking of antlerless deer or revoke any quota permit or individual tags when environmental conditions or other factors warrant.

(F) It is unlawful to hunt or take, possess, or transport antlerless deer, except as permitted by this section. A person violating the provisions of this section or the provisions for taking antlerless deer established by the department is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty ~~nor~~ and not more than five hundred dollars or imprisoned not ~~to exceed~~ more than thirty days.”

SECTION 13. Sections 50‑1‑160, 50‑3‑790, 50‑3‑800, and 50‑11‑1240 of the 1976 Code are repealed.

SECTION 14. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 15. This act takes effect July 1, 2010./

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.

**Objection to Third Reading of S. 974**

Senator CAMPSEN asked unanimous consent to make a motion to give the Bill a third reading tomorrow.

Senator McCONNELL objected.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1023 -- Senators McConnell, Rose and Knotts: 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.

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

The Committee on Agriculture and Natural Resources proposed the following amendment (1023R001.DBV), which was adopted:

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

/ SECTION 1. Chapter 27 of Title 46 of the 1976 Code is amended by adding:

“Section 46-27-25. (A) A deer processor may sell or utilize the following deer parts for commercial feed:

(1) heart;

(2) liver;

(3) spleen;

(4) kidneys;

(5) viscera; and

(6) bone.

(B) A deer processor must notify the South Carolina Department of Agriculture, in writing, of the intent to sell or utilize the parts listed in subsection (A) as commercial feed during that year’s deer season. This written notification must be submitted prior to selling or utilizing deer parts for commercial feed. The processor must also notify the Department of Agriculture, in writing, of the number of deer from which parts were processed for commercial feed no later than January thirty-first immediately following the deer season for which the deer processor stated its intent to sell or utilize deer parts for commercial feed.

(C) The deer processor must abide by the provisions of the Commercial Feed Act of 1976, as amended, and all applicable state and federal laws, rules, and regulations regarding commercial feed.”

SECTION 2. Section 50-11-1910(A) of the 1976 Code is amended to read:

“(A) It is unlawful to buy or sell, offer for sale, barter, or have in possession for sale the following: any live deer (family cervidae), the venison of any deer except as provided in Section 50-11-1920, any whitetail deer gametes or antler velvet, or any whitetail deer antlers attached to the pedicel. A deer processor may sell certain deer parts to be utilized as commercial feed pursuant to Section 46-27-25.”

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

Renumber sections to conform.

Amend title to conform.

Senator VERDIN 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.

**AMENDED, READ THE SECOND TIME**

H. 3707 -- Reps. T.R. Young, Cato, Cobb‑Hunter, Toole, Ott, Cooper, Gambrell, Bowen, Agnew, McLeod, J.H. Neal, Gunn, Hayes, Stewart, Thompson, White, Duncan, D.C. Moss, H.B. Brown, Knight, Frye, Spires, Neilson, Vick, Hutto, Sellers and Rice: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39‑41‑235 SO AS TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL; TO PROHIBIT A PERSON OR ENTITY FROM TAKING AN ACTION TO DENY A MOTOR FUEL DISTRIBUTOR OR RETAILER FROM BEING THE BLENDER OF RECORD; TO REQUIRE MOTOR FUEL DISTRIBUTORS, RETAILERS, AND REFINERS TO UTILIZE THE RENEWABLE IDENTIFICATION NUMBER; AND TO DECLARE VIOLATIONS AN UNFAIR TRADE PRACTICE.

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

Senators VERDIN, CAMPBELL and SETZLER proposed the following amendment (3707R006.DBV), which was adopted:

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

/ SECTION 1. The General Assembly finds that the use of blended fuels reduces the dependence on imported oil and, therefore, the protection thereof is reasonable and necessary to accomplish this legitimate public purpose. The General Assembly further finds that promoting and protecting the use of blended fuels in order to reduce the dependence on imported oil protects a basic societal interest. The General Assembly also finds that it is in the best societal interest not to restrict or prevent the blending of ethanol or biodiesel by distributors or retailers. Therefore, any provision of any contract that is executed, modified, renewed, or amended on or after the effective date of this act that would restrict or prevent a distributor or retailer from blending is contrary to the public purpose of this act and is deemed void.

SECTION 2. Article 1, Chapter 41, Title 39 of the 1976 Code is amended by adding:

“Section 39‑41‑235. (A) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State must offer for sale all grades of petroleum products that are not already preblended with ethanol and that is suitable for subsequent blending of the product with ethanol.

(B) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State must offer for sale all grades of diesel fuel that are not already preblended to produce biodiesel or a biodiesel blend and that are suitable for subsequent blending to produce biodiesel or biodiesel blends.

(C) A terminal shall not offer for sale an unblended product that omits any additive found in a product preblended with ethanol. A terminal shall not offer for sale an unblended product that does not contain a comparable amount of any additive found in a product preblended with ethanol.

(D) No person or entity shall take an action to deny a distributor, as defined in Section 12‑28‑110(17), or retailer, as defined in Section 12‑28‑110(52) who is doing business in this State and who has registered with the Internal Revenue Service on Form 637 (M) from being the blender of record afforded them by the acceptance by the Internal Revenue Service of Form 637 (M).

(E) A distributor or retailer and a refiner must utilize the Renewable Identification Number (RIN) system. Nothing in this section may be construed to imply a market value for the RINs.

(F) A violation of this article is deemed an unfair trade practice, and each violation is a separate offense. A person or entity violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars for each violation.

(G) Wholesalers purchasing gasoline, gasoline blending stock, or diesel are responsible for ensuring that their activities result in gasolines and diesels that meet the standards promulgated by the Commissioner of Agriculture. Refiners, suppliers, and permissive suppliers shall not be liable for fines, penalties, injuries, or damages arising out of the subsequent blending of gasoline, gasoline blending stock, or diesel pursuant to this section.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. (A) Section 39‑41‑235 (A) and Section 39‑41‑235 (B) as contained in SECTION 2 of this act take effect sixty days after approval of the Governor.

(B) Except as provided in subsection (A) of this SECTION, this act takes effect upon approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

The amendment was adopted.

**Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the adoption of the amendment.

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

**Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the second reading of the Bill.

**Statement by Senators McCONNELL and MALLOY**

We voted against this amendment and the Bill because it smacks of government interference in the free market system. In our opinion, it tells someone what they have to stock. That should be a business decision -- not a government one. Further, we have questions regarding the issue of unprecedented immunity from liability.

**Statement by Senator SHOOPMAN**

I voted “no” on this Bill because it amends Section 39-41-235 by adding a requirement that “every terminal, regardless of other products offered, must offer for sale a petroleum product…” This is a mandate for every retailer to sell a specified product regardless of whether or not the retailer wants to sell the product.

**COMMITTEE AMENDMENT ADOPTED**

**AMENDED, READ THE SECOND TIME**

S. 612 -- Senators Setzler and O’Dell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39‑41‑235 TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL; TO PROHIBIT A PERSON OR ENTITY FROM TAKING AN ACTION TO DENY A MOTOR FUEL DISTRIBUTOR OR RETAILER FROM BEING THE BLENDER OF RECORD; TO REQUIRE MOTOR FUEL DISTRIBUTORS, RETAILERS, AND REFINERS TO UTILIZE THE RENEWABLE IDENTIFICATION NUMBER; AND TO DECLARE VIOLATIONS AN UNFAIR TRADE PRACTICE.

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

The Committee on Agriculture and Natural Resources proposed the following amendment (612R001.DBV), which was adopted:

Amend the bill, as and if amended, page 2, by striking line 27 and inserting:

/ each violation.

(F) If a supplier supplies gasoline to a gasoline distributor pursuant to this code section, which is then blended, the gasoline distributor shall indemnify and hold harmless the supplier against any losses or damages arising out of claims, costs, judgments, and expenses, including reasonable attorney’s fees, or suits relating to or arising out of the blending.” /

Amend the bill further, as and if amended, page 2, after line 27, by adding an appropriately numbered new SECTION to read:

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

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the committee amendment.

The committee amendment was adopted.

**Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the adoption of the committee amendment.

Senators SETZLER, VERDIN and CAMPBELL proposed the following amendment (612R003.NGS), which was adopted:

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

/ SECTION 1. The General Assembly finds that the use of blended fuels reduces the dependence on imported oil and therefore the protection thereof is reasonable and necessary to accomplish this legitimate public purpose. The General Assembly further finds that promoting and protecting the use of blended fuels in order to reduce the dependence on imported oil protects a basic societal interest. The General Assembly also finds that it is in the best societal interest not to restrict or prevent the blending of ethanol or biodiesel by distributors or retailers. Therefore, any provision of any contract that is executed, modified, renewed, or amended on or after the effective date of this act that would restrict or prevent a distributor or retailer from blending is contrary to the public purpose of this act and is deemed void.

SECTION 2. Article 1, Chapter 41, Title 39 of the 1976 Code is amended by adding:

“Section 39‑41‑235. (A) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State must offer for sale all grades of petroleum products that are not already preblended with ethanol and that is suitable for subsequent blending of the product with ethanol.

(B) Regardless of other products offered, every terminal, as defined in Section 12‑28‑110(56), located within the State must offer for sale all grades of diesel fuel that are not already preblended to produce biodiesel or a biodiesel blend and that are suitable for subsequent blending to produce biodiesel or biodiesel blends.

(C) A terminal shall not offer for sale an unblended product that omits any additive found in a product preblended with ethanol. A terminal shall not offer for sale an unblended product that does not contain a comparable amount of any additive found in a product preblended with ethanol.

(D) No person or entity shall take an action to deny a distributor, as defined in Section 12‑28‑110(17), or retailer, as defined in Section 12‑28‑110(52) who is doing business in this State and who has registered with the Internal Revenue Service on Form 637 (M) from being the blender of record afforded them by the acceptance by the Internal Revenue Service of Form 637 (M).

(E) A distributor or retailer and a refiner must utilize the Renewable Identification Number (RIN) system. Nothing in this section may be construed to imply a market value for the RINs.

(F) A violation of this article is deemed an unfair trade practice, and each violation is a separate offense. A person or entity violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars for each violation.

(G) Wholesalers purchasing gasoline, gasoline blending stock, or diesel are responsible for ensuring that their activities result in gasolines and diesels that meet the standards promulgated by the Commissioner of Agriculture. Refiners, suppliers, and permissive suppliers shall not be liable for fines, penalties, injuries, or damages arising out of the subsequent blending of gasoline, gasoline blending stock, or diesel pursuant to this section.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. (A) Section 39‑41‑235 (A) and Section 39‑41‑235 (B) as contained in SECTION 2 of this act take effect sixty days after approval of the Governor.

(B) Except as provided in subsection (A) of this SECTION, this act takes effect upon approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

The amendment was adopted.

**Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the adoption of the amendment.

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

**Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the second reading of the Bill.

**Statement by Senators McCONNELL and MALLOY**

We voted against this amendment and the Bill because it smacks of government interference in the free market system. In our opinion, it tells someone what they have to stock. That should be a business decision -- not a government one. Further, we have questions regarding the issue of unprecedented immunity from liability.

**Statement by Senator SHOOPMAN**

I voted “no” on this Bill because it amends Section 39-41-235 by adding a requirement that “every terminal, regardless of other products offered, must offer for sale a petroleum product…” This is a mandate for every retailer to sell a specified product regardless of whether or not the retailer wants to sell the product.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**AMENDED, READ THE SECOND TIME**

S. 932 -- Senators L. Martin and Campsen: 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.

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.

Senator CAMPSEN proposed the following amendment (932R002.GEC), which was adopted:

Amend the committee amendment, as and if amended, by striking Section 50-11-710(A)(2) and inserting:

/ (2) hogs may be hunted at night with an artificial light that is carried on the hunter’s person attached to a helmet or hat, or part of a belt system worn by the hunter and with a sidearm that has iron sites, and barrel length not exceeding nine inches. The sidearm may not be equipped with a butt-stock, scope, laser site, or light emitting or light enhancing device. However, hogs may not be hunted at night from a vehicle, or with a centerfire rifle or shotgun, unless specifically permitted by the department. A person that violates this item is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both. /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the amendment.

The amendment was adopted.

The Committee on Fish, Game and Forestry proposed the following amendment (932R001.RWC), which was adopted:

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

/ SECTION 1. Section 50‑16‑25 of the 1976 Code is amended to read:

“Section 50‑16‑25. (A) It is unlawful to possess, buy, sell, offer for sale, transfer, release, or transport for the purpose of release a member of the family Suidae (pig) ~~for hunting purposes~~ into the wild or in an attempt to establish or supplement a free roaming population~~; however, a landowner may capture and release a pig so long as: (1) the pig is captured pursuant to a permit issued without charge by the Department of Natural Resources, and (2) the pig is released on the same tract on which the pig was captured or on an adjoining tract with permission of the owner of the adjoining tract. Under no circumstances may a pig be released in a county other than the county in which the pig was captured~~.

(B) It is unlawful to transport a live pig captured in the wild in this State.”

SECTION 2. Section 50‑11‑710 of the 1976 Code is amended to read:

“Section 50‑11‑710. (A) Night hunting in this State is unlawful except that:

(1) raccoons, opossums, foxes, coyotes, mink, and skunk may be hunted at night; however, they may not be hunted with artificial lights except when treed or cornered with dogs, or with buckshot or any shot larger than a number four, or any rifle ammunition of larger than a twenty‑two rimfire~~.~~; and

(2) hogs may be hunted at night with an artificial light that is carried on the hunter’s person attached to a helmet or hat, or part of a belt system worn by the hunter and with a sidearm that has iron sites, and barrel length not exceeding nine inches. The sidearm may not be equipped with a butt‑stock, scope, laser site, or light emitting or light enhancing device. However, hogs may not be hunted at night from a vehicle, or with a centerfire rifle or shotgun, unless specifically permitted by the department.

(B) For the purposes of this section, ‘night’ means that period of time between one hour after official sundown of a day and one hour before official sunrise of the following day.

(C) Any person violating the provisions of this section, upon conviction, must be fined for the first offense not more than one thousand dollars, or be imprisoned for not more than one year, or both; for the second offense within two years from the date of conviction for the first offense, not more than two thousand dollars nor less than four hundred dollars, or be imprisoned for not more than one year nor for less than ninety days, or both; for a third or subsequent offense within two years of the date of conviction for the last previous offense, not more than three thousand dollars nor less than five hundred dollars, or be imprisoned for not more than one year nor for less than one hundred twenty days, or both. Any person convicted under this section after more than two years have elapsed since his last conviction must be sentenced as for a first offense.

(D) In addition to any other penalty, any person convicted for a second or subsequent offense under this section within three years of the date of conviction for a first offense shall have his privilege to hunt in this State suspended for a period of two years. No hunting license may be issued to an individual while his privilege is suspended, and any license mistakenly issued is invalid. The penalty for hunting in this State during the period of suspension, upon conviction, must be imprisonment for not more than one year nor less than ninety days.

(E) The provisions of this section may not be construed to prevent any owner of property from protecting the property from destruction by wild game as provided by law.

(F) It is unlawful for a person to use artificial lights at night, except vehicle headlights while traveling in a normal manner on a public road or highway, while in possession of or with immediate access to both ammunition of a type prohibited for use at night by the first paragraph of this section and a weapon capable of firing the ammunition. A violation of this paragraph is punishable as provided by Section 50‑11‑720.”

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

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

Senators LAND and CAMPSEN proposed the following amendment (932HOGENCLOSURE), which was adopted:

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

/ SECTION 1. Section 50‑16‑25 of the 1976 Code is amended to read:

“Section 50‑16‑25. (A) It is unlawful to possess, buy, sell, offer for sale, transfer, release, or transport for the purpose of release a member of the family Suidae (pig) into the wild ~~for hunting purposes~~ ~~or in an attempt to establish or supplement a free roaming population; however, a~~. A person who holds a valid permit, issued by the Department of Natural Resources, for the taking, transporting, and releasing a pig from a free roaming population or his agent ~~landowner~~ may capture and release a free roaming pig so long as: (1) the permit holder has express permission from the landowner to capture and transport free roaming pigs from the tract on which the free roaming pig is to be captured, (2) the free roaming pig is captured, transported, and released pursuant to a permit issued ~~without charge~~ by the Department of Natural Resources, and (~~2~~3) the pig is released on the same tract on which the pig was captured or into a permitted pig enclosure utilized for hunting purposes ~~on an adjoining tract with permission of the owner of the adjoining tract~~. Under no circumstances may a free roaming pig be released in a county other than the county in which the pig was captured.

(B) All free roaming pigs captured pursuant to a permit must be tagged at the point of capture as prescribed by the department and the tags must remain affixed to the pigs. Pig hunting enclosures must be permitted by the department at a cost of fifty dollars annually.

(C) It is unlawful to transport a live pig captured in the wild ~~from a trap or from the woods, fields, or marshes of this State.~~ except as permitted by this section. /

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

**/ SECTION . Section 50‑16‑70 is amended to read:**

“Section 50-16-70. A person violating the provisions of this chapter, or any condition of a permit issued pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than six months, or both.”/

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

/ SECTION . Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑655. (A) For the privilege of taking, transporting, and releasing a pig from a free roaming population, a person must obtain an annual pig transport and release permit from the department for fifty dollars.

(B) For the privilege of maintaining a pig hunting enclosure, a pig hunting enclosure owner must obtain an annual pig enclosure permit from the department for fifty dollars.” /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN 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.

**AMENDMENT PROPOSED, 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 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 second reading of the Bill.

Senator MALLOY proposed the following amendment (JUD0642.006):

Amend the bill, as and if amended, by striking SECTIONS 1 and 2 in their entirety and inserting:

/ SECTION 1. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56-5-3890. (A) For purposes of this section, a ‘wireless electronic communication device’ means an electronic device that allows a person to wirelessly communicate with another person, including, but not limited to, a mobile telephone, a personal digital assistant, a text messaging device, or a computer.

(B) It is unlawful for a person to use a wireless electronic communication device while operating a motor vehicle on the public streets and highways of this State.

(C) This section does not apply to a person who is:

(1) lawfully parked or stopped;

(2) summoning medical or other emergency assistance;

(3) a law enforcement officer, firefighter, emergency medical technician, or other public safety official while in the performance of the person’s official duties; or

(4) using a global positioning system device for the purpose of navigation or obtaining related traffic and road condition information.

(D) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined twenty dollars, pay a twenty-five dollar Trauma Care Fund surcharge, and have one point assessed against the person’s motor vehicle operating record, pursuant to Section 56-1-720, no part of which may be waived, reduced, or suspended. The fine is subject to all other applicable court costs, assessments, and surcharges. The Trauma Care Fund surcharge must be deposited with the city or county treasurer, as applicable, for remittance to the State Treasurer. The State Treasurer must deposit the Trauma Care Fund surcharge in the South Carolina State Trauma Care Fund to be used by the Department of Health and Environmental Control as established and provided for in Section 44-61-540. The Trauma Care Fund surcharge is not subject to the provisions of Section 44-61-520(G). If the person does not subsequently violate this section for a one-year period from the date of conviction, the one point assessed against the person’s motor vehicle operating record must be removed.

(E) A law enforcement officer must not:

(1) stop a person for a violation of this section except when the officer has probable cause that a violation has occurred based on the officer’s clear and unobstructed view of a person who is using a wireless electronic communication device while operating a motor vehicle on the public streets and highways of this State;

(2) seize or require the forfeiture of a wireless electronic communication device because of a violation of this section;

(3) search or request to search a motor vehicle, driver, or passenger in a motor vehicle, solely because of a violation of this section;

(4) make a custodial arrest for a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine; or

(5) issue a citation to a person for a violation of this section when the stop is made in conjunction with a driver’s license check, safety check, or registration check conducted at a checkpoint established to stop all drivers on a certain road for a period of time, except when the person is cited for violating another motor vehicle law.

(F) A person charged with a violation of this section may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person was using a wireless electronic communication device while operating a motor vehicle on the public streets and highways of this State at the time of the incident, the penalty is a fine, surcharge, and points assessment pursuant to subsection (D). If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person was using a wireless electronic communication device while operating a motor vehicle on the public streets and highways of this State, no penalty shall be assessed. A person found to be in violation of this section may bring an appeal to the court of common pleas, pursuant to Section 18‑3‑10 or Section 14‑25‑95.

(G) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local government entities regarding persons using wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State.

(H) Nothing in this section is intended to conflict with enforcement of applicable restrictions or requirements imposed on commercial motor vehicle operators pursuant to the Federal Motor Carrier Safety Regulations.”

SECTION 2. Section 56-1-720 of the 1976 Code is amended to read:

“Section 56‑1‑720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION POINTS

Reckless driving 6

Passing stopped school bus 6

Hit‑and‑run, property damages only 6

Driving too fast for conditions, or speeding:

(1) No more than 10 m.p.h. above the

posted limits 2

(2) More than 10 m.p.h. but less than 25

m.p.h. above the posted limits 4

(3) 25 m.p.h. or above the posted limits 6

Disobedience of any official traffic control

device ……………….. 4

Disobedience to officer directing traffic 4

Failing to yield right of way 4

Driving on wrong side of road 4

Passing unlawfully 4

Turning unlawfully 4

Driving through or within safety zone 4

Failing to give signal or giving improper

signal for stopping, turning, or suddenly

decreased speed 4

Shifting lanes without safety precaution 2

Improper dangerous parking 2

Following too closely 4

Failing to dim lights 2

Operating with improper lights 2

Operating with improper brakes 4

Operating a vehicle in unsafe condition 2

Driving in improper lane 2

Improper backing 2

Using a wireless electronic communication

device while operating a motor vehicle ……………………1.”/

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

Senators MULVANEY and JACKSON objected to further consideration of the Bill.

**CARRIED OVER**

H. 3841--Reps. Owens, Cooper, Skelton, Sottile, J.M. Neal, R.L. Brown, Simrill, Battle, Govan, Barfield, Gullick, Stavrinakis, Hutto, Jefferson, Umphlett, Daning, Kirsh, Knight, Williams, Merrill, Weeks, Whipper, Mack, G.M. Smith, Lowe, Clemmons, Gilliard, Sellers, Erickson, Willis, Wylie, Mitchell, Stewart, Gunn, Vick, Harrell and J.R. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “TECHNICAL COLLEGE ADMINISTRATIVE EFFICIENCIES ACT OF 2009” TO REQUIRE THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION TO ESTABLISH A TIERED SYSTEM FOR CATEGORIZING TECHNICAL COLLEGES; BY ADDING SECTION 2‑47‑70, TO ALLOW TECHNICAL COLLEGES TO ENTER INTO ONE OR MORE LEASE AGREEMENTS; BY ADDING SECTION 6‑1‑137 TO ALLOW TECHNICAL COLLEGES TO BE A PART OF CERTAIN CONTRACTS MADE BY COUNTIES, MUNICIPALITIES, OR SCHOOL DISTRICTS; TO AMEND SECTION 2‑47‑50, RELATING TO THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY THE STATE BUDGET AND CONTROL BOARD, TO PROVIDE FOR THE ESTABLISHMENT AND AUTHORIZATION OF PERMANENT IMPROVEMENT PROJECTS, AND TO PROVIDE THAT A TECHNICAL COLLEGE MAY NOT ADVERTISE AND INTERVIEW FOR PROJECT ARCHITECTURAL AND ENGINEERING SERVICES WITHOUT PRIOR APPROVAL OF THE ARCHITECTURAL AND ENGINEERING PHASE OF A PERMANENT IMPROVEMENT PROJECT; TO AMEND SECTION 2‑65‑30, RELATING TO RECEIPT AND EXPENDITURE OF UNANTICIPATED FUNDS, TO EXCLUDE TECHNICAL COLLEGES FROM STATE BUDGET AND CONTROL BOARD REVIEW OF EXPENDITURE PROPOSALS; AND TO AMEND SECTION 8‑11‑35, RELATING TO SALARY PAYMENT SCHEDULES, TO PROVIDE THAT THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION MAY APPROVE ALTERNATIVE SALARY PAYMENT SCHEDULES FOR TECHNICAL COLLEGE EMPLOYEES. (ABBREVIATED TITLE)

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

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

**MADE SPECIAL ORDER**

S. 1054 -- Senators Pinckney and Malloy: A BILL TO AMEND CHAPTER 1, TITLE 4 OF THE 1976 CODE, RELATING TO EXTRAORDINARY COMMERCIAL FACILITIES, BY ADDING SECTION 4‑1‑180 TO ALLOW COUNTIES THAT CREATE A MULTICOUNTY BUSINESS PARK TO DESIGNATE A PORTION OR ALL OF THAT PARK AS A DESIGNATED ECONOMIC DEVELOPMENT SITE FOR EXTRAORDINARY COMMERCIAL FACILITIES.

Senator LARRY MARTIN moved to make the Bill a Special Order.

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

**Ayes 28; Nays 13**

**AYES**

Anderson Cleary Coleman

Cromer Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy Massey

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Rankin Rose

Scott Setzler Sheheen

Williams

**Total--28**

**NAYS**

Alexander Bright Bryant

Campsen Courson Davis

Fair *Martin, Larry Martin, Shane*

Mulvaney Ryberg Shoopman

Verdin

**Total--13**

The Bill was made a Special Order.

**Statement by Senator ROSE**

    My vote to put S. 1054 on Special Order does not mean that I  support or will vote for S. 1054 on its merits.  It does mean that I support a large group of Senators being permitted procedurally to have legislation important to them considered on its merits, and that allowing legislation I probably disagree with being considered on its merits will facilitate legislation important to me being set on Special Order in the future with the support of those who disagree with that legislation.

**Statement by Senators McCONNELL and CLEARY**

We voted to set S. 1054 for Special Order because we believe this issue deserves to be discussed and debated. However, we did not vote for Special Order because we believe in the merits of the Bill. The proponents and opponents of the legislation will have to make the case to see how we will vote on this matter.

**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.**

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE WITH AMENDMENTS**

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.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the concurrence in the House amendments.

Senator LEVENTIS proposed the following amendment (424LEVENTISOBJECT), which was adopted:

Amend the concurrent resolution, as and if amended, page 6, by striking line 14 and inserting:

/ Be it further resolved that copies of this resolution and a list of all members wishing to be listed as objecting to the concurrent resolution be forwarded to /

Renumber sections to conform.

Amend title to conform.

Senator LEVENTIS explained the amendment.

The amendment was adopted.

Senator LEVENTIS proposed the following amendment (424LEVENTIS2ND), which was tabled:

Amend the concurrent resolution, as and if amended, page 4, by striking lines 23 through 37.

Amend the concurrent resolution further, as and if amended, by striking line 40 on page 5 through line 2 on page 6.

Renumber sections to conform.

Amend title to conform.

Senator LEVENTIS explained the amendment.

Senator ROSE spoke contra to the amendment.

Senator ROSE moved to lay the amendment on the table.

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

**Ayes 27; Nays 8**

**AYES**

Alexander Bright Bryant

Campsen Cleary Courson

Cromer Davis Fair

Hayes Knotts Leatherman

Malloy *Martin, Larry Martin, Shane*

Massey McConnell Mulvaney

O’Dell Peeler Rose

Ryberg Setzler Sheheen

Shoopman Verdin Williams

**Total--27**

**NAYS**

Anderson Ford Hutto

Leventis Matthews Nicholson

Reese Scott

**Total--8**

The amendment was tabled.

Senator ROSE proposed the following amendment (424024.MTR), which was adopted:

Amend the resolution, as and if amended, page 1, by striking line 17 and inserting:

/ established a federal government limited in scope and guaranteeing /

Amend the resolution further, page 4, by striking lines 28-37 and inserting:

/ Whereas, the protections afforded under the Second Amendment to the United States Constitution are of great importance to the citizens of South Carolina and the State of South Carolina; and /

Amend the resolution further, page 6, by striking lines 1-2 and inserting:

/ and mandates that violate the rights granted under the Second, Ninth, and Tenth Amendments to the United States Constitution. /

Amend the resolution further, page 6, by striking lines 10-12 and inserting:

/ Be it further resolved that the General Assembly of the State of South Carolina, by this resolution, affirms its support of the Second, Ninth, and Tenth Amendments to the United States Constitution. /

Renumber sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

The amendment was adopted.

**Recorded Vote**

Senators BRYANT, VERDIN, BRIGHT and SHANE MARTIN desired to be recorded as voting against the adoption of the amendment.

Senator BRIGHT spoke on the Bill.

**Remarks by Senator BRIGHT**

PRESIDENT and Members of the Senate

I’ve heard a lot of talk about the Armed Intervention. I wish we would have requested a roll call vote. The more I think about it, we should have called for one. Our forefathers believed in Armed Intervention. I am not saying we need Armed Intervention and the Constitution.

This country was founded by men who loved freedom more than they loved the crown. There are men in this State -- and I count myself as one -- that love freedom more than anything else. The Second Amendment was created to protect us from the government not for hunting rabbit, deer or squirrels. It was to prevent the government from taking over.

I do not know what point the men in this room would be willing to stand -- and say enough is enough. When I heard the debate, I thought to myself, where is that point? If the Feds mandate it, we have to comply. We may not have come to that point. But at some point and time we may have to say enough. It disturbs me when we get up here in this Chamber and talk how dangerous it is -- that we as a Sovereign State might say enough is enough. I wanted to be heard on this because I love this body and I feel these words needed to be said.

I am thankful for the opportunity to stand up here and speak.

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

There being no further amendments, the Concurrent Resolution was ordered returned to the House with amendments.

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

**AMENDED, READ THE THIRD TIME**

**SENT TO THE HOUSE**

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

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

**Amendment No. 40A**

Senator RYBERG proposed the following Amendment No. 40A (391R077.WGR), which was adopted:

Amend the bill, as and if amended, page 78, by striking line 16 and inserting:

/ (10) the Executive Director of the Department of Employment and Workforce;

Amend the bill, as and if amended, page 82, after line 32 by inserting:

/ (E) The committee must discharge its duties related to screening and nominating qualified individuals for appointment by the Governor in the manner provided in Chapter 20, Title 2.” /

Amend the bill, as and if amended, page 87, after line 11 by inserting and appropriately numbered new SECTION to read:

/ SECTION \_\_\_. The Code Commissioner is directed to change all references in the to the 1976 Code to the “Employment Security Commission” to the “Department of Employment and Workforce” and all references to the “Chairman of the Employment Security Commission” or “chairman” that refer to the Chairman of the Employment Security Commission to “Executive Director of the Department of Employment and Workforce” or “executive director”, as appropriate. /

Amend the bill, as and if amended, page 88, by striking line 23 and inserting:

/ for fiscal year 2009‑2010, the funds appropriated to the South /

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 third time, passed and ordered sent to the House of Representatives with amendments.

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE WITH AMENDMENTS**

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.

By prior motion of Senator McCONNELL, with unanimous consent, the Senate proceeded to a consideration of the Bill, the question being the third reading of the Bill.

**Amendment No. 1**

Senators RYBERG, McCONNELL, LAND, PEELER, L. MARTIN, RANKIN, KNOTTS, SETZLER, LOURIE and MASSEY proposed the following amendment (3442R001.WGR), which was adopted:

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

/ Part I

Creation of Workforce Department Appellate Panel,

Transfer of Workforce Management Act Program to Department of Workforce, Creation of Department of Workforce, and

Replacement of the Employment Security Department

With the Department of Workforce

SECTION 1. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑300. (A) There is created the Workforce Department Appellate Panel within the Department of Workforce, which is separate and distinct from the department’s divisions. The sole purpose of the panel is to hear and decide appeals from decisions of the department’s divisions.

(B)(1) The panel is comprised of the members of the South Carolina Employment Security Commission. The commissioners must be elected in the manner provided in this subsection. The members of the South Carolina Employment Security Commission serving on the effective date of this section shall be initial members of the panel subject to subsection (E)(3).

(2) The commissioners must be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year.

(3) The commission must elect one of its members to be chairman. A vacancy must be filled by the Governor through a temporary appointment until the next session of the General Assembly, at which time a joint session of the General Assembly shall elect a commissioner to fill the unexpired term.

(4) The commissioners 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 but not to exceed compensation that is commensurate with their hearing duties.

(C)(1) A party may only appeal from a decision of the department directly to the panel. A party may only appeal a decision of the panel to in the court of common pleas, either in the county in which the employee resides or the county in which he was last employed in the manner provided in Section 41-35-750. (D) A quorum must consist of all three panel members and is necessary to hear or decide an appeal under item (C)(1). A decision of the panel must be rendered in writing and is subject to disclosure under the Freedom of Information Act.

(E)(1) A person must be screened and found qualified in the manner provided in Chapter 20, Title 2 before he may be elected to serve as a commissioner. The qualifications that each commissioner must possess, include, but are not limited to:

(a) a baccalaureate or more advanced degree from:

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

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

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

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

(i) general business administration;

(ii) general business management;

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

(iv) human resources management;

(v) finance; or

(vi) law.

(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

(3) As of the effective date of this act, the term of each commissioner is ended and each commissioner shall hold his seat in holdover status until his successor is elected.

(F)(1) The commissioners are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8‑13‑320. Commissioners must also comply with the applicable requirements of Chapter 13 of Title 8.

(2) Each year, the commissioners and their administrative assistants must attend a workshop of at least three continuing education hours concerning ethics.

SECTION 2. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑310. The Workforce Investment Act program created by the Workforce Investment Act of 1988 and transferred to the Department of Commerce by Executive Order 2005‑09 is transferred to the Department of Workforce on the effective date of this section.”

SECTION 3. Section 1‑30‑10(A) of the 1976 Code is amended to read:

“(A) There are hereby created, within the executive branch of the state government, the following departments:

1. Department of Agriculture

2. Department of Alcohol and Other Drug Abuse Services

3. Department of Commerce

4. Department of Corrections

5. Department of Disabilities and Special Needs

6. Department of Education

7. Department of Health and Environmental Control

8. Department of Health and Human Services

9. Department of Insurance

10. Department of Juvenile Justice

11. Department of Labor, Licensing~~,~~ and Regulation

12. Department of Mental Health

13. Department of Natural Resources

14. Department of Parks, Recreation and Tourism

15. Department of Probation, Parole~~,~~ and Pardon Services

16. Department of Public Safety

17. Department of Revenue

18. Department of Social Services

19. Department of Transportation

20. Department of Workforce”

SECTION 4. Section 41‑29‑10 of the 1976 Code is amended to read:

“Section 41‑29‑10. Chapters 27 through 41 of this title shall be administered by the South Carolina ~~Employment Security Commission~~ Department of Workforce. ~~The Commission shall consist of three members to be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year. Any vacancy occurring shall be filled by appointment by the Governor for the temporary period until the next session of the General Assembly, whereupon the General Assembly shall elect a commissioner to fill the unexpired term. Each commissioner shall receive an annual salary payable in monthly installments.~~”

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

“Section 41‑29‑20. (A) ~~The Commission shall elect one of its members as chairman. Any two commissioners shall constitute a quorum and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission through action of a quorum.~~ There is hereby created the South Carolina Department of Workforce which must be managed and operated by an executive director 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.

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

SECTION 7. Section 8‑17‑370 of the 1976 Code, is further amended by adding a new item at the end appropriately numbered to read:

“( ) the executive director, assistant directors, and the area directors of the South Carolina Department of Workforce created pursuant to Section 1‑30‑10(A)(20).”

SECTION 8. Chapter 27, Title 41 of the 1976 Code is amended by adding:

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

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

(C) This section is not intended to restrict or hinder the development of an unemployment benefits system financed in whole or in part by the United States Department of Labor.”

SECTION 9. Section 41-33-45 of the 1976 Code is amended to read:

“Section 41-33-45. The commission shall report, by October first of each year, to the ~~Senate Finance Committee~~ General Assembly and to the ~~House Ways and Means Committee~~ the Governor the amount in the unemployment trust fund and make an assessment of its funding level.”

SECTION 10. Section 41-31-10(A) of the 1976 Code is amended to read:

“Section 41-31-10. (A) Each employer shall pay contributions equal to five and four‑tenths percent of wages paid by him during each year except as may be otherwise provided in Chapters 27 through 41 of this title. Employers may prepay their required contributions to the fund. The department must promulgate regulations regarding the methodology by which the allowed prepayment amounts will be calculated and the manner in which they will be credited to the employer’s account.”

SECTION 11. The commission must file a report with the General Assembly and the Governor on or about January 1, 2011, making recommendations concerning restoration of the solvency of the unemployment trust fund.

Part II

Conforming and Miscellaneous Amendments

SECTION 12. Section 41‑27‑10 of the 1976 Code is amended to read:

“Section 41‑27‑10. Chapters 27 through 41 of this title shall be known and may be cited as the ‘South Carolina ~~Employment Security Law~~ Department of Workforce.’

SECTION 13. Section 41‑27‑30 of the 1976 Code is amended to read:

“Section 41‑27‑30. Nothing in Chapters 27 through 41 of this

title ~~shall~~ must be construed to cause the ~~Commission~~ department or the courts of this State in interpreting ~~such~~ these chapters to be bound by interpretations as to liability or nonliability of employers by Federal administrative agencies, nor is it the intent of the General Assembly to require an identical coverage of employers under ~~such~~ these chapters with ~~that under~~ coverage requirements pursuant to Section 3101 et seq. of the Federal Internal Revenue Code.”

SECTION 14. Section 41‑27‑150 of the 1976 Code is amended to read:

“Section 41‑27‑150. ‘Base period’ means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year~~; provided that~~. However, in the case of a combined wage claim filed by an individual in accord with an arrangement entered into by the ~~commission under~~ department pursuant to the ~~provision~~ provisions of Section 41‑29‑140(2), the base period ~~shall be~~ is that applicable ~~under~~ provided by the law of the paying state.”

SECTION 15. Section 41‑27‑160 of the 1976 Code is amended to read:

“Section 41‑27‑160. ‘Benefit year’ means the one‑year period beginning with the day as of which an insured worker first files a request for determination of his insured status, and ~~thereafter~~ afterward the one‑year period beginning with the day ~~as of~~ by which he next files ~~such~~ this request after the end of his last preceding ‘benefit year’; provided, that in the case of a combined wage claim filed by an individual in accord with an arrangement entered into by the ~~commission under~~ department pursuant to the provisions of Section 41‑29‑140(2), the benefit year ~~shall be~~ is that applicable ~~under~~ provided by the law of the paying state. The filing of a notice of unemployment ~~shall be deemed~~ is considered a request for determination of insured status if a current benefit year has not previously been established. ~~Requests~~ A request for determination of insured status ~~shall~~ must be made ~~in accordance with such~~ pursuant to regulations as the ~~commission may prescribe~~ department prescribes.”

SECTION 16. Section 41‑27‑190 of the 1976 Code is amended to read:

“Section 41‑27‑190. ‘~~Commission~~ Department’ means the South Carolina ~~Employment Security Commission~~ Department of Workforce.”

SECTION 17. Section 41‑27‑210(11) of the 1976 Code is amended to read:

“(11) For purposes of paragraphs (2), (6), (7), and (8), employment ~~shall include~~ includes service ~~which~~ that would constitute employment but for the fact that ~~such~~ the service is ~~deemed~~ considered to be performed entirely within another state pursuant to an election ~~under~~ provided by an arrangement entered into in accordance with Section 41‑27‑550 by the ~~commission~~ department and an agency charged with the administration of ~~any other~~ another state or federal unemployment compensation law.”

SECTION 18. Section 41‑27‑230(10) of the 1976 Code is amended to read:

“(10) ~~Services~~ A service not covered under item 7 of this section and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of ~~any other~~ another state or of the federal government, ~~shall be deemed to be~~ is considered employment subject to Chapters 27 through 41 of this Title if the individual performing such services is a resident of this State and the department approves the election of the employing unit for whom ~~such~~ the services are performed that the entire service of ~~such~~ the individual ~~shall be deemed to be~~ is considered employment subject to Chapters 27 through 41 of this title.”

SECTION 19. Section 41‑27‑235(C)(2) of the 1976 Code, as last amended by Act 170 of 2004, is further amended to read:

“(2) A Native American ~~tribes~~ tribe or tribal ~~units~~ unit that ~~elect~~ elects to pay ~~benefits~~ a benefit attributable to service in their employ but ~~fail~~ fails to reimburse the required ~~payments~~ payment, including an interest and penalty ~~assessments~~ assessment, within ninety days of the receipt of a bill, ~~cause~~ causes the Native American tribe to lose the option to make ~~payments~~ a payment in lieu of ~~contributions~~ a contribution for the following tax year unless payment in full is received before the contribution rates for the next year are computed. The ~~commission~~ department shall notify the United States Internal Revenue Service and the United States Department of Labor of a tribe or tribal unit’s failure to make a required ~~payments~~ payment within ninety days of a final notice of delinquency.”

SECTION 20. Section 41‑27‑260 of the 1976 Code, as last amended by Act 306 of 2002, is further amended to read:

“Section 41‑27‑260. The term ‘employment’ as used in Chapters 27 through 41 of this title ~~shall~~ does not include:

(1) labor engaged in the seafood industry, which is defined as persons employed in the commercial netting, catching, and gathering of seafood, and the processing of such seafood for the fresh market;

(2) casual labor not in the course of the employing unit’s trade or business;

(3) service performed by an individual in the employ of his son, daughter, or spouse and service performed by a child under the age of eighteen in the employ of his father or mother;

(4) service performed in the employ of the United States Government or ~~any~~ an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by Chapters 27 through 41 of this title, except that to the extent that the Congress of the United States ~~shall permit~~ permits states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of Chapters 27 through 41 of this title ~~shall be~~ are applicable to ~~such~~ those instrumentalities and to services performed for ~~such~~ those instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers; provided, that if this State ~~shall not be~~ is not certified for ~~any~~ a year by the Secretary of Labor or his successors under the Federal Internal Revenue Code, the payments required of ~~such~~ those instrumentalities with respect to such year ~~shall~~ must be refunded by the ~~commission~~ department from the funds in the same manner and within the same period as is provided in Section 41‑31‑360 with respect to contributions erroneously collected;

(5) service performed after December 31, 1977, in the employ of a governmental entity referred to in Section 41‑27‑230(2)(b), if ~~such~~ the service is performed by an individual in the exercise of his duties~~;~~ as:

(a) ~~As~~ an elected official or as the appointed successor of an elected official;

(b) ~~As~~ a member of a legislative body, or a member of the judiciary of a state or political subdivision;

(c) ~~As~~ a member of the State National Guard or Air National Guard;

(d) ~~As~~ an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(e) in a position ~~which~~ that, ~~under or~~ pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking position the performance of the duties of which ordinarily does not require more than eight hours per week~~.~~;

(6) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; provided, that the ~~commission shall~~ department must enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten days after publication ~~thereof~~ of it in the manner provided in Section 41‑29‑130 for general rules, to provide reciprocal treatment to individuals who have after acquiring potential rights to benefits under Chapters 27 through 41 of this title, acquired rights to unemployment compensation under such act of Congress or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under Chapters 27 through 41 of this title;

(7) service other than service performed as defined in Section 41‑27‑230(3) performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), ~~any~~ a political campaign on behalf of ~~any~~ a candidate for public office, provided, that service performed in the employ of an organization operated for the primary purpose of carrying on a trade or business for profit ~~shall~~ may not be exempt on the ground that all of its profits are payable to one or more organizations exempt under this paragraph;

(8) service other than service performed as defined in Section 41‑27‑230(3) ~~which~~ that is performed in ~~any~~ a calendar quarter in the employ of ~~any~~ an organization exempt from federal income tax under Section 501(a) (other than an organization described in Section 401(a)) or under Section 521 of the Federal Internal Revenue Code of 1954, if the remuneration for such service is less than fifty dollars;

(9) the term ‘employment’ ~~shall~~ does not include:

(a) service performed in the employ of a school, college, or university, if ~~such~~ the service is performed by:

(i) ~~by~~ a student who is enrolled and is regularly attending classes at ~~such~~ the school, college or university~~,~~; or

(ii) ~~by~~ the spouse of ~~such~~ the a student, if ~~such~~ the spouse is advised, at the time ~~such~~ the spouse commences to perform ~~such~~ the service that ~~(I)~~ the employment of ~~such~~ the spouse to perform ~~such~~ the service is provided under a program to provide financial assistance to ~~such~~ the student by ~~such~~ his school, college, or university, and ~~(II) such~~ the employment ~~will~~ is not ~~be~~ covered by ~~any~~ a program of unemployment insurance;

(b) service performed by an individual under the age of twenty‑two who is enrolled at a nonprofit or public educational institution ~~which~~ that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full‑time program, taken for credit at ~~such~~ the institution, which combines academic instruction with work experience, if ~~such~~ the service is an integral part of ~~such~~ the program, and ~~such~~ the institution has ~~so~~ certified this to the employer, except that this subparagraph ~~shall~~ does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(c) service performed in the employ of a hospital, if ~~such~~ the service is performed by a patient of the hospital, as defined in Section 41‑27‑280~~.~~;

(10) for the purposes of Section 41‑27‑230(2) and (3), ‘employment’ does not include service performed:

(a) in the direct employ of a church, convention, or association of churches or an organization operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church, convention, or association of churches; or

(b) by an ordained, a commissioned, or a licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by the order; or

(c) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be absorbed readily in the competitive labor market by an individual receiving rehabilitation or remunerative work; or

(d) before January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution; or

(e) as part of an unemployment work‑relief or work‑training program assisted or financed in whole or in part by a federal agency, an agency or political subdivision of a state, or an individual receiving work relief or work training, unless a federal law, rule, or regulation mandates unemployment insurance coverage to individuals in a particular work‑relief or work‑training program; or

(f) by an inmate who participates in a project designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90‑351~~.~~;

(11) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) service performed as a student nurse in the employ of a hospital or a nurses’ training school by an individual ~~who is~~ enrolled and ~~is~~ regularly attending classes in a nurses’ training school chartered or approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a ~~four years’~~ four‑year course in a medical school chartered and approved pursuant to state law;

(13) service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if ~~all such~~ this service is performed by ~~such~~ the individual for ~~such~~ his employer ~~is performed~~ for remuneration solely by way of ~~commission~~ department;

(14) service other than service performed as defined in Section 41‑27‑230(3) by an individual for an employer as a real estate salesman or agent, if ~~all such~~ this service is performed by ~~such~~ the individual for ~~such~~ his employer ~~is performed~~ for remuneration solely by way of ~~commission~~ department;

(15) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative~~.~~;

(16) ‘agricultural labor’ as ~~such term is~~ defined by Section 41‑27‑120 and when performed by students who are enrolled and regularly attending classes for at least five months during a particular year at a secondary school or at an accredited college, university, or technical school and also when performed by part‑time persons who do not qualify as students ~~hereunder~~ pursuant to this section but who at the conclusion of their agricultural labor would not qualify for ~~any~~ benefits ~~under~~ pursuant to the provisions of the ~~South Carolina Employment Security Law.~~ department;

(17) ~~services~~ service performed as a member of a Native American tribal council or ~~services~~ service in a fishing rights related activity of a Native American tribe by a member of ~~such~~ the tribe for another member of ~~such~~ the tribe or by a qualified Native American entity.”

SECTION 21. Section 41‑27‑360 of the 1976 Code is amended to read:

“Section 41‑27‑360. ‘Statewide average weekly wage’ means the amount computed by the ~~commission~~ department as of July first of each year ~~which shall be~~ that is the aggregate amount of wages, ~~(~~irrespective of the limitation on the amount of wages subject to contributions by reason of Section 41‑27‑380(2)~~)~~, reported by employers as paid during the first four of the last six completed calendar quarters ~~prior to such~~ before this date, divided by a figure representing fifty‑two times the twelve‑month average of the number of employees in the pay period containing the twelfth day of each month during the same four calendar quarters as reported by ~~such~~ those employers.”

SECTION 22. Section 41‑27‑370 of the 1976 Code, as last amended by Act 349 of 2000, is further amended to read:

“Section 41‑27‑370. (1) An individual is ~~deemed~~ considered ‘unemployed’ in ~~any~~ a week during which he performs no services and with respect to which no wages are payable to him or in ~~any~~ a week of less than full‑time work if the wages payable to him with respect to ~~such~~ that week are less than his weekly benefit amount. The ~~commission~~ department must prescribe regulations applicable to unemployed individuals, making such distinctions in the procedures as to total unemployment, part‑total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short‑time work, as the ~~commission deems~~ department considers necessary.

(2) An individual is ~~deemed~~ considered ‘unemployed’ in ~~any~~ a week during which no governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment ~~which is~~ attributable to his employment is payable to him or, if ~~such~~ that payment is payable to him with respect to ~~such~~ those weeks, the amount ~~thereof~~ of it is less than his weekly benefit amount. ~~Each~~ An eligible individual who is unemployed in ~~any~~ a week and ~~who~~ is receiving a ~~governmental~~ government or other pension, retirement or retired pay, annuity, or other similar periodic payment ~~which is~~ attributable to his employment must be paid with respect to ~~such~~ this week a benefit in an amount equal to his weekly benefit amount less the pension, retirement or retired pay, annuity, or other similar periodic payment payable to him with respect to such week. ~~Such~~ This benefit, if not a multiple of one dollar, must be computed to the next lower multiple of one dollar. The amount of benefits payable to an individual for ~~any~~ a week ~~which~~ that begins after the effective date of the applicable provision in the Federal Unemployment Tax Act and ~~which~~ that begins in a period with respect to which ~~such~~ this individual is receiving a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment ~~which is~~ based on the previous work of ~~such~~ the individual must be reduced ~~(but~~ not below zero~~)~~ but by an amount equal to the amount of ~~such~~ this pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week. However, if the provisions of the Federal Unemployment Tax Act permit, the requirements of this subsection shall ~~only~~ apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained, ~~(~~or contributed to,~~)~~ by a base period employer or chargeable employer.

In the event the individual has participated in ~~any~~ a pension, retirement or retired pay, annuity, or other similar plan of the base period employer or chargeable employer by having made contributions to ~~such~~ this plan, the weekly benefit amount payable to ~~such~~ the individual for ~~such~~ that week ~~shall~~ must be reduced, ~~(~~but not below zero~~)~~, by:

(a) ~~by~~ the pro‑rated weekly amount of the pension after deductions of that portion of the pension that is directly attributable to the percentage of the contributions made to the plan by such individual; or

(b) ~~by~~ no part of the pension if the entire contributions to the plan were provided by such individual, or by the individual and an employer, ~~(~~or any other person or organization~~)~~, who is not a base period employer or chargeable employer; or

(c) ~~by~~ the entire ~~pro‑rated~~ prorated weekly amount of the pension if ~~item~~ subitem (a) or ~~item~~ (b) does not apply.

This provision is effective for all weeks commencing on or after August 29, 1982.

For purposes of this subsection, social security benefits are not considered a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment attributable to the beneficiary’s employment. As a result, the offset of social security will be reduced from ~~50% to 0%~~ fifty to zero percent based on the fact that individuals are required to contribute to social security.

(3) ~~No~~ An individual may not be considered ~~as~~ unemployed in ~~any~~ a week in which the ~~commission~~ department finds that his unemployment is due to a vacation week with respect to which the individual is receiving or has received his regular wages. This subsection ~~is not applicable~~ does not apply to ~~any~~ a claimant whose employer fails to comply, in respect to ~~such~~ the vacation period, with the requirements of ~~all regulations~~ a regulation or ~~procedures~~ procedure of the ~~commission~~ department regarding the filing of ~~notices, reports~~ a notice, report, information, or ~~claims~~ claim in connection with individual, group, or mass ~~separations~~ separation arising from the vacation.

(4) ~~No~~ An individual may not be considered ~~as~~ unemployed in ~~any~~ a week, ~~(~~not to exceed two in any benefit year~~)~~, in which the ~~commission~~ department finds ~~that~~ his unemployment is due to a vacation week ~~which~~ that is constituted a vacation period without pay by reason of a written contract between the employer and the employees or by reason of the employer’s vacation policy and practice to his employees. This provision applies only if ~~it is found by~~ the ~~commission that~~ department finds employment will be available for the claimant with the employer at the end of a vacation period as described in this section. This subsection is not applicable to ~~any~~ a claimant whose employer fails to comply, in respect to ~~such~~ this vacation period, with the requirements of ~~all regulations~~ a regulation or ~~procedures~~ procedure of the ~~commission~~ department regarding the filing of ~~notices, reports~~ a notice, report, information, or ~~claims~~ claim in connection with an individual, group, or mass ~~separations~~ separation arising from the vacation.”

SECTION 23. Section 41‑27‑380 of the 1976 Code is amended to read:

“Section 41‑27‑380. ~~(1)~~(A) ‘Wages’ means ~~all~~ remuneration paid for personal services, including commissions and bonuses, ~~any~~ sums paid to an employee by an employer pursuant to an order of the National Labor Relations Board or by private agreement, consent, or arbitration for loss of pay by reason of discharge and cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration paid in ~~any~~ a medium other than cash is estimated and determined ~~in accordance with~~ pursuant to regulations prescribed by the ~~commission~~ department. ‘Wages’ includes all tip income, ~~(~~including charged tips~~)~~, ~~which are~~ received while performing ~~services which constitute~~ a service that constitutes employment and are included in a written statement furnished to the employer. ‘Wages’ does not include:

~~(a)~~(1) the amount of ~~any~~ a payment with respect to services performed in behalf of an individual in its employ ~~under~~provided by a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of individuals, ~~(~~including ~~any~~ an amount paid by an employing unit for insurance or annuities or into a fund to provide for any such payment~~)~~, ~~on account~~ because of:

~~(i)~~(a) retirement,

~~(ii)~~(b) sickness or accident disability,

~~(iii)~~(c) medical and hospitalization expenses in connection with sickness or accident disability, or

~~(iv)~~(d) death, provided the individual is in its employ has not the:

~~(A)~~(i) ~~has not the~~ option to receive, instead of provisions for death benefits, ~~any~~ part of payment or, if the death benefit is insured, ~~any~~ part of the premiums ~~(~~or contributions to premiums~~)~~ paid by his employing unit; and

~~(B)~~(ii) ~~has not the~~ right, under ~~the provisions~~ a provision of the plan, system, or policy of insurance providing for a death benefit, to assign the benefit or receive a cash consideration in lieu of the benefit either upon his withdrawal from the plan or system providing for the benefit or upon termination of the plan, system, or policy of insurance or of his ~~services~~ service with the employing unit~~.~~;

~~(b)~~(2) ~~Any amounts~~ an amount received from this State or the Federal Government by ~~members~~ a member of the South Carolina National Guard, the United States Naval Reserve, the Officers Reserve Corps, the Enlisted Reserve Corps, and the Reserve Corps of Marines as drill pay, including a longevity pay and ~~allowances~~ allowance~~.~~;

~~(c)~~(3) the payment by an employing unit, ~~(~~without deduction from the remuneration of the individual in its employ~~)~~, of the tax imposed upon an individual in its employ, ~~under~~ pursuant to Section 3101 of the Federal Internal Revenue Code, only if the service is agricultural labor or domestic service in a private home of the employer~~.~~;

~~(d)~~(4) ~~Any~~a payment, ~~(~~other than vacation pay or sick pay~~)~~, made to an employee after the month in which he attains the age of sixty‑five, if he did not work for the employer in the period for which payment is made~~.~~;

~~(e)~~(5) ~~Any~~a remuneration paid in a medium other than cash for a service performed in an agricultural labor or domestic service.

(2) For the purpose of Chapter 31, Article 1, of this title, ‘wages’ does not include ~~that part~~ a portion of remuneration ~~which~~ that, after remuneration equal to seven thousand dollars has been paid in a calendar year to an individual by an employer or his predecessor or with respect to employment during ~~any~~ a calendar year, is paid to the individual by the employer during the calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subsection, employment includes service constituting employment under any unemployment compensation law of another state.”

SECTION 24. Section 41‑27‑390 of the 1976 Code is amended to read:

“Section 41‑27‑390. ‘Week’ means calendar week or ~~such~~ a period of seven consecutive days ~~as~~ that the ~~commission may by~~ department prescribes by regulation ~~prescribe~~. The ~~commission may~~ department likewise may determine that a week ~~shall be deemed to be~~ is considered ‘in’, ‘within’, or ‘during’ that benefit year which includes the greater part of ~~such~~ that week.”

SECTION 25. Section 41‑27‑510 of the 1976 Code is amended to read:

“Section 41‑27‑510. The ~~commission~~ department shall prescribe regulations applicable to unemployed individuals, making ~~such~~ distinctions in the procedures as to total unemployment, part‑total unemployment, partial unemployment of the individuals attached to their regular jobs and other forms of short‑time work as the ~~commission deems~~ department considers necessary.”

SECTION 26. Section 41‑27‑550 of the 1976 Code is amended to read:

“Section 41‑27‑550. The ~~commission~~ department may enter into agreements with the appropriate agencies of other states or the Federal Government whereby individuals performing services in this and other States for a single employing unit under circumstances not specifically provided for in Section 41‑27‑230 or under similar provisions in the unemployment compensation laws of such other states shall be deemed to be engaged in employment performed entirely within this State or within one of such other states and whereby potential rights to benefits accumulative under the unemployment compensation laws of one or more states or under ~~such~~ the law of the Federal Government or both may constitute the basis for the payment of benefits through a single appropriate agency under terms which the ~~commission finds will be~~ department considers fair and reasonable as to all affected interests and will not result in ~~any~~ a substantial loss to the fund, and the ~~commission~~ department may enter into agreements with appropriate agencies of other states or the Federal Government administering unemployment compensation laws to provide that contributions on wages for services performed by an individual in more than one state for the same employer may be paid to the appropriate agency of one state.”

SECTION 27. Section 41‑27‑560 of the 1976 Code is amended to read:

“Section 41‑27‑560. ~~No~~ A report, communication, or ~~any~~ other ~~such~~ similar matter, either oral or written from an employee or employer to the other or to the ~~commission~~ department or ~~any of~~ its agents, representatives, or employees ~~which shall~~ that have been written, sent, delivered, or made in connection with the requirements and the administration of Chapters 27 through 41 of this title ~~shall~~ must be made the subject matter or basis of ~~any~~ a suit for slander or libel in ~~any~~ a court of ~~the~~ this State.”

SECTION 28. Section 41‑27‑570 of the 1976 Code is amended to read:

“Section 41‑27‑570. In case of a suit to enjoin the collection of the contributions provided for in Chapters 27 through 41 of this title, to test the validity of ~~such~~ those chapters or for ~~any other~~ another purpose connected with its duties, the ~~commission shall~~ department must be made a party ~~thereto~~ to it and the Attorney General or counsel for the ~~commission~~ department shall defend ~~such~~ the suit in accordance with the provisions of Section 41‑27‑580.”

SECTION 29. Section 41‑27‑580 of the 1976 Code is amended to read:

“Section 41‑27‑580. In ~~any~~ a civil action to enforce the provisions of Chapters 27 through 41 of this title, the ~~commission~~ department and the State may be represented by ~~any~~ a qualified attorney ~~who is~~ employed by the ~~commission~~ department and is designated by it for this purpose or, at the ~~commission’s~~ department’s request, by the Attorney General.”

SECTION 30. Section 41‑27‑600 of the 1976 Code is amended to read:

“Section 41‑27‑600. The ~~commission~~ department may compromise ~~any~~ a civil penalty or cause ~~or~~ of action arising ~~under the provisions~~ pursuant to a provision of Chapters 27 through 41 of this title instead of commencing suit ~~thereon~~ on them and may compromise ~~any such~~ the case after suit ~~thereon has been commenced~~ on it commences. In ~~such~~ these cases the ~~commission~~ department shall keep on file in its office the reasons for settlement by compromise~~,~~; ~~together with~~ a statement on the amount of contribution imposed~~,~~; the amount of additional contribution, penalty, or interest imposed by law in consequence of neglect or delinquency; and the amount actually paid ~~in accordance with~~ pursuant to the terms of the compromise.”

SECTION 31. Section 41‑27‑610 of the 1976 Code is amended to read:

“Section 41‑27‑610. The failure to do ~~any~~ an act required ~~by or underthe provisions~~ pursuant to a provision of Chapters 27 through 41 of this title ~~shall be deemed~~ is considered an act committed in part at the office of the ~~commission in Columbia~~ department.”

SECTION 32. Section 41‑27‑620 of the 1976 Code is amended to read:

“Section 41‑27‑620. The certificate of the ~~commission~~ department to the effect that a contribution has not been paid, that a report has not been made, that information has not been furnished, or that records have not been produced or made available for inspection, as required ~~under~~ pursuant to Chapters 27 through 41 of this title, ~~shall be~~ is prima facie evidence ~~thereof~~ of the alleged action.”

SECTION 33. Section 41‑27‑630 of the 1976 Code is amended to read:

“Section 41‑27‑630. ~~Benefits shall be deemed to be~~ A benefit is considered due and payable ~~under~~ pursuant to Chapters 27 through 41 of this title only to the extent provided in ~~such~~ those chapters and to the extent that ~~moneys are~~ money is available ~~therefor~~ for them to the credit of the unemployment compensation fund and neither the State nor the ~~commission shall~~ department must be liable for ~~any~~ an amount in excess of ~~such sums~~ that sum.”

SECTION 34. Section 41‑29‑40 of the 1976 Code is amended to read:

“Section 41‑29‑40. There are created under the ~~commission~~ department two coordinate divisions, the South Carolina State Employment Service Division created pursuant to Section 41‑5‑10, and a division to be known as the Unemployment Compensation Division. Each division ~~shall~~ must be administered by a full‑time salaried director, who ~~shall be~~ is subject to the supervision and direction of the ~~commission~~ department. The ~~commission~~ department may appoint, fix the compensation of, and prescribe the duties of the directors of ~~said~~ these divisions. ~~Such~~ These appointments ~~shall~~ must be made on a nonpartisan merit basis in accordance with the provisions of Section 41‑29‑90. The director of each division shall be responsible to the ~~commission~~ department for the administration of his ~~particular~~ respective division and ~~shall have such powers~~ has the power and authority as ~~may be~~ vested in him by the ~~commission~~ department.”

SECTION 35. Section 41‑29‑50 of the 1976 Code is amended to read:

“Section 41‑29‑50. The ~~commission~~ department shall appoint a ~~State~~ statewide advisory council and may appoint local or industry advisory councils, composed in each case of equal numbers of employer representatives and employee representatives, who may fairly be regarded as representatives because of their vocation, employment or affiliations, and of ~~such~~ members representing the general public as the ~~commission may designate~~ department designates. ~~Such councils~~ A local council shall aid the ~~commission~~ department in formulating ~~policies~~ a policy and discussing problems relating to the administration of Chapters 27 through 41 of this title, and in assuring impartiality and freedom from political influence in the solution of ~~such~~ those problems. ~~Such~~ A local advisory ~~councils shall~~ council must serve without compensation, but ~~shall~~ must be reimbursed for ~~any~~ necessary expenses.”

SECTION 36. Section 41‑29‑60 of the 1976 Code is amended to read:

“Section 41‑29‑60. The ~~Commission~~ department shall determine its own organization and methods of procedure ~~in accordance with~~ pursuant to the provisions of Chapters 27 through 41 of this title and shall have an official seal~~,~~ which ~~shall~~ must be judicially noticed.”

SECTION 37. Section 41‑29‑70 of the 1976 Code is amended to read:

“Section 41‑29‑70. Subject to the provisions of Chapters 27 through 41 of this title, the ~~Commission~~ department may appoint and fix the compensation ~~(subject to the approval of the State Budget and Control Board unless otherwise provided by the General Assembly)~~ and prescribe the duties and powers of ~~such~~ officers, accountants, attorneys, experts, and ~~other persons as may be~~ others necessary ~~in the performance of its~~ to perform the department’s duties ~~under Chapters 27 through 41 of~~ pursuant to this title.”

SECTION 38. Section 41‑29‑80 of the 1976 Code is amended to read:

“Section 41‑29‑80. The ~~Commission~~ department shall:

(1) classify all positions under Chapters 27 through 41 of this title~~,~~ except those exempted by the Federal Social Security Act or regulations of the Secretary of Labor or his successors under authority ~~thereof,~~ of them; and

(2) ~~shall~~ establish salary schedules and minimum personnel standards. ~~Such~~ Those standards ~~shall~~ must conform to the minimum standards prescribed under the provisions of Section 303(a)(1) of the Federal Social Security Act, as amended.”

SECTION 39. Section 41‑29‑90 of the 1976 Code is amended to read:

“Section 41‑29‑90. (A) The ~~Commission~~ department shall adopt and enforce fair and reasonable regulations for appointment, promotion, and demotion of its employees based upon ratings of efficiency and fitness. ~~Such~~ These regulations ~~shall~~ must provide:

(1) for the establishment of a merit system council composed of three ~~persons~~ people who do not hold political office, are not officers of a political party or organization, are of recognized standing and are in sympathy with the improvement of public administrations and the impartial selection of efficient government personnel on a merit basis~~, such~~. These council members ~~to~~ must be selected for terms of five years~~,~~ and their initial ~~appointment have been~~appointments are for terms of one, three, and five years respectively.~~, and to be~~ These council members are removable only for cause;

~~(2)~~ ~~that no employee of the Commission may shall be dismissed except for good cause, that any employee who is dismissed may appeal to the merit system council, and that the decision of the council as to whether or not the termination was for proper cause in accordance with the regulations prescribed under this section shall be binding upon the Commission except in cases of dismissal due to reduction of force or curtailment of funds;~~

~~(3)~~(2) for the holding of examinations to determine the qualification of applicants for ~~vacancies~~ a vacancy in a classified ~~positions~~ position and that, except for temporary appointments not to exceed six months in duration, ~~all~~ personnel ~~shall~~ must be appointed from registers set up as a result of ~~such~~ these examinations; and

~~(4)~~(3) that the merit system council ~~shall~~ must be vested with the control of administration of merit examinations to determine fitness and efficiency and ~~shall~~ must be charged with the selection and supervision of a supervisor of examinations to conduct actively and administer the merit system of personnel administration set up in accordance with the requirements of this section.

(B) The provisions of this section relating to the merit system ~~shall~~ may not operate to repeal ~~any~~ a prior act of the General Assembly ~~which may providefor~~ that provides a State personnel board or ~~which may provide for~~ a joint administration of the merit system for ~~this Commission~~ the department and ~~any other~~ another department ~~and~~ or state agency ~~of the State, and in so far as the provisions~~. A provision of this section ~~are in conflict~~ that conflicts with ~~any such act they shall be~~these acts are inoperative. The ~~Commission~~department shall not employ or pay ~~any~~a person who is an officer or committee member of ~~any~~a political party or organization.”

SECTION 40. Section 41‑29‑100 of the 1976 Code is amended to read:

“Section 41‑29‑100. The ~~Commission~~department may delegate to ~~any~~a person employed pursuant to Section 41‑29‑70 ~~such~~a power ~~and~~or authority ~~as~~ it ~~deems~~considers reasonable and proper for the effective administration of Chapters 27 through 41 of this title, and may in its discretion bond ~~any~~a person ~~handling moneys or signing checks under such~~authorized to handle money or sign a check pursuant to these chapters.”

SECTION 41. Section 41‑29‑110 of the 1976 Code is amended to read:

“Section 41‑29‑110. The ~~Commission shall administer Chapters 27 through 41 of this Title and it~~department may adopt, amend, or rescind ~~such rules and regulations~~a rule or regulation in Chapters 27 through 41 of this title, employ ~~such persons~~a person, make ~~such expenditures~~an expenditure, require ~~such reports as are~~a report not otherwise provided for in ~~such~~these chapters, make ~~such investigations and take such~~an investigation or take other action as it ~~deems~~considers necessary or suitable to ~~that end~~administer its duties and exercise its powers pursuant to the title.”

SECTION 42. Section 41‑29‑120 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑29‑120. (A)(1) The ~~commission~~ department, with the advice and aid of its advisory councils and through its appropriate divisions, shall take ~~all~~ appropriate steps to:

(a) reduce and prevent unemployment~~,~~;

(b) ~~to~~ encourage and assist in ~~the adoption of~~ adopting practical methods of vocational training, retraining, and vocational guidance~~,~~;

(c) ~~to~~ investigate, recommend, advise, and assist in ~~the establishment and operation~~ establishing and operating, by ~~municipalities, counties, school districts~~ a municipality, county, school district, and the State, of reserves for public works to be used in times of business depression and unemployment; ~~and~~

(d) ~~to~~ promote the reemployment of unemployed workers throughout the State in every other way that ~~may be~~ is feasible; and ~~to these ends~~

(e) promote the joint electronic filing of Employer Unemployment Insurance Benefits Payments and Reports in conjunction with South Carolina Business One Stop to provide employment units a single point of contact for reporting and paying state taxes.

(2) While pursuing these goals, the department also shall carry on and publish the results of statistical surveys, investigations, and research studies.

(B) The ~~commission~~department may require from an employing unit for the ~~commission’s~~department’s cooperation with the Bureau of Labor Statistics of the United States Department of Labor or its successor agency ~~the following reports~~the United States Bureau of Labor Statistics report to:

(1) ~~The United States Bureau of Labor Statistics report to~~ assign industry codes to South Carolina employers under the ES‑202 Covered Employment and Wages Program;

(2) ~~The United States Bureau of Labor Statistics report to~~ collect employment information on multiple worksites for South Carolina employers under the ES‑202 Covered Employment and Wages Program;

(3) ~~The United States Bureau of Labor Statistics report to~~ collect monthly employment, hours, and earnings from South Carolina employers under the BLS‑790 Current Employment Statistics Program;

(4) ~~The United States Bureau of Labor Statistics report to~~ collect employment information from federal employers under the ES‑202 Covered Employment and Wages Program; and

(5) ~~The United States Bureau of Labor Statistics report to~~ collect occupational employment and wage information from South Carolina employers under the Occupational Employment Statistics Program.

(C) As used in this section, ‘employing unit’ means ~~those entities~~ an entity employing more than twenty individuals.

(D) The department must institute the following measures to the fullest extent possible under state and federal law:

(1) increase eligibility reviews and investigations as to violations of Sections 41‑35‑110 and 41‑35‑120 and enforce appropriate disqualifications and penalties;

(2) increase investigations of violations of Chapter 41, Title 41 and enforce appropriate penalties;

(3) increase investigations of violations of Article 3, Chapter 31, Title 41 and enforce appropriate penalties;

(4) keep detailed voting and attendance records at all commission hearings and make them available to the General Assembly;

(5) keep detailed travel and expense records for commissioners and make them available to the General Assembly;

(6) continue to work with the South Carolina Budget and Control Board and Office of Research and Statistics to develop and continuously improve a customer service portal, to include increased interagency integration and data sharing, and keep the General Assembly regularly informed of its progress in upgrading its computer system through a possible multistate compact in cooperation with the federal government;

(7) report to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Labor, Commerce and Industry Committee within five days of the effective date of this act as to the degree the commission can accomplish or cannot accomplish each subitem in Sections 1 and 2 of this act, and provide reasons why a subitem cannot be accomplished if the commission cannot do so;

(8) report to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Labor, Commerce and Industry Committee on the first day of each month in Fiscal Years 2010 and 2011 on the progress of each request; and

(9) take all other actions necessary and prudent to effectively and efficiently manage the state’s unemployment benefits program.”

SECTION 43. Section 41‑29‑130 of the 1976 Code, is amended to read:

“Section 41‑29‑130. (A) General and special rules may be adopted, amended or rescinded by the ~~Commission only~~department after public hearing or opportunity to be heard ~~thereon, of~~on them, and for which proper notice has been given. ~~Such~~This notice ~~shall~~must be given by mail to the secretaries of the various commercial, business and trade organizations of the State who keep on file with the ~~Commission~~department their names and addresses for the purpose of receiving ~~such~~these notices.

(B) A ~~General rules shall become~~general rule becomes effective ten days after filing them with the Secretary of State and publication in one or more newspapers of general circulation in this State.

(C) A~~Special rules shall become~~special rule becomes effective ten days after notification ~~to~~ or mailing to the last known address of the individuals or concerns affected ~~thereby~~by them.

(D) A~~Regulations~~regulation may be adopted, amended, or rescinded by the ~~Commission~~department and ~~shall become~~becomes effective in the manner and at the time prescribed by the ~~Commission~~department.”

SECTION 44. Section 41‑29‑140 of the 1976 Code is amended to read:

“Section 41‑29‑140. The ~~Commission~~department may enter ~~into arrangements~~an arrangement with the appropriate ~~agencies~~agency of ~~other states~~another state or of the Federal Government with respect to the combination of wages~~, viz.:~~

(1) ~~The Commission may enter into~~ An agreement with the Federal Government ~~whereby~~where wages or services, upon the basis of which an individual may become entitled to benefits under ~~any~~an unemployment compensation law of the Federal Government, ~~shall be deemed to be~~are considered wages for employment by ~~employers~~an employer for the purpose of Sections 41‑35‑10 to 41‑35‑100~~; provided, such~~if the agency of the Federal Government ~~has agreed~~agrees to reimburse the fund for ~~such~~the portion of benefits paid under Chapters 27 through 41 of this title ~~upon~~on the basis of ~~such~~these wages or services as the ~~Commission~~department finds will be fair and reasonable and the ~~Commission~~department will reimburse ~~such~~the agency of the Federal Government with ~~such~~a reasonable portion of benefits paid under ~~any~~ law of the Federal Government ~~upon~~on the basis of employment or wages for employment by employers ~~as~~ the ~~Commission~~department finds will be fair and reasonable to all affected interests.

(2) The ~~Commission~~department shall participate in ~~any arrangements~~an arrangement for the payment of compensation on the basis of combining an individual’s wages and employment covered under Chapters 27 through 41 of this Title with his wages and employment covered under the unemployment compensation ~~laws of other states which are~~law of another state approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in ~~such~~those situations and ~~which include~~that includes provisions for:

(a) applying the base period of a single state law to a claim involving the combining of an individual’s wages and employment covered under two or more state unemployment compensation laws, and

(b) avoiding the duplicate use of wages and employment by reason of ~~such~~this combining.

(3) ~~Reimbursement so payable shall be deemed to be benefits~~This reimbursement is considered a benefit for the purpose of Section 41‑35‑50 and Article 1, ~~of~~ Chapter 33 of this title. The ~~Commission~~department may make to ~~other~~another state or Federal ~~agencies~~agency and receive from ~~such~~another state or Federal ~~agencies reimbursements~~agency reimbursement from or to the fund~~,~~ in accordance with ~~arrangements~~an made pursuant to this section.”

SECTION 45. Section 41‑29‑150 of the 1976 Code is amended to read:

“Section 41‑29‑150. ~~Each~~An employing unit ~~shall~~must keep true and accurate work records~~,~~ containing ~~such~~ information ~~as~~ the ~~Commission may prescribe~~department prescribes. ~~Such~~These records ~~shall~~must be open to inspection and ~~be~~ subject to being copied by the ~~Commission~~department or its authorized ~~representatives~~representative at ~~any~~a reasonable time and as often as ~~may be~~ necessary. The ~~Commission~~department and the chairman of ~~any~~an appeal tribunal may require from ~~any~~an employing unit ~~any~~a sworn or unsworn report with respect to persons employed by it ~~which~~that he or it ~~deems~~considers necessary for the effective administration of Chapters 27 through 41 of this title. Information ~~thus~~ obtained~~,~~in this manner or ~~obtained~~ from an individual pursuant to the administration of ~~such~~these chapters~~, shall~~, except to the extent necessary for the proper administration of such chapters, shall be held confidential and ~~shall~~may not be published or be open to public inspection, other than to the public employees in the performance of their public duties, in any manner revealing the individual’s or employing unit’s identity~~, but any~~. However, a claimant or his legal representative at a hearing before an appeal tribunal ~~shall~~must be supplied ~~with~~ information from ~~such~~these records to the extent necessary for the proper presentation of his claim. ~~Any~~An employee or member of the ~~Commission~~department who violates ~~any~~a provision of this section ~~shall~~must be fined not less than twenty dollars ~~nor~~or more than two hundred dollars, ~~or~~ imprisoned for not longer than ninety days, or both.”

SECTION 46. Section 41‑29‑170 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑29‑170. (A) A claimant or ~~a claimant’s~~his legal representative must be supplied with information from the records, to the extent necessary for the proper presentation of ~~the~~his claim in ~~any~~a proceeding ~~under~~pursuant to Chapters 27 through 41, subject to restrictions the ~~commission~~department may prescribe by regulation ~~prescribe~~.

(B)(1) Upon written request, the ~~commission~~department may furnish information obtained through the administration of Chapters 27 through 42 including, but not limited to, the name, address, ordinary occupation, wages, and employment status of ~~each~~a covered worker or recipient of benefits and the recipient’s rights to ~~further~~additional benefits ~~under~~pursuant to Chapters 27 through 41, to:

~~(1)~~(a) an agency or agent of the United States charged with the administration of public works or assistance through public employment;

~~(2)~~(b) a state agency similarly charged; ~~or~~and

~~(3)~~(c) an agency or entity to which disclosure is permitted or required by federal statute or regulation or by state law.

(2) This disclosure ~~must be made~~is subject to restrictions the ~~commission~~department mayprescribe by regulation ~~prescribe~~.

(C)(1) The State Employment Office ~~shall~~must furnish, upon request of a public agency administering the Temporary Assistance to Needy Families (TANF) ~~and~~or child support programs, a state agency administering food stamp coupons, ~~thea~~ state or federal agency administering the new hire directory, or ~~any~~a public housing authority, ~~any~~ information in its possession relating to:

~~(1)~~(a) ~~individuals~~an individual who ~~are~~is receiving, ~~have~~has received, or ~~have~~has applied for unemployment insurance;

~~(2)~~(b) the amount of benefits being received;

~~(3)~~(c) the current home address of these individuals;

~~(4)~~(d) whether ~~any~~an offer of work has been refused and, if so, a description of the job and the terms, conditions, and rate of pay;

~~(5)~~(e) in the case of requests from a public housing authority, a listing of the current employer and previous employers for the available preceding six calendar quarters;

~~(6)~~(f) in the case of requests from the state or federal agency ~~which~~that issues food stamp coupons or the new hire directory, a listing of the current employer and address and ~~any~~ previous employers and their addresses, including wage information, for the available preceding six calendar quarters.

The requesting agency is responsible for reimbursing the ~~South Carolina Employment Security Commission~~department for actual costs incurred in supplying the information. This information must be provided in the most useful and economical format possible.”

SECTION 47. Section 41‑29‑180 of the 1976 Code is amended to read:

“Section 41‑29‑180. The ~~Commission~~department shall endeavor, both for the relief of the clerical work of employers and its own office, to confine reporting to the minimum necessary for the proper administration of the law, and, except for necessary separation, low earnings, special reports or notices, or wage and employment reports required ~~under~~pursuant to Section 41‑29‑140, it shall not require reports as to the earnings of individual employees more frequently than quarterly.”

SECTION 48. Section 41‑29‑190 of the 1976 Code is amended to read:

“Section 41‑29‑190. In the discharge of the duties imposed by Chapters 27 through 41 of this title, the ~~Commission~~department or ~~any~~a duly authorized representative ~~thereof as designated by its rules~~of it may administer ~~oaths and affirmations~~an oath and affirmation, take ~~depositions~~a deposition, certify to an official ~~acts~~act and issue ~~subpoenas~~a subpoena to compel the attendance of ~~witnesses~~a witness and the production of books, papers, correspondence, memoranda and other records ~~deemed~~considered necessary as evidence in connection with a disputed claim or the administration of ~~such chapters~~Chapters 27 through 41 of this title.”

SECTION 49. Section 41‑29‑200 of the 1976 Code is amended to read:

“Section 49‑21‑200. ~~No~~A person ~~shall~~must not be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the ~~Commission~~department, an appeal tribunal, or ~~any~~their duly authorized representative ~~of either of them~~ or in obedience to the subpoena of ~~either of~~ them in ~~any~~a cause or proceeding before the ~~Commission~~department or an appeal tribunal 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. ~~But no~~An individual ~~shall~~must not be prosecuted or subjected to ~~any~~a penalty or forfeiture for or on account of ~~any~~a 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 ~~such~~the individual ~~so~~ testifying ~~shall~~must not be exempt from prosecution and punishment for perjury committed in ~~so~~ testifying.”

SECTION 50. Section 41‑29‑210 of the 1976 Code is amended to read:

“Section 41‑29‑210. (1) In case of contumacy by ~~any~~a person or refusal to obey a subpoena issued to ~~any~~a person, ~~any~~a court of this State or judge ~~thereof~~of this State within the jurisdiction of which ~~such~~the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the ~~Commission~~department or ~~any~~a duly authorized representative may issue to ~~such person~~him an order requiring him to appear before the ~~Commission~~department or ~~any~~a duly authorized representative ~~there~~of the department to produce evidence if ~~so~~ ordered to do so or to give testimony touching the matter under investigation or in question. ~~Any~~ Failure to obey an order of the court may be punished as a contempt ~~thereof~~of the order.

(2) ~~Any~~A person who ~~shall~~, without just cause, ~~fail or refuse~~fails or refuses to attend and testify~~,~~; to answer ~~any~~a lawful inquiry; or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do ~~so~~this in accordance with a subpoena of the ~~Commission~~department or ~~any~~a duly authorized representative ~~shall~~must be punished by a fine of not less than twenty nor more than two hundred dollars or by imprisonment for not more than thirty days. Each failure to obey a subpoena ~~shall constitute~~constitutes a separate offense.”

SECTION 51. Section 41‑29‑220 of the 1976 Code is amended to read:

“Section 41‑29‑220. The ~~Commission~~department may request the Comptroller of the Currency of the United States to cause an examination of the correctness of ~~any~~a return or report of ~~any~~a national banking association rendered pursuant to the provisions of Chapters 27 through 41 of this title, and may in connection with ~~such~~this request transmit ~~any such~~this report or return it to the Comptroller of the Currency of the United States as provided in Section 3305(c) of the Federal Internal Revenue Code.”

SECTION 52. Section 41‑29‑230 of the 1976 Code is amended to read:

“Section 41‑29‑230. (1) In the administration of Chapters 27 through 41 of this title, the ~~Commission shall~~department must cooperate with the United States Secretary of Labor to the fullest extent consistent with the provisions of ~~such~~these chapters, and ~~shall take such action~~act, through the adoption of appropriate rules, regulations, administrative methods and standards, as ~~may be~~ necessary to secure to this State and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner‑Peyser Act, and the Federal‑State Extended Unemployment Compensation Act of 1970.

(2) In the administration of the provisions in Chapter 35, Article 3 of this Title, which are enacted to conform with the requirements of the Federal‑State Extended Unemployment Compensation Act of 1970, the ~~Commission shall take such action as may be~~department must act as necessay to:

(a) ~~to~~ ensure that the provisions are ~~so~~ interpreted and applied ~~as~~ to meet the requirements of ~~such~~those Federal act as interpreted by the United States Secretary of Labor~~,~~; and

(b) ~~to~~ secure to this State the full reimbursement of the Federal share of extended benefits paid ~~under~~pursuant to this title that are reimbursable under the Federal act.”

SECTION 53. Section 41‑29‑240 of the 1976 Code is amended to read:

“Section 41‑29‑240. The ~~Commission~~department may make the State’s record relating to the administration of Chapters 27 through 41 of this title available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the board’s expense ~~of such Board~~, ~~such~~ copies ~~thereof~~of this record as the Railroad Retirement Board ~~deems~~considers necessary for its purposes. The ~~Commission~~department may afford reasonable cooperation with ~~every~~an agency of the United States charged with the administration of an unemployment insurance law.”

SECTION 54. Section 41‑29‑250 of the 1976 Code is amended to read:

“Section 41‑29‑250. ~~The commission shall cause to be printed for distribution to the public the text of Chapters 27 through 41 of this Title, the Commission’s regulations, its general and special rules, its annual reports to the Governor and General Assembly and any other material the Commission deems relevant and suitable and shall furnish such material to any person upon application therefor.~~The department must:

(A) print and make available for public distribution the text of Chapters 27 through 41 of this title and its:

(1) regulations;

(2) general rules;

(3) special rules;

(4) annual reports to the Governor and General Assembly; and

(5) other material the department considers relevant and suitable.

(B) Furnish this material to a person on request.”

SECTION 55. Section 41‑29‑270 of the 1976 Code is amended to read:

“Section 41‑29‑270. Notwithstanding the provisions of Chapters 27 through 41 of this title, the ~~Commission~~department may issue ~~such regulations as deemed~~ regulation it considers necessary for the operation of an emergency unemployment compensation system in the event of an enemy attack ~~which~~that disrupts or endangers the usual procedures or facilities of the ~~Commission~~department.”

SECTION 56. Section 41‑29‑280 of the 1976 Code is amended to read:

“Section 41‑29‑280. Not later than the fifteenth day of January of ~~each year the Commission~~annually, the department shall submit to the Governor and ~~to~~ the General Assembly a report covering the administration and operation of Chapters 27 through 41 of this Title during the preceding fiscal year and ~~shall~~ make ~~such~~ recommendations for amendments to ~~such~~these chapters as the ~~Commission deems~~department considers proper. ~~Such~~These reports ~~shall~~must include a balance sheet of the ~~moneys~~money in the fund in which there ~~shall~~must be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserves ~~shall~~must be set up by the ~~Commission~~department in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period.”

SECTION 57. Section 41‑29‑290 of the 1976 Code is amended to read:

“Section 41‑29‑290. ~~Whenever the Commission~~When the department believes ~~that~~ a change in contribution or benefit rates ~~will become~~is necessary to protect the solvency of the fund, it ~~shall~~ promptly ~~so~~must inform the Governor and the General Assembly of this information and make recommendations ~~with respect thereto~~regarding it.”

SECTION 58. Section 41‑33‑10 of the 1976 Code is amended to read:

“Section 41‑33‑10. There is established a special fund, to be known as the unemployment compensation fund, which ~~shall~~must be administered separate and apart from all public moneys or funds of the State. This fund ~~shall~~must consist of:

(1) All contributions and payments in lieu of contributions collected under Chapters 27 through 41 of this title;

(2) interest earned ~~upon~~on any ~~moneys~~money in the fund;

(3) ~~Any~~ property or securities acquired through the use of ~~moneys~~money belonging to the fund;

(4) ~~All~~ earnings of ~~such~~those property or securities;

(5) ~~All~~ money credited to this State’s account in the unemployment trust fund pursuant to Section 903 of the Social Security Act, as amended;

(6) ~~All~~ money received from the Federal Government as reimbursements pursuant to Section 204 of the Federal‑State Extended Compensation Act of 1970; and

(7) ~~All~~ money received for the fund from ~~any other~~another source. ~~All~~ Money in the fund ~~shall~~must be comingled and undivided.”

SECTION 59. Section 41‑33‑20 of the 1976 Code is amended to read:

“Section 41‑33‑20. Subject to the provisions of Chapter 27 through 41 of this title, the ~~Commission~~department is invested with the full power, authority, and jurisdiction over the fund, including all ~~moneys and~~money, property ~~or~~, and securities belonging ~~thereto~~to it, and may perform any and all acts, whether or not ~~herein~~ specifically designated in this title, which are necessary or convenient in the administration ~~thereof~~of this title consistent with the provisions of ~~such~~those Chapters.”

SECTION 60. Section 41‑33‑30 of the 1976 Code is amended to read:

“Section 41‑33‑30. The State Treasurer ~~shall be~~is ex officio treasurer and custodian of the fund and ~~he~~ shall administer ~~the fund in accordance with~~it pursuant to the directions of the ~~Commission~~ department and shall issue his warrants upon it ~~in accordance with such~~pursuant to regulations ~~as~~ the ~~Commission shall prescribe~~department prescribes.

SECTION 61. Section 41‑33‑40 of the 1976 Code is amended to

read:

“Section 41‑33‑40. All ~~moneys~~money in the fund ~~shall~~must be mingled and undivided, but the State Treasurer shall maintain within the fund three separate accounts:

(a) ~~A~~ a clearing account~~,~~;

(b) an unemployment trust fund account; and

(c) a benefit account.

All ~~moneys~~money payable to the fund ~~shall~~, upon receipt ~~thereof~~of the money by the ~~Commission~~department, must be forwarded to the State Treasurer who ~~shall~~ immediately shall credit ~~them~~it to the clearing account.”

SECTION 62. Section 41‑33‑45 of the 1976 Code is amended to read:

“Section 41‑33‑45. (A) The commission shall report, by October first of each year, to the ~~Senate Finance Committee~~ General Assembly and to the ~~House Ways and Means Committee~~ Governor the amount in the unemployment trust fund and make an assessment of its funding level.

(B)(1) The annual assessment report must contain a trend chart concerning the Unemployment Reserve Fund’s annual balance each year for at least the previous five years. The chart must compare the ending balance for each year with the minimum reserves needed to withstand an average recession and a severe recession.

(2) The annual assessment report must also contain an analysis of the cost paid to beneficiaries and cost-shifting, if any, from companies without a negative balance in their account fund to companies with a negative balance in their fund account. The analysis must be conducted with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. The analysis must also include recommendations for adjusting the tax structure to address inequities that arise due to cost shifting.”

SECTION 63. Section 41‑33‑80 of the 1976 Code, as last amended by Act 306 of 2002, is further amended to read:

“Section 41‑33‑80. Except as provided in Section 41‑33‑180, ~~monies~~money must be requisitioned from this state’s account in the unemployment trust fund solely for the payment of benefits or refunds pursuant to Section 41‑31‑360 or item (6) of Section 41‑27‑260 and in accordance with regulations prescribed by the ~~commission,~~department; except that money credited to this account pursuant to Section 903 of the Social Security Act, as amended, must be used exclusively as provided in Sections 41‑33‑130 to 41‑33‑160.”

SECTION 64. Section 41‑33‑90 of the 1976 Code is amended to read:

“Section 41‑33‑90. The ~~Commission~~department shall from time to time issue its requisition for a lump sum amount for the payment of benefits or refunds upon the Comptroller General who shall draw his warrant on the State Treasurer in the form provided by law. The Treasurer shall pay ~~such~~this amount to the ~~Commission~~department by a check drawn on the benefit account, notwithstanding any provisions of law in this State relating to deposit, administration, release and disbursement of ~~moneys~~money in the possession or custody of this State to the contrary ~~notwithstanding~~. The ~~Commission~~department in requisitioning lump sum withdrawals from the State Treasurer for the payment of individual benefit claims shall not exceed in any event the balance of funds in the benefit account, and ~~such~~the requisition ~~shall~~must be in an amount estimated to be necessary for benefit payments for ~~such~~a period ~~as~~that the ~~Commission~~department may ~~by regulation~~ prescribe by regulation.”

SECTION 65. Section 41‑33‑100 of the 1976 Code is amended to read:

“Section 41‑33‑100. Such lump sum amounts when received by the ~~Commission~~department from the State Treasurer ~~shall~~must be immediately deposited by the ~~Commission~~department in a benefit payment account maintained in the name of the ~~Commission~~ department in ~~such~~that bank or public depository and under ~~such~~ conditions ~~as~~ the ~~Commission~~department determines necessary. ~~Such~~The bank or public depository ~~shall~~must be one in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund or benefit payment account. The ~~Commission~~department shall require ~~of such~~the bank or depository ~~as~~ it ~~may select~~selects as the depository of the benefit payment account security in an amount equal to the amount on deposit ~~at any time~~. ~~Such~~This security ~~shall~~must consist of securities or a surety bond ~~as~~ required by law of depositories of ~~State~~state funds.”

SECTION 66. Section 41‑33‑110 of the 1976 Code is amended to read:

“Section 41‑33‑110. The ~~Commission~~department shall delegate to designated representatives the authority to sign checks on the benefit payment account and the signature of one of ~~such~~ the designated representatives ~~shall~~must be required on each ~~such~~ check. The ~~Commission~~department shall require each ~~such~~the representative to give a bond in ~~such~~an amount ~~as~~ the ~~Commission shall determine~~department determines for his faithful performance of his duties in connection with the benefit payment account in ~~such~~a form ~~as may be~~ prescribed by law or approved by the Attorney General. Premiums for ~~such~~these bonds ~~shall~~must be paid from the unemployment compensation administration fund. ~~Any~~A duly authorized representative of the ~~Commission~~department may draw and issue its checks on the benefit payment account for the payment of individual benefit claims.”

SECTION 67. Section 41‑33‑120 of the 1976 Code is amended to read:

“Section 41‑33‑120. ~~Refunds~~A refund payable pursuant to Section 41‑31‑360 or item (6) of Section 41‑27‑260 may be paid from the clearing or benefit accounts upon requisition by the ~~Commission~~department to the Comptroller General, who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay ~~them~~the refund from ~~such~~the proper account.”

SECTION 68. Section 41‑33‑130 of the 1976 Code is amended to read:

“Section 41‑33‑130. ~~Expenditures of moneys~~ An expenditure of money in the benefit account and ~~refunds~~a refund from the clearing account ~~shall~~must not be subject to ~~any provisions~~a provision of law requiring a specific ~~appropriations~~appropriation or other formal release by ~~State~~state officers of money in their custody. ~~All warrants~~A warrant issued for the payment of ~~benefits~~a benefit and ~~refunds shall~~a refund must bear the signature of the ~~Commission~~department or a duly authorized agent for that purpose.”

SECTION 69. Section 41‑33‑170 of the 1976 Code is amended to read:

“Section 41‑33‑170. ~~Any~~A balance of ~~moneys~~money requisitioned from the unemployment trust fund under Section 41‑33‑80 which remains unclaimed or unpaid in the benefit account and the benefit payment account after the expiration of the period for which ~~such~~those sums were requisitioned ~~shall~~either must be deducted from ~~estimates~~an estimate for, and may be ~~utilized~~used for the payment of, ~~benefits~~a benefit during a succeeding ~~periods~~period or, in the discretion of the ~~Commission, shall~~department, must be redeposited with the Secretary of the Treasury of the United States to the credit of this State’s account in the unemployment trust fund, as provided in Section 41‑33‑50.”

SECTION 70. Section 41‑33‑180 of the 1976 Code is amended to read:

“Section 41‑33‑180. ~~Moneys may also~~Money also may be requisitioned from this State’s account in the unemployment trust fund for the payment of benefits under ~~any~~an unemployment compensation, unemployment insurance, or unemployment benefit law administered by a bureau, department, division, agency, or instrumentality of the United States to which the ~~Commission~~department has made available its personnel and facilities for the taking, processing, determination, and paying of claims ~~under the authority of~~pursuant to Section 41‑29‑230. ~~But no moneys~~No money may be drawn from the unemployment trust fund for the purpose of paying benefits for or on behalf of the United States unless a provision ~~be~~ first is made by law, agreement, or contract for the reimbursement ~~thereof~~of the money by the bureau, department, division, agency, or instrumentality of the United States for or on behalf of which ~~such~~the benefits have been paid.”

SECTION 71. Section 41‑33‑190 of the 1976 Code is amended to read:

“Section 41‑33‑190. The ~~Commission~~department may establish bank accounts other than the benefit payment account and deposit ~~therein moneys~~in them money requisitioned from the unemployment trust fund for the payment of benefits for or on behalf of the United States as provided in Section 41‑33‑180. All provisions of this article governing the deposit, administration, mode of check signing, and safeguarding of the benefit payment account ~~shall~~must apply to ~~any accounts~~an account established by the ~~Commission~~department under ~~the authority of~~ this section.”

SECTION 72. Section 41‑33‑200 of the 1976 Code is amended to read:

“Section 41‑33‑200. ~~Any~~A balance of ~~moneys~~money requisitioned from the unemployment trust fund under Section 41‑33‑180 which remains unclaimed or not disbursed in ~~such account or~~those accounts after the expiration of the period for which ~~such~~the sums were requisitioned ~~shall~~ either must be deducted from estimates for, and ~~utilized~~used in the payment of, benefits during succeeding periods or, in the discretion of the ~~Commission, shall~~department, must be redeposited with the Secretary of the Treasury of the United States to the credit of this State’s account in the unemployment trust fund, as provided in Section 41‑33‑50.”

SECTION 73. Section 41‑33‑210 of the 1976 Code is amended to read:

“Section 41‑33‑210. The provisions of this article to the extent that they relate to the unemployment trust fund ~~shall~~must be operative only so long as the Secretary of the Treasury of the United States continues to maintain for this State a separate book account of all funds deposited ~~therein~~in the trust fund by this State for benefit purposes, together with this State’s proportionate share of the earnings of ~~such~~the unemployment trust fund, from which no other State is permitted to make withdrawals. If and when ~~such~~the unemployment trust fund ceases to exist or ~~such~~a separate book account is no longer maintained, all ~~moneys~~money, properties, or securities ~~therein~~in the trust fund belonging to the unemployment compensation fund of this State ~~shall~~must be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release ~~such moneys~~the money, properties, or securities in a manner approved by the ~~Commission~~department in accordance with the provisions of Chapters 27 through 41 of this title. ~~But such moneys shall~~This money must be invested only in ~~the~~ readily marketable bonds or other interest bearing obligations of the United States or of this State or a political subdivision ~~thereof~~of this State and ~~such~~these investments ~~shall~~ at all times must be ~~so~~ made so that all the assets of the fund ~~shall~~ always must be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the ~~Commission~~department in accordance with the purposes and provisions of Chapters 27 through 41 of this title.”

SECTION 74. Section 41‑33‑430 of the 1976 Code is amended to read:

“Section 41‑33‑430. ~~All moneys which are~~Money deposited or paid into the fund are appropriated and made available to the ~~Commission~~department. ~~All moneys~~Money in this fund ~~shall~~must be expended solely for the purpose of defraying the cost of the administration of Chapters 27 through 41 of this title and for no other purpose ~~whatsoever~~. ~~Any balances~~A balance in the fund ~~shall~~may not lapse at any time but ~~shall be~~ continuously must be available to the ~~Commission~~department for expenditure consistent with Chapters 27 through 41 of this title. The ~~Commission~~department shall issue its requisition approved by the chairman or ~~any~~a designated member, officer, or agent for payment of ~~such~~the costs of administration to the Comptroller General who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay it by check on the employment security administration fund.”

SECTION 75. Section 41‑33‑460 of the 1976 Code is amended to read:

“Section 41‑33‑460. ~~If any~~Money in the employment security administration fund, paid to this State under Title III of the Social Security Act, and the Wagner‑Peyser Act, is found by the Secretary of Labor, or his successors, because of ~~any~~an action or contingency, to have been lost or ~~to have been~~ expended for ~~purposes~~a purpose other than, or in ~~amounts~~an amount in excess of, those found necessary by the Secretary of Labor, ~~or his successors,~~ for the proper administration of the employment security program, it is the policy of this State that ~~such~~the money ~~shall~~must be replaced by money appropriated for ~~such purposes~~this purpose from the general funds of this State to the employment security administration fund for expenditures as provided in Section 41‑33‑430. ~~But~~Funds ~~which~~that have been expended by the ~~Commission~~department or its agents ~~in accordance with~~pursuant to a budget approved by the Secretary of Labor, ~~or his successors, or in accordance with~~pursuant to the general standards and limitations promulgated by the Secretary of Labor, ~~or his successors, prior to such~~before this expenditure, when proposed expenditures have not been specifically disapproved by the Secretary of Labor ~~or his successors~~, ~~shall~~must not be ~~deemed~~ considered to require replacement.”

SECTION 76. Section 41‑33‑470 of the 1976 Code is amended to read:

“Section 41‑33‑470. The ~~Commission~~department shall report to the State Budget and Control Board in the same manner as is required generally for the submission of financial requirements for the ensuing year and the board shall include in its request for general appropriations presented to the General Assembly at its next regular session a statement of the amounts required for any replacement required by Section 41‑33‑460.”

SECTION 77. Section 41‑33‑610 of the 1976 Code is amended to read:

“Section 41‑33‑610. (~~a~~A) There is ~~hereby~~ created in the State Treasury a special fund to be known as the employment security special administration fund, which ~~shall~~must consist of all penalties and interest collected on contributions due pursuant to Sections 41‑31‑330 and 41‑31‑350 and interest collected on unpaid contributions pursuant to Section 41‑31‑370. ~~All~~ Money in the ~~special administration~~ fund ~~shall~~must be deposited, administered, and disbursed ~~in accord with~~pursuant to the provisions of Section 41‑33‑420 applicable to the employment security administration fund.

(~~b~~B) ~~All moneys which are~~Money deposited in the special administration fund ~~are~~ is appropriated and made available to the ~~Commission~~department. ~~All moneys~~ Money in the fund ~~shall~~must be expended solely for:

(1) replacements in the employment security administration fund as provided in Section 41‑33‑460~~.~~;

(2) refunds pursuant to Section 41‑31‑360 of interest erroneously collected~~.~~; and

(3) special, extraordinary, and incidental expenses incurred in the administration of Chapters 27 through 41 of this title not provided for in the employment security administration fund and for which federal funds are not granted by the Federal Government through the Secretary of Labor or its other agencies.

(C) ~~Any balances~~A balance in the fund shall not lapse at any time but ~~shall~~must be continuously available to the ~~Commission~~department for expenditure consistent with Chapters 27 through 41 of this title. The ~~Commission~~department shall issue its requisition approved by ~~the chairman~~its director or ~~any~~his designated ~~member,~~officer~~,~~ or agent for the purposes set forth ~~herein~~in this section to the Comptroller General who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay it by check on the ~~special administration~~ fund.”

SECTION 78. Section 41‑33‑710 of the 1976 Code is amended to read:

“Section 41‑33‑710. (~~a~~A) There is created in the State Treasury a special fund to be known as the employment security administrative contingency fund, which consists of all assessments collected pursuant to Section 41‑27‑410. ~~All~~Money in the employment security administrative contingency fund must be deposited, administered, and disbursed in accordance with the provisions of Section 41‑33‑420 applicable to the employment security administration fund.

(~~b~~B) ~~All monies which are~~Money deposited in the employment security administrative contingency fund ~~are~~is appropriate and made available to the ~~commission~~department. ~~All monies~~Money in the fund must be expended to:

(1) assist with the reemployment of unemployed workers using the most efficient and effective means of service delivery;

(2) undertake ~~any~~a program or activity ~~which~~that furthers the goal of the ~~Employment Security Commission~~department as provided ~~for~~ in Chapter 42 of this title;

(3) supplement basic employment security services~~,~~ with special job search and claimant placement assistance designed to assist unemployment insurance claimants to obtain employment;

(4) provide employment services, ~~such as~~like recruitment, screening, and referral of qualified workers~~,~~ to agricultural areas where those services have in the past contributed to positive economic conditions for the agricultural industry; and

(5) provide otherwise unobtainable information and analysis to the legislature and program managers about issues related to employment and unemployment.

(C) ~~Any balances~~A balance in the fund ~~do~~does not lapse ~~at any time~~, but ~~are~~is continuously available to the ~~commission~~department for expenditure consistent with Chapter 42 of this title. The ~~commission shall~~department must issue its requisition approved by ~~the chairman~~its director or ~~any~~his designated~~member,~~ officer~~,~~ or agent for the ~~purpose~~purposes set forth ~~herein~~in this section to the Comptroller General who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay it by check on the ~~employment security administrative contingency~~ fund.”

SECTION 79. Section 41‑35‑30 of the 1976 Code is amended to read:

“Section 41‑35‑30. (A) When ~~benefits~~ a benefit due an individual ~~have~~ has been unpaid at the time of death and the estate of ~~such~~ the individual has not been administered ~~upon~~ in the probate court within sixty days after the time of death, the ~~Commission~~ department may pay ~~such~~ benefit amounts ~~as~~ the deceased may have been entitled to:

(1) ~~To~~ the surviving wife or husband and, if there ~~be~~ is none;

(2) ~~To~~ the minor children and, if there ~~be~~ are none;

(3) ~~To~~ the adult children and, if there ~~be~~ are none;

(4) ~~To~~ the parents of the deceased and, if there ~~be~~ are none;

(5) ~~To any~~ a person ~~or persons who were~~ dependent ~~upon~~ on the deceased.

(B) ~~And,~~ If there ~~be~~ is no person within ~~the foregoing~~ those classifications, the payments due the deceased ~~shall~~ must lapse and revert ~~into~~ to the unemployment trust fund.

(C) Payment to ~~any~~ a responsible adult with whom minor children are making their home, upon a written pledge to use ~~such~~ the payment for the benefit of ~~such~~ these minors, ~~will be~~ is considered proper and legal payment to ~~such~~ the minor children without the requirement of formal appointment of a guardian.”

SECTION 80. Section 41‑35‑100 of the 1976 Code is amended to read:

“Section 41‑35‑100. The ~~Commission shall~~ department must pass ~~such~~ regulations ~~as may be~~ necessary to preserve the benefit rights of individuals who ~~have volunteered or enlisted~~ volunteer, enlist, or ~~who have been~~ are called or drafted into ~~any~~ a branch of the military, ~~or~~ naval service, or ~~any~~ an organization affiliated with the defense of the United States or this State. ~~Such~~ These regulations ~~shall~~, with respect to ~~such~~ these individuals, must supersede ~~any~~ an inconsistent ~~provisions~~ provision of Chapters 27 through 41 of this title, but ~~so far as~~ where practicable ~~shall~~ must secure results reasonably similar to those provided in the analogous provisions of ~~such~~ these chapters.”

SECTION 81. Section 41‑35‑110 of the 1976 Code, as last amended by Act 497 of 1994, is further amended to read:

“Section 41‑35‑110. An unemployed insured worker ~~shall be~~is eligible to receive benefits with respect to ~~any~~a week only if the ~~Commission~~department finds ~~that~~he:

(1) ~~He~~ has made a claim for benefits with respect to ~~such~~that week ~~in accordance with such~~pursuant to regulations ~~as the Commission may prescribe~~prescribed by the department;

(2) ~~He~~ has registered for work and ~~thereafter~~after work has continued to report at an employment office ~~in accordance with such regulations as the Commission may prescribe~~, except that the ~~Commission may~~department, by regulation, may waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs; provided, that no ~~such~~ regulation ~~shall conflict~~conflicts with Sections 41‑35‑10 or 41‑35‑30;

(3) ~~He~~ is able to work and is available for work at his usual trade, occupation, or business or in ~~such other~~another trade, occupation, or business ~~as his~~for which he is qualified based on his prior training or experience ~~shows him to be fitted or qualified~~; is available for ~~such~~this work either at a locality at which he earned wages for insured work during his base period or, if the individual has moved, to a locality where it may reasonably be expected that work suitable for him under the provisions of Section 41‑35‑120(3)(b) is available; and, in addition to having complied with subsection (2), is himself actively seeking work; provided, however~~,~~:

(a) notwithstanding ~~any other provisions~~another provision of Chapters 27 through 41 of this title, ~~no~~an otherwise eligible individual ~~shall~~may not be denied ~~benefits~~a benefit with respect to ~~any~~a week in which he is in training with the approval of the ~~Commission~~department by reason of the application of the provision ~~herein~~of this section relating to availability for work and an active search for work;

(b) ~~Noa~~ claimant ~~shall~~may not be eligible to receive ~~benefits~~a benefit or waiting period credit if engaged in self‑employment of ~~such~~ a nature ~~as~~ to return or promise remuneration in excess of the weekly benefit amounts he would have received if otherwise unemployed over ~~such~~this period of time;

(c) no claimant shall be eligible to receive benefits or waiting period credit following the completion of a temporary work assignment unless the claimant shows that he informed the temporary employment agency that provided the assignment of the assignment’s completion, has maintained on-going weekly contact with the agency after completion of the assignment, and that the agency has not provided a subsequent assignment for which the claimant’s prior training or experience shows him to be fitted or qualified.

(4) ~~He~~ has been unemployed for a waiting period of one week, but ~~no~~a week ~~shall~~may not be counted as a week of unemployment for the purposes of this paragraph:

(a) unless it occurs within the benefit year ~~which~~that included the week with respect to which he claims payment of ~~benefits,~~a benefit;

(b) if ~~benefits have~~a benefit has been paid with respect ~~thereto nor~~to it; and

(c) unless the individual was eligible for ~~benefits~~a benefit with respect ~~thereto~~toit as provided in this section and Section 41‑35‑120, except for the requirements of this item (4) and of item (5) of Section 41‑35‑120~~.~~;

(5) ~~Claimant is~~has separated, through no fault of his own, from his most recent bona fide employer; provided, however, the term ‘most recent bona fide employer’ ~~shall mean~~means the work or employer from which the individual separated regardless of ~~any~~ work subsequent to his separation in which he earned less than eight times his weekly benefit amount~~.~~; and

(6) ~~He~~ participates in reemployment services, such as job search assistance services, if he ~~has been~~is determined to be likely to exhaust regular benefits and need a reemployment ~~services~~service pursuant to a profiling system established by the ~~commission~~department, unless the ~~commission~~department determines ~~that~~:

(a) the individual has completed such services; or

(b) there is justifiable cause for the claimant’s failure to participate in ~~such~~those services.”

SECTION 82. Section 41‑35‑115 of the 1976 Code, as last amended by Act 21of 1993, is further amended to read:

“Section 41‑35‑115. Notwithstanding ~~any other~~another provision of law, ~~no~~an individual otherwise eligible for ~~benefits shall~~a benefit may not be denied ~~benefits~~a benefit with respect to ~~any~~a week in which he is required by law to appear in court as a witness or ~~to serve as a~~ juror. However, an unemployment ~~benefits~~benefit received by a person pursuant to Chapters 27 through 41 of this title must be reduced by any per diem received for service as a juror. The ~~commission shall~~department must promulgate regulations necessary to implement the provisions of this section.”

SECTION 83. Section 41‑35‑120 of the 1976 Code, as last amended by Act 50 of 2005, is further amended to read:

“Section 41‑35‑120. An~~y~~ insured worker is ineligible for benefits for:

(1) leaving work voluntarily. If the ~~Commission~~department finds ~~that~~ he ~~has~~ left voluntarily, without good cause, his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the ~~Commission~~department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for ~~such~~those services equal to at least eight times the weekly benefit amount of his claim.

(2) Discharge for cause connected with the employment. If the ~~commission~~ department finds that he has been discharged for cause connected with his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request, and continuing not less than five nor more than the next twenty‑six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker’s benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification. The ineligibility period must be determined by the ~~commission~~ department in each case according to the seriousness of the cause for discharge. A charge of discharge for cause connected with the employment may not be made for failure to meet production requirements unless the failure is occasioned by wilful failure or neglect of duty. ‘Cause connected with the employment’ as used in this item requires more than a failure in good performance of the employee as the result of inability or incapacity.

(3)(a) Discharge for illegal drug use, and is ineligible for benefits beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim if the:

(i) company has communicated a policy prohibiting the illegal use of drugs, the violation of which may result in termination; and

(ii) insured worker fails or refuses to provide a specimen pursuant to a request from the employer, or otherwise fails or refuses to cooperate by providing an adulterated specimen; or

(iii) insured worker provides a blood, hair, or urine specimen during a drug test administered on behalf of the employer, which tests positive for illegal drugs or legal drugs used unlawfully, provided:

(A) the sample was collected and labeled by a licensed health care professional or another individual authorized to collect and label test samples by federal or state law, including law enforcement personnel; and

(B) the test was performed by a laboratory certified by the National Institute on Drug Abuse, the College of American Pathologists or the State Law Enforcement Division; and

(C) ~~any~~an initial positive test was confirmed on the specimen using the gas chromatography/mass spectrometry method, or an equivalent or a more accurate scientifically accepted ~~methods~~method approved by the National Institute on Drug Abuse.

(iv) for purposes of this item, ‘unlawfully’ means without a prescription.

(~~c~~b) If an insured worker makes an admission pursuant to the employer’s policy, which provides that voluntary admissions made before the employer’s request to the employee to submit to testing may protect an employee from immediate termination, then the admission is inadmissible for purposes of this section as long as the:

~~(A)~~(i) employer has communicated a written policy, which provides protection from immediate termination for employees who voluntarily admit prohibited drug use before the employer’s request to submit to a test; and

~~(B)~~(ii) employee makes the admission specifically pursuant to the employer’s policy.

(~~d~~c) Information, interviews, reports, and drug‑test results, written or otherwise, received by an employer through a drug‑testing program may be used or received in evidence in proceedings conducted pursuant to the provisions of this title for the purposes of determining eligibility for unemployment compensation, including ~~any~~ administrative or judicial appeal.

(~~3~~4) Discharge for gross misconduct, and is ineligible for benefits beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim if he is discharged due to:

(i) wilful or reckless employee damage to employer property that results in damage of more than fifty dollars;

(ii) employee consumption of alcohol or being under the influence of alcohaol on employer property in violation of a written company policy restricting or prohibiting consumption of alcohol;

(iii) employee theft of items valued at more than fifty dollars;

(iv) failure to comply with applicable state or federal drug and alcohol testing and use regulations including, but not limited to, 49 C.F.R. part 40 and part 382 of the federal motor carrier safety regulations, while on the job or on duty, and regulations applicable for employees performing transportation and other safety sensitive job functions as defined by the federal government;

(v) employee committing criminal assault or battery of another employee or a customer;

(vi) employee committing criminal abuse of patient or child in his professional care;

(vii) employee insubordination, which is defined as willful failure to comply with a lawful, reasonable order of a supervisor directly related to the employee’s employment as described in an applicable written job description; or

(viii) employee wilful neglect of duty directly related to the employee’s employment as described in an applicable written job description.

(5) failure to accept work.

(a) If the ~~Commission~~department finds ~~that~~ he has failed, without good cause~~,~~;

(i)(~~a~~ A) either to apply for available suitable work, when so directed by the employment office or the ~~Commission~~department;

~~(ii)~~(B) to accept available suitable work when offered to him by the employment office or an employer~~,~~; or

~~(iii)~~(C) to return to his customary self‑employment, ~~(~~if any~~)~~, when so directed by the ~~Commission~~department, the ineligibility begins with the week the failure occurred and continues until he has secured employment and shows to the satisfaction of the ~~Commission~~department that he has performed services in employment as defined in Chapters 27 through 41 of this title and earned wages for services equal to at least eight times his weekly benefit amount of his claim.

(b) In determining whether ~~or not any~~ work is suitable for an individual, the ~~Commission shall~~department must consider, based on a standard of reasonableness as it relates to the particular individual concerned, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(c) Notwithstanding ~~any other provisions~~another provision of Chapters 27 through 41 of this title, ~~no~~ work is not considered suitable and benefits may not be denied under ~~such~~these chapters to ~~any~~an otherwise eligible individual for refusing to accept new work under any of the following conditions~~:~~;

(i) if the position offered is vacant due directly to a strike, lockout, or other labor dispute~~,~~;

(ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality~~,~~; or

(iii) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) Notwithstanding ~~any other provisions~~another provision of Chapters 27 through 41 of this title, ~~no~~an otherwise eligible individual may not be denied ~~benefits~~a benefit for ~~any~~a week for failure to apply for, or refusal to accept, suitable work because he is in training with the approval of the ~~Commission~~department.

(e) Notwithstanding ~~any other~~another provision of this chapter, ~~no~~an otherwise eligible individual may not be denied ~~benefits~~a benefit for ~~any~~a week because he is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor may the individual be denied benefits by reason of leaving work to enter training, ~~so long as~~if the work left is not suitable employment, or because of the application to ~~any~~a week in training of provisions in this law ~~(~~or ~~any~~an applicable federal unemployment compensation law~~)~~, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subitem, ‘suitable employment’ means, with respect to an individual, work of a substantially equal or higher skill level than the individual’s past adversely affected employment, ~~(~~as defined for purposes of the Trade Act of 1974~~)~~, and wages for the work at not less than eighty percent of the individual’s average weekly wage as determined for the purposes of the Trade Act of 1974.

(~~4~~6) labor dispute. For ~~any~~a week in which the ~~Commission~~department finds that his total or partial unemployment is directly due to a labor dispute in active progress in the factory, establishment, or other premises at which he was last employed. This paragraph does not apply if it is shown to the satisfaction of the ~~Commission~~department that he:

(a) ~~He~~ is not participating in, financing, or directly interested in the labor dispute;

(b) ~~He~~ does not belong to a grade or class of workers of which, immediately before he became unemployed by reason of the dispute, there were members employed at the premises at which the dispute exists, any of whom are participating in or directly interested in the dispute. If ~~in any case~~ separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each department for the purpose of this item is considered to be a separate factory, establishment, or other premises.

(~~5~~7) receiving benefits elsewhere. ~~‑~~For ~~any~~a week in which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. If the appropriate agency of the other state or of the United States finally determines that he is not entitled to unemployment benefits, this disqualification does not apply.

(~~6~~8) voluntary retirement. If the ~~Commission~~department finds that he voluntarily retired from his most recent work with the ineligibility beginning with the effective date of his claim and continuing for the duration of his unemployment and until the individual submits satisfactory evidence of having had new employment and of having earned wages of not less than eight times his weekly benefit amount as defined in Section 41‑35‑40. For the purpose of this section, ‘most recent work’ means the work from which the individual retired regardless of any work subsequent to his retirement in which he earned less than eight times his weekly benefit amount.”

SECTION 84. Section 41‑35‑125 of the 1976 Code, as added by Act 50 of 2005, is amended to read:

“Section 41‑35‑125. (A) Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the ~~commission~~department finds that the individual has left work voluntarily or has been discharged because of circumstances directly resulting from domestic abuse and:

(1) reasonably fears future domestic abuse at or en route to the workplace;

(2) needs to relocate to avoid future domestic abuse; or

(3) reasonably believes that leaving work is necessary for his safety or the safety of his family.

(B) When determining if an individual has experienced domestic abuse for the purpose of receiving unemployment compensation, the ~~commission shall~~department must require him to provide documentation of domestic abuse including, but not limited to, police or court records or other documentation of abuse from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the individual has sought assistance.

(C) ~~All~~ Documentation or evidence of domestic abuse acquired by the ~~commission~~department pursuant to this section must be kept confidential unless consent for disclosure is given, in writing, by the individual.”

SECTION 85. Section 41‑35‑126 of the 1976 Code. as added by Act 67 of 2007, is amended to read:

“Section 41‑35‑126. Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the ~~commission~~department finds that the individual has left work voluntarily to relocate because of the transfer of a spouse who has been reassigned from one military assignment to another, provided that the separation from employment occurs within fifteen days of the scheduled relocation date.”

SECTION 86. Section 41‑35‑130 of the 1976 Code, as last amended by Act 67 of 2007, is further amended to read:

“Section 41‑35‑130. ~~(a)~~(A) ~~Benefits~~A benefit paid to ~~any~~a claimant for unemployment immediately after the expiration of disqualification for:

(1) voluntarily leaving his most recent work without good cause~~,~~;

(2) discharge from his most recent work for misconduct; or~~,~~ (3) refusal of suitable work without good cause ~~shall~~must not be charged to the account of ~~any~~an employer.

~~(b)~~(B) ~~Benefits~~A benefit paid to ~~any~~a claimant ~~shall~~must not be charged against the account of ~~any~~an employer by reason of the provisions of this subparagraph ~~only~~ if the ~~Commission~~department determines under Section 41‑35‑120 that ~~such~~the individual:

(1) voluntarily left his most recent employment with that employer without good cause~~,~~;

(2) was discharged from his most recent employment with that employer for misconduct connected with his work~~,~~; or

(3) subsequent to his most recent employment refused without good cause to accept an offer of suitable work made by that employer if~~, in any such case, such~~the employer furnishes the ~~Commission~~department with ~~such~~those notices regarding the separation of the individual from work or the refusal of the individual to accept an offer of work as are ~~or may be~~ required by the law and ~~the~~ regulations of the ~~Commission~~department.

~~(c)~~(C) If ~~benefits are~~a benefit is paid pursuant to a decision ~~which~~that is finally reversed in subsequent proceedings with respect ~~thereto~~to it, ~~no~~an employer’s account ~~shall~~must not be charged with ~~benefits so~~a benefit paid.

~~(d)~~(D) ~~Any benefits~~A benefit paid to ~~any~~a claimant for a week in which he is in training with the approval of the ~~Commission shall~~department must not be charged to ~~any~~an employer.

~~(e)~~(E) The provisions of ~~paragraphs (a)~~subsections (A) through ~~(d)~~(D, all inclusive, ~~hereof~~ with respect to the noncharging of benefits paid ~~shall~~must be applicable only to ~~those employers~~an employer subject to the payment of contributions.

~~(f)~~(F) ~~Benefits~~A benefit paid to a claimant during an extended benefit period as defined in Chapter 35, Article 3, ~~shall~~must not be charged to ~~any~~an employer; ~~provided, however,~~except that ~~any~~a non‑profit organization electing to become liable for payments in lieu of contributions in accord with Section 41‑31‑620 ~~shall be required to~~must reimburse fifty percent of extended benefits attributable to services performed in its employ and ~~provided, further,~~ that after January 1, 1979, the State or ~~any~~a political subdivision or ~~any~~ instrumentality ~~thereof~~of it as defined in Section 41‑27‑230(2)(b) electing to become liable for payment in lieu of contributions in accord with Section 41‑31‑620 ~~shall be required to~~must reimburse all extended benefits attributable to services performed in its employ.

~~(g)~~(G) ~~Any~~A nonprofit organization ~~which~~that elects to make ~~payments~~a payment in lieu of ~~contributions into~~a contribution to the unemployment compensation fund as provided in Section 41‑31‑620(2) or Section 41‑31‑810 ~~shall not be~~is not liable to make ~~such~~those payments with respect to the benefits paid to ~~any~~an individual whose base period wages include wages for previously uncovered services as defined in Section 41‑35‑65 to the extent that the unemployment compensation fund is reimbursed for ~~such~~those benefits pursuant to Section 121 of P.L. 94‑566.

~~(h)~~(H) ~~Benefits~~A benefit paid to ~~any~~an individual whose base period wages include wages for previously uncovered services as defined in Section 41‑35‑65 ~~shall~~must not be charged against the account of ~~any~~an employer to the extent that the unemployment compensation fund is reimbursed for ~~such~~those benefits pursuant to Section 121 of P.L. 94‑566.

~~(i)~~(I) ~~Benefits~~A benefit paid to an individual pursuant to Section 41‑35‑125 must not be charged to the account of a contributing employer.

~~(j)~~(J) ~~Benefits~~A benefit paid to an individual pursuant to Section 41‑35‑126 must not be charged to the account of a contributing employer.”

SECTION 87. Section 41‑35‑140 of the 1976 Code is amended to read:

“Section 41‑35‑140. ~~(a)~~(A) The ~~commission~~department may require an individual filing a new claim for unemployment compensation to disclose, at the time of filing the claim, whether or not ~~the individual~~he owes child support obligations as defined under subsection (~~g~~G), or, pursuant to an agreement between the ~~commission~~department and the state or local child support enforcement agency, the state or local child support enforcement agency must notify the ~~commission~~department whether a particular individual who has filed a new or continued claim for unemployment compensation, at the time of filing the claim, owes child support obligations, or if the state or local child support enforcement agency advises the ~~commission~~department that the individual owes child support obligations and the individual is determined to be eligible for unemployment compensation, the ~~commission~~department must notify the state or local child support enforcement agency enforcing the obligations that the individual has been determined to be eligible for unemployment compensation.

~~(b)~~(B) The ~~commission~~department must deduct and withhold from ~~any~~ unemployment compensation payable to an individual who owes a child support ~~obligations~~obligation as defined under subsection (~~g~~G):

(1) the amount specified by the individual to the ~~commission~~department to be deducted and withheld under this section, if neither (2) nor (3) of this subsection (~~b~~B) is applicable;

(2) the amount, if any, determined pursuant to an agreement submitted to the ~~commission~~department under Section 454 (20)(B)(i) of the Social Security Act by the state or local child support enforcement agency unless (3) is applicable; or

(3) ~~Any~~An amount otherwise required to be deducted and withheld from unemployment compensation pursuant to legal process, as that term is defined in Section 462(e) of the Social Security Act properly served upon the ~~commission~~department.

~~(c)~~(C) ~~Any~~An amount deducted and withheld under subsection (~~b~~B) must be paid by the ~~commission~~department to the appropriate state or local child support enforcement agency.

~~(d)~~(D) ~~Any~~An amount deducted and withheld under subsection (~~b~~B) must ~~for all purposes~~ be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual’s child support ~~obligations~~obligation.

~~(e)~~(E) For the purposes of subsections (~~a~~A) through (~~d~~D), the term ‘unemployment compensation’ means ~~any~~ compensation payable under this act, including amounts payable by the ~~commission~~department pursuant to an agreement under ~~any~~ federal law providing for compensation, assistance, or allowances ~~with respect to~~concerning unemployment.

~~(f)~~(F) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the ~~commission~~department under this section which are by the state or local child support enforcement agency.

~~(g)~~(G) The term ‘child support ~~obligations’ is defined~~obligation’ means for purposes of these provisions, ~~as~~ attributable to a child support ~~obligations being~~obligation enforced ~~including only obligations which are being~~an obligation enforced pursuant to a plan described in Section 454 of the Social Security Act ~~which has been~~and approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

~~(h)~~(H) The term ‘state or local child support enforcement agency’ as used in these provisions means ~~any~~an agency of this State or a political subdivision of this State operating pursuant to a plan described in subsection (~~g~~G).

~~(i)~~(I) This section is effective for ~~all~~ weeks commencing on or after October 1, 1982.”

SECTION 88. Section 41‑35‑330 of the 1976 Code is amended to read:

“Section‑41‑35‑330. ~~(1)~~(A) There is a ‘state ‘on’ indicator’ for this State for a week if the ~~commission~~department determines, ~~in accordance with~~pursuant to the regulations of the U. S. Secretary of Labor, that for the period consisting of ~~such~~that week and the immediately preceding twelve weeks the rate of insured unemployment, ~~(~~not seasonally adjusted~~)~~, under Chapters 27 through 41 of this title:

~~(a)~~(1) equaled or exceeded one hundred twenty percent of the average of ~~such~~those rates for the corresponding thirteen week period ending in each of the preceding two calendar years~~,~~; and

~~(b)~~(2) equaled or exceeded five percent. With respect to benefits for weeks of unemployment beginning after July 1, 1977, the determination of whether there has been a ‘state ‘on’ or ‘off’ indicator’ for this State beginning or ending ~~any~~an extended benefit period must be made under this section as if:

~~(i)~~(a) ~~paragraph (1)~~subsection (A) did not contain ~~subparagraph (a)~~item (1); and

~~(ii)~~(b) the word ‘five’ contained in ~~subparagraph (b) thereof~~item (2) of this subsection were ‘six’ except that, notwithstanding ~~any such~~a provision of this section, ~~any~~a week for which there would otherwise be a ‘state ‘on’ indicator’ for this State must continue to be such a week and ~~shall~~must not be determined to be a week for which there is a ‘state ‘off’ indicator’ for this State.

~~(2)~~(B) There is a ‘state ‘off’ indicator’ for this State for a week if, for the period consisting of ~~such~~that week and the immediately preceding twelve weeks, either ~~subparagraph (a) or (b) of paragraph (1) was~~items (1) or (2) of subsection (A) are not satisfied.

~~(3)~~(C) This section ~~is applicable for all~~applies to weeks beginning after September 25, 1982.”

SECTION 89. Section 41‑35‑340 of the 1976 Code is amended to read:

“Section 41‑35‑340.~~“Rate of insured unemployment”,~~ For purposes of Section 41‑35‑330~~,~~ ‘rate of insured unemployment’ means the percentage derived by dividing the:

(1) ~~The~~ average weekly number of individuals filing claims for regular state compensation in this State for weeks of unemployment with respect to the most recent ~~thirteen‑consecutive‑week~~thirteen consecutive week period, as determined by the ~~commission~~department on the basis of its reports to the U. S. Secretary of Labor, by

(2) ~~The~~ average monthly employment covered under Chapters 27 through 41 of this title for the first four of the most recent six completed calendar quarters ending before the end of ~~such~~this thirteen‑week period.”

SECTION 90. Section 41‑35‑410 of the 11976 Code is amended to read:

“Section 41‑35‑410. Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the ~~Commission~~department, the provisions of Chapters 27 through 41 of this title which apply to claims for, or the payment of, regular benefits ~~shall~~must apply to claims for, and the payment of, extended benefits.”

SECTION 91. Section 41‑35‑420 of the 1976 Code, as last amended by Act 125 of 1993, is further amended to read:

“Section 41‑35‑420. ~~(1)~~(A) An individual ~~shall be~~is eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the ~~commission~~department finds that with respect to ~~such~~that week:

~~(a)~~(1) He is an ‘exhaustee’ as defined in Section 41‑35‑390.

~~(b)~~(2) He has satisfied the requirements of Chapters 27 through 41 of this title for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

~~(c)~~(3) Except as provided in item (~~d~~4), an individual ~~shall~~must not be eligible for extended benefits for ~~any~~a week if:

~~(i)~~(a) Extended benefits are payable for ~~such~~that week pursuant to an interstate claim filed in ~~any~~a state under the interstate benefit payment plan; and

~~(ii)~~(b) No extended benefit period is in effect for ~~such~~that week in ~~such~~the State.

~~(d)~~(4) Item (~~c~~3) of subsection (~~1~~A) ~~shall~~does not apply with respect to the first two weeks for which extended benefits are payable, ~~(~~determined without regard to this subsection~~)~~, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual with respect to the benefit year.

~~(2)(a)~~(B)(1) Notwithstanding the provisions of Sections 41‑35‑410 and 41‑35‑420, effective for weeks beginning after March 31, 1981, an individual is disqualified ~~for~~from receipt of extended benefits if the ~~commission~~department finds that during any week of his eligibility period he has failed either to apply for, or to accept an offer of, suitable work, ~~(~~as defined under item (~~d~~4) of this subsection~~)~~, to which he was referred by the ~~commission~~department.

~~(b)~~(2) Notwithstanding the provisions of Sections 41‑35‑410 and 41‑35‑420, effective for weeks beginning after March 31, 1981, an individual is disqualified ~~for~~from receipt of extended benefits if the ~~commission~~department finds that during any week of his eligibility period he has failed to furnish evidence that he has actively engaged in a systematic and sustained effort to find work.

~~(c)~~(3) ~~Such~~This disqualification begins with the week in which ~~such~~the failure occurred and continues until he has been employed in each of four subsequent weeks, ~~(~~whether or not consecutive~~)~~, and has earned remuneration equal to not less than four times his weekly extended benefit amount.

~~(d)~~(4) For the purposes of this subsection, the term “suitable work’ means ~~any~~ work ~~which is~~ within the individual’s capabilities to perform if:

~~(i)~~(a) The gross average weekly remuneration payable for the work exceeds the sum of the individual’s weekly extended benefit amount plus the amount, if any, of supplemental unemployment benefits, ~~(~~as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954~~)~~, payable to ~~such~~the individual for ~~such~~that week;

~~(ii)~~(b) The wages payable for the work equal the higher of the minimum wages provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, ~~(~~without regard to ~~any~~an exemption~~)~~, or the state or local minimum wage;

~~(iii)~~(c) The position was offered to the individual in writing or was listed with the State Employment Service;

~~(iv)~~(d) ~~Such~~the work otherwise meets the definition of ‘suitable work’ for regular benefits contained in ~~item (3)~~subsection (C) of Section 41‑35‑120 to the extent that ~~such~~the criteria of suitability are not inconsistent with the provisions of this item; and

~~(v)~~(e) The individual cannot furnish satisfactory evidence to the ~~commission~~department that his prospects for obtaining work in his customary occupation within a reasonably short period of time are good. If ~~such~~the evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to ~~such~~the individual must be made ~~in accordance with~~pursuant to the definition of suitable work contained in Section 41‑35‑120 without regard to the definition specified by this item (~~d~~4).

~~(3)~~(C) Notwithstanding ~~any provisions~~a provision of item (d) of this subsection to the contrary, ~~no~~ work ~~shall~~must not be ~~deemed to be~~considered suitable ~~work~~ for an individual ~~which~~if it does not accord with item ~~(c)~~(3) of subsection ~~(3)~~(C) of Section 41‑35‑120.

~~(4)~~(D) For the purposes of item ~~(b)~~(2) of subsection ~~(2)~~(B), an individual ~~shall~~must be treated as actively engaged in seeking work during ~~any~~a week if the individual:

~~(a)~~(1) ~~The individual~~ has engaged in a systematic and sustained effort to obtain work during ~~such~~the week;

~~(b)~~(2) ~~The individual~~ furnishes tangible evidence that he has engaged in ~~such~~an effort during ~~such~~the week.

~~(5)~~(E) The Employment Service ~~shall~~must refer any claimant entitled to extended benefits under this chapter to any suitable work ~~which~~that meets the criteria prescribed in item ~~(d)~~(4)ubsection ~~(2)~~(B).

~~(6)~~(F) An individual ~~shall~~must not be eligible to receive an extended ~~benefits~~benefit with respect to ~~any~~a week of unemployment in his eligibility period if ~~such individual~~he has been disqualified for regular or extended benefits under the chapter because he ~~or she~~ voluntarily left work, was discharged for cause, or failed to accept an offer of or apply for suitable work unless the disqualification imposed for ~~such~~these reasons has been terminated ~~in accordance with~~pursuant to specific conditions established under the South Carolina Employment Security Law requiring the individual to perform service for remuneration subsequent to the date of ~~such~~the disqualification.

If the disqualification ~~which was~~ imposed did not require the individual to perform service for remuneration subsequent to the date of ~~such~~the disqualification, ~~such~~the individual ~~will be~~is ineligible for an extended ~~benefits~~benefit beginning with the effective date of the request for initiation of an extended benefit claim series and continuing until he ~~has secured~~secures employment and shows to the department’s satisfaction ~~of the commission~~ that he has worked in each of at least four different weeks, whether or not ~~such~~those weeks are consecutive, and earned wages equal to at least four times the weekly benefit amount of his claim.”

SECTION 92. Section 41‑35‑450 of the 1976 Code is amended to read:

“Section 41‑35‑450. ~~Whenever~~When an extended benefit period is to become effective in this State as a result of a state ‘on’ indicator, or an extended benefit period is to be terminated in this State as a result of a state ‘off’ indicator, the ~~commission~~department must make an appropriate public announcement. ~~Computations~~A computation required by the provisions of Section 41‑35‑340 must be made by the ~~commission, in accordance with~~department pursuant to regulations prescribed by the U. S. Secretary of Labor.”

SECTION 93. Section 41‑35‑610 of the 1976 Code is amended to read:

“Section 41‑35‑610. ~~Requests~~ A request for determination of insured status, ~~requests~~a request for initiation of a claim series in a benefit year, ~~notices~~a notice of unemployment, ~~certifications~~a certification for waiting‑week credit, and ~~claims~~a claim for benefits ~~shall~~must be made ~~in accordance with such~~pursuant to regulations ~~as~~ the ~~Commission may prescribe~~department prescribes. ~~Each employer shall~~An employer must post and maintain in places readily accessible to individuals in his service printed statements concerning ~~such~~ regulations or ~~such other~~related matters ~~as~~ the ~~Commission may~~department prescribes by regulation ~~prescribe~~. ~~Each employer shall~~An employer must supply ~~such~~those individuals copies of ~~such~~the printed statements or materials ~~as~~ the ~~Commission may~~department prescribes by regulation ~~prescribe~~. ~~Such~~These statements or materials ~~shallmust~~ be supplied by the ~~Commission~~department to ~~each~~an employer without cost to ~~him~~the employer.”

SECTION 94. Section 41‑35‑630 of the 1976 Code is amended to read:

“Section 41‑35‑630. ~~(1)~~(A) In ~~any~~a case ~~in which~~where the payment or denial of ~~benefits~~a benefit will be determined by the provisions of ~~item (4)~~subsection (D) of Section 41‑35‑120, the ~~Commission shall~~department must designate a special examiner to make an initial determination with respect ~~thereto~~to it. The determination of the examiner may be appealed in the same manner, within the same time, and through the same procedures as any other determination. The ~~Commission~~department may, upon written request by a group of workers or their authorized representative, allow one of a group representing a grade or class of workers similarly situated to file an appeal ~~which shall be~~ known as a ‘Group Test Appeal’, and the decision of the appeal tribunal or the ~~Commission as to~~department regarding the disqualification of the group representative because of the application of ~~item (4)~~subsection (D) of Section 41‑35‑120 ~~shall be~~is binding ~~as to~~on the entire group.

~~(2)~~(B) ~~Whenever~~When a determination involves multiple claimants and difficult issues of fact or law, the ~~Commission~~department ~~in its discretion~~ may designate a special examiner to render ~~such~~the determination. ~~The~~A determination, ~~of the examiner~~which may be appealed in the same manner, within the same time, and through the same procedures as any other determination. The ~~Commission shall~~department must allow ~~any and all claimants~~a claimant affected by ~~the same~~this determination to join in one appeal and the decision of the appeal tribunal or the ~~Commission shall be~~is binding ~~upon~~on all ~~those~~ claimants who are parties to ~~such~~the consolidated appeal.”

SECTION 95. Section 41‑35‑640 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑35‑640. ~~(1)~~(A) An initial determination may for good cause be reconsidered. A party entitled to notice of an initial determination may apply for a reconsideration not later than ten days after the determination was mailed to his last known address. Notice of the redetermination must be promptly given in the manner prescribed in this article with respect to notice of an initial determination.

~~(2)~~(B) An initial determination ~~shall~~must be reconsidered ~~whenever~~when the ~~Commission~~department finds ~~that~~ an error in computation~~,~~ or ~~an error~~ of a similar character~~,~~ has occurred in connection ~~therewith~~with it or that wages of the claimant pertinent to the determination, but not considered in connection ~~therewith~~with it, have been newly discovered~~,~~. ~~but no such~~However, this redetermination ~~shall~~must not be made after one year from the date of the original determination. The reconsidered determination ~~shall supersede~~supersedes the original determination. Notice of ~~any such~~this redetermination ~~shall be~~ promptly must be given~~,~~ in the manner prescribed in this article with respect to notice of an original determination. Subject to the same limitations and for the same reasons, the ~~Commission~~sdepartment may reconsider a determination in ~~any~~a case ~~in which the~~where a final decision ~~has been~~is rendered by an appeal tribunal, the ~~Commission~~department, or a court, and, after notice to and the expiration of the period for appeal by the persons entitled to notice of the final decision, may apply to the body or court ~~which~~that rendered the final decision ~~to issue~~and seek a revised decision. In the event that an appeal involving an original determination is pending ~~as of~~on the date a redetermination ~~thereof~~ is issued, ~~such~~the appeal, unless withdrawn, ~~shall~~must be treated as an appeal from ~~such~~the redetermination.”

SECTION 96. Section 41‑35‑670 of the 1976 Code is amended to read:

“Section 41‑35‑670. ~~(1)~~(A) Notwithstanding ~~any other~~another provision contained in this Article, benefits ~~shall~~must be paid ~~in accordance with~~pursuant to a determination, redetermination, or the decision of an appeal tribunal, the ~~Commission~~department, or a reviewing court upon the issuance of ~~such~~that determination, redetermination, or decision, regardless of the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review ~~that is~~ provided with respect ~~thereto, as the case may be,~~to it or the pendency of ~~any~~ such an application, filing, or petition, ~~unless and~~ until ~~such~~the determination, redetermination, or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits ~~shall~~must be paid or denied for weeks of unemployment ~~thereafter in accordance with such~~afterward pursuant to the modifying or reversing redetermination or decision.

~~(2)~~(B) If a determination or redetermination allowing ~~benefits~~a benefit is affirmed by the appeal tribunal~~,~~ or ~~by~~ the ~~Commission~~department, or if a decision of an appeal tribunal allowing ~~benefits~~a benefit is affirmed by the ~~Commission, such~~department, those benefits ~~shall~~must be paid promptly regardless of ~~any~~a further appeal ~~which~~that may be taken, and no injunction, supersedeas, stay, or other writ or process suspending the payment of the benefits ~~shall~~must be issued by ~~any~~ court.”

SECTION 97. Section 41‑35‑680 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑35‑680. Unless an appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for a fair hearing, after notice of not less than seven days, ~~shall~~must make findings and conclusions promptly and on the basis of the findings and conclusions affirm, modify, or reverse the determination or redetermination within thirty days from the date of the hearing. Each party ~~must be furnished~~ promptly must be furnished ~~with~~ a copy of the decision, including the reasons for the decision~~,~~. ~~which~~This must be considered ~~to be~~ the final decision of the ~~commission~~department, unless within ten days after the date of mailing the decision a further appeal is initiated pursuant to Section 41‑35‑710.”

SECTION 98. Section 41‑35‑690 of the 1976 Code is amended to read:

“Section 41‑35‑690. The procedure ~~herein~~ provided in this chapter for ~~appeals~~an appeal from ~~any~~a determination or redetermination to the appeal tribunal and for ~~decisions thereon~~a decision on it and for appeals ~~therefrom~~from it, first to the ~~Commission~~department and ~~thereafter~~afterward to the courts, ~~shall~~must be the sole and exclusive procedure notwithstanding ~~any other~~another provision of law.”

SECTION 99. Section 41‑35‑700 of the 1976 Code is amended to read:

“Section 41‑35‑700. (A) To hear and decide appeal claims, the ~~Commission shall~~department must appoint one or more impartial appeal tribunals consisting ~~in each case~~ of either:

(1) a referee, selected ~~in accordance with~~pursuant to Section 41‑29‑70~~,~~; or

(2) a body consisting of three members, one of whom:

(a) ~~shall be~~must be a referee~~,~~ who ~~shall~~must serve as chairman~~,~~;

(b) one of whom ~~shall~~must be a representative of employers; and

(c) the ~~other~~third of whom ~~shall~~must be a representative of employees.

Each of the latter two members shall serve at the pleasure of the ~~Commission~~department and be paid a per diem as fixed in the annual state appropriation act for boards, commissions and committees for each day of active service on ~~such~~a tribunal plus necessary expenses, as ~~likewise~~ fixed in the annual appropriation act. ~~No~~A person ~~shall~~must not participate on behalf of the ~~Commission in any case~~department in which he is an interested party. The ~~Commission~~department may designate alternates to serve in the absence or disqualification of ~~any~~a member of an appeal tribunal. The chairman ~~shall~~must act alone in the absence or disqualification of ~~any other~~another member and his alternate. ~~In no case shall~~ The hearings must not proceed unless the chairman of the appeal tribunal is present. “

SECTION 100. Section 41‑35‑710 of the 1976 Code is amended to read:

“Section 41‑35‑710. The ~~Commission~~department may on its own motion affirm, modify, or set aside ~~any~~a decision of an appeal tribunal on the basis of ~~the~~ evidence previously submitted in ~~such~~the case; ~~or~~ direct the taking of additional evidence; or ~~may~~ permit ~~any of the parties~~a party to ~~such~~the decision to initiate further appeals before it. The ~~Commission shall~~department must permit ~~such~~this further appeal by ~~any of the parties~~a party to a decision of an appeal tribunal and by the examiner whose decision has been overruled or modified by an appeal tribunal. The ~~Commission~~department may remove to itself or transfer to another appeal tribunal the proceedings on ~~any~~a claim pending before an appeal tribunal. ~~Any proceedings so~~A proceeding removed to the ~~Commission shall~~department must be heard by ~~a quorum thereof in accordance with~~the director pursuant to the requirements of Sections 41‑35‑690 and 41‑35‑720. The ~~Commission shall~~department promptly must notify ~~the parties~~a party to ~~any~~a proceeding of its findings and decision.”

SECTION 101. Section 41‑35‑720 of the 1976 Code is amended to read:

“Section 41‑35‑720. The manner in which an appealed ~~claims shall~~claim must be presented and the conduct of ~~hearings~~a hearing and ~~appeals shall~~appeal must be ~~in accordance with~~pursuant to regulations prescribed by the ~~Commission~~department for determining the rights of ~~the parties~~a party, whether ~~or not such~~these regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record ~~shall~~must be kept of all proceedings in connection with an appealed claim. ~~All~~ Testimony at ~~any~~a hearing ~~upon~~on an appealed claim ~~shall~~must be recorded, but ~~shall~~must not be transcribed unless the claim is ~~further~~ appealed further.”

SECTION 102. Section 41‑35‑730 of the 1976 Code is amended to read:

“Section 41‑35‑730. ~~Witnesses~~A witness subpoenaed pursuant to this article ~~shall~~must be allowed fees and mileage at a rate fixed by the ~~Commission~~department, which ~~shall~~must not exceed that allowed ~~witnesses~~a witness in the court of common pleas in the county ~~in which~~where a hearing is held. ~~Such~~These fees ~~shall~~must be ~~deemed~~considered a part of the expense of administering Chapters 27 through 41 of this title.”

SECTION 103. Section 41‑35‑740 of the 1976 Code is amended to read:

“Section 41‑35‑740. ~~Any~~A decision of the ~~Commission~~department, in the absence of an appeal ~~therefrom~~from it as provided in this article, ~~shall become~~becomes final ten days after the date of notification or mailing ~~thereof~~of it, and judicial review ~~thereof shall be~~is permitted only after ~~any~~a party claiming to be aggrieved ~~thereby~~by it has exhausted his administrative remedies as provided by Chapters 27 through 41 of this title. The ~~Commission shall~~department must be ~~deemed~~considered to be a party to ~~any~~a judicial action involving ~~any such~~a decision and may be represented in ~~any such~~the judicial action by ~~any~~a qualified attorney employed by the ~~Commission~~department and designated by ~~it~~the department for that purpose or, at the ~~Commission’s~~department’s request, by the Attorney General.”

SECTION 104. Section 41‑35‑750 of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“Section 41‑35‑750. Within thirty days from the date of mailing ~~of~~ the ~~commission’s~~department’s decision, a party to the proceeding whose benefit rights or whose employer account may be affected by the ~~commission’s~~department’s decision may secure judicial review of the decision by commencing an action in the court of common pleas, either in the county in which the employee resides or the county in which he was last employed, against the ~~commission~~department for the review of its decision, in which action every other party to the proceeding before the ~~commission~~department must be made a defendant. In this action a petition, which need not be verified but which must state the grounds ~~upon~~on which a review is sought, must be served ~~upon~~on a member of the ~~commission~~department or ~~upon~~on a person as the ~~commission~~department may designate within the time specified by this section. Service is ~~deemed~~considered complete service on all parties, but there must be left with the person served as many copies of the petition as there are defendants, and the ~~commission~~department promptly shall mail one copy to each defendant. With its answer the ~~commission shall~~department must certify and file with the court all documents and papers and a transcript of all testimony taken in the matter and its findings of fact and decision. The ~~commission~~department also may certify to the court questions of law involved in ~~any~~a decision by the ~~commission~~department. In a judicial proceeding under this chapter, the findings of the ~~commission as to the~~department regarding facts, if supported by evidence and in the absence of fraud, must be conclusive and the jurisdiction of the court must be confined to questions of law. These actions, and the questions so certified, must be heard in a summary manner and must be given precedence over ~~all~~ other civil cases except ~~cases~~those arising under the Workers’ Compensation laws of this State. An appeal may be taken from the decision of the court of common pleas ~~in the manner provided by~~pursuant to the South Carolina Appellate Court Rules. It is not necessary in a judicial proceeding under this article to enter exceptions to the rulings of the ~~commission~~department, and no bond is required for entering the appeal. Upon the final determination of the judicial proceeding, the ~~commission shall~~department must enter an order in accordance with the determination. ~~In no event shall~~ A petition for judicial review must not act as a supersedeas or stay unless the ~~commission~~department orders a supersedeas or stay.”

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

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

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

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

(2) procedures for notifying parties;

(3) evidentiary rules;

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

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

(6) procedures for seeking review or appeal of the department’s decision.

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

SECTION 106. Section 41‑37‑20 of the 1976 Code is amended to read:

“Section 41‑37‑20. ~~(1)~~(A) An employing unit not otherwise subject to Chapters 27 through 41 of this title, which files with the ~~Commission~~department its written election to become an employer subject to ~~such~~these chapters for not less than two calendar years, ~~shall,~~ with the written approval of ~~such~~the election by the ~~Commission,~~department, must become an employer subject to the same extent as all other employers as of the date stated in ~~such~~the approval and ~~shall~~must cease to be subject to ~~such~~these chapters as of January first of ~~any~~a calendar year subsequent to ~~such~~the two calendar years if by the thirtieth day of April of ~~such~~that year it has filed with the ~~Commission~~department a written notice to that effect.

~~(2)~~(B) ~~Any~~An employing unit, for which services that do not constitute employment as defined in Chapters 27 through 41 of this title are performed, may file with the ~~Commission~~department a written election that ~~all such~~ services performed by ~~individuals~~an individual in its employment in one or more distinct establishments or places of business ~~shall be deemed~~must be considered to constitute employment by an employer for ~~all~~ the purposes of ~~such~~those chapters for not less than two calendar years. ~~Upon~~On the written approval of ~~such~~this election by the ~~Commission such~~department, these services ~~shall be deemed~~must be considered to constitute employment subject to ~~such~~those chapters from and after the date stated in ~~such~~the approval. ~~Such~~These services ~~shall~~ cease to be ~~deemed~~considered employment subject to ~~such~~these chapters as of January first of ~~any~~a calendar year subsequent to ~~such~~those two calendar years if by the thirtieth day of April of ~~such~~that year ~~such~~the employing unit ~~has filed~~files with the ~~Commission~~department a written notice to that effect.”

SECTION 107. Section 41‑37‑30 of the 1976 Code is amended to read:

“Section 41‑37‑30. Except as otherwise provided in Section 41‑37‑20:

~~(1)~~(A) As of January 1, 1972, an employing unit ~~shall~~must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~department by the thirtieth day of April of that year an application for termination of coverage and the ~~Commission~~department finds that there were no twenty different weeks within the preceding calendar year within which ~~such~~the employing unit had four or more individuals in employment subject to ~~such~~these chapters.

~~(2)~~(B) As of January 1, 1973, an employing unit shall cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~department by the thirtieth day of April of ~~any~~a calendar year an application for termination of coverage and the ~~Commission~~department finds that there were no twenty different weeks within the preceding calendar year within which ~~such~~the employing unit had at least one individual in employment subject to ~~such~~these chapters and that there was no calendar quarter within the preceding calendar year in which ~~such~~the employing unit paid fifteen hundred dollars or more in wages for service in employment; ~~provided, however,~~except that no employing unit for which service is performed in employment as defined in Section 41‑27‑230 (3) ~~shall~~may cease to be an employer subject to Chapters 27 through 41 of this title unless it files with the Commission by the thirtieth day of April of any calendar year an application for termination of coverage and the Commission finds that there were ~~no~~not twenty different weeks within the preceding calendar year within each of which ~~such~~the employing unit had four or more persons in employment.

~~(3)~~(C) As of January 1, 1979, ~~any~~an employing unit, as defined in Section 41‑27‑230(5), ~~shall~~must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~department by the thirtieth day of April of ~~any~~a calendar year an application for termination of coverage and the ~~Commission~~department finds that there were ~~no~~not twenty different weeks within the preceding calendar year within which ~~such~~the employing unit had at least ten individuals in employment subject to Chapters 27 through 41 of this title and that there was no calendar quarter within the preceding calendar year in which ~~such~~the employing unit paid twenty thousand dollars or more in wages for service in employment.

~~(4)~~(D) As of January 1, 1979, ~~any~~an employing unit, as defined in Section 41‑27‑230(6), ~~shall~~must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~department by the thirtieth day of April of ~~any~~a calendar year an application for termination of coverage and the ~~Commission~~department finds that there was no calendar quarter within the preceding calendar year in which ~~such~~the employing unit paid one thousand dollars or more in wages for service in employment.

~~(5)~~(E) ~~Any~~An employer who ~~shall have~~has rendered no employment and paid no wages in the State for a continuous period of one calendar year may submit an application for termination of coverage upon the resumption of employment in the State. ~~Provided, further, that~~However, when a successor employer acquired substantially all of the business of a predecessor employer and the experience rating reserve of the predecessor is transferred to the successor, the liability of the predecessor may be terminated at the end of the calendar year during which ~~such~~this succession occurred, provided that the predecessor did not within ~~such~~the calendar year subsequent to the date of succession render employment or pay wages sufficient to remain an employer as defined in Section 41‑27‑210.

~~(6)~~(F) The provisions of this section ~~shall~~must not be applicable to ~~any~~an employing unit for ~~services~~a service performed in employment as defined by Section 41‑27‑230(2).

For the purpose of this section, the two or more employing units mentioned in items (3) and (4) of Section 41‑27‑210 ~~shall~~must be treated as a single employing unit.”

SECTION 108. Section 41‑39‑30 of the 1976 Code is amended to read:

“Section 41‑39‑30. ~~No~~An individual claiming benefits ~~shall~~may not be charged ~~fees of any kind~~a fee in ~~any~~a proceeding under Chapters 27 through 41 of this title by the ~~Commission~~department or its representatives or by ~~any~~a court or ~~any~~an officer ~~(~~except an attorney~~)~~, ~~thereof~~of it. ~~Any~~An individual claiming ~~benefits~~a benefit in ~~any~~a proceeding before the ~~Commission~~department or a court ~~may~~must be represented by an attorney or other duly authorized agent, but ~~no suchan~~ attorney or agent ~~shall either~~must not charge or receive for ~~such services~~this service more than an amount approved by the ~~Commission~~department. ~~Any~~A person who violates ~~any~~a provision of this section ~~shall~~, for each ~~such~~ offense, must be fined not less than fifty dollars nor more than five hundred dollars, ~~or~~ imprisoned for not more than six months, or both.”

SECTION 109. Section 41‑39‑40 of the 1976 Code, as added by Act 306 of 1996, is amended to read:

“Section 41‑39‑40. (A) As of January 1, 1997, an individual filing an initial claim for unemployment compensation must be advised at the time of the filing of the claim that:

(1) unemployment compensation is subject to federal and state income taxation;

(2) requirements exist pertaining to estimated tax payments;

(3) the individual may elect to have federal income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate specified in the Internal Revenue Code of 1986;

(4) the individual may elect to have South Carolina state income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate of seven percent;

(5) the individual is permitted to change a previously elected withholding of income tax at least once.

(B) Amounts deducted and withheld from unemployment compensation ~~shall~~must remain in the Unemployment Trust Fund until transferred to the federal or state taxing authority as a payment of income tax. The date of transfer to the South Carolina Department of Revenue must be the same date as the transfer to the Internal Revenue Service.

(C) The ~~commission~~department shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of income tax.

(D) Amounts must be deducted and withheld under this section only after amounts are deducted and withheld for ~~any~~ overpayments of unemployment compensation, child support obligations, or ~~any~~ other amount required to be deducted and withheld under this title.”

SECTION 110. Section 41‑41‑20 of the 1976 Code, as last amended by Act 202 of 2002, is further amended to read:

“Section 41‑41‑20. (A) A claimant found by the ~~commission~~department knowingly to have made a false statement or who knowingly failed to disclose a material fact when filing a compensable claim to establish his right to or increase the amount of his benefits is ineligible to receive benefits for any week for which the claim was filed and is ineligible to receive further benefits for not less than ten and not more than fifty‑two consecutive weeks as determined by the ~~commission~~department according to the circumstances of the case, these weeks to commence with the date of the determination.

(B)If the ~~commission~~department finds that a fraudulent misrepresentation has been made by a claimant with the object of obtaining benefits under this chapter to which he was not entitled, in addition to any other penalty or prosecution provided under this chapter, the ~~commission~~department may make a determination that there must be deducted from benefits to which the claimant might become entitled during this present benefit year or the next subsequent benefit year, or both, an amount not less than two times his weekly benefit amount and not more than his maximum benefit amount payable in a benefit year, as determined under Chapter 35. This deduction takes effect on the date of the determination. An appeal from this determination must be made in the manner prescribed in Chapter 35, Article 5.”

SECTION 111. Section 41‑41‑40 of the 1976 Code, as last amended by Act 202 of 2002, is further amended to read:

“Section 41‑41‑40.(A)(1) A person who has received a sum as benefits under Chapters 27 through 41 while conditions for the receipt of benefits imposed by these chapters were not fulfilled or while he was disqualified from receiving benefits is liable to repay the ~~commission~~department for the unemployment compensation fund a sum equal to the amount received by him.

(2) If full repayment of benefits, to which an individual was determined not entitled, has not been made the sum must be deducted from future benefits payable to him under Chapters 27 through 41, and the sum must be collectible in the manner provided in Sections 41‑31‑380 to 41‑31‑400 for the collection of past due contributions.

(3) The ~~commission~~department may attempt collection of overpayments through the South Carolina Department of Revenue in accordance with Section 12‑56‑10, et seq. If the overpayment is collectible in accordance with Section 12‑56‑60, the ~~commission~~department shall add to the amount of the overpayment a collection fee of not more than twenty‑five dollars for each collection attempt to defray administrative costs.

(4) Notwithstanding any other provision of this section, no action to enforce recovery or recoupment of any overpayment may begin after five years from the date of the final determination.

(B)(1) A person who is overpaid any amounts as benefits under Chapters 27 through 41 is liable to repay those amounts, except as otherwise provided by this subsection.

(2) Upon written request by the person submitted to the ~~commission~~department within the statutory appeal period from the issuance of the determination of overpayment, the ~~commission~~department may waive repayment if the ~~commission~~department finds that the:

(a) overpayment was not due to fraud, misrepresentation, or wilful nondisclosure on the part of the person;

(b) overpayment was received without fault on the part of the person; and

(c) recovery of the overpayment from the person would be contrary to equity and good conscience.

(3) Decisions denying waiver requests are subject to the appeal provisions of Chapter 35.

(C) A person who has received a sum as benefits under the comparable unemployment law of any other state while conditions imposed by that law were not fulfilled or while he was disqualified from receiving benefits by that law is liable to repay the ~~commission~~department for the corresponding unemployment compensation fund of the other state a sum equal to the amount received by him if the other state has entered into an Interstate Reciprocal Overpayment Recovery Agreement with the State and has furnished the ~~commission~~department with verification of the overpayment as required by the agreement. Recovery of overpayments under this subsection are not subject to the provisions of subsections (A)(3) and (B).”

SECTION 112. Section 41‑41‑50 of the 1976 Code is amended to read:

“Section 41‑41‑50. ~~Any~~An employing unit or person who ~~shall~~ wilfully ~~violate any~~violates a provision of Chapters 27 through 41 of this title or ~~any~~an order, rule, or regulation ~~thereunder~~under this title, the violation of which is made unlawful or the observance of which is required under the terms of ~~such~~these chapters, ~~shall be~~is liable to a penalty of one thousand dollars, to be recovered by the ~~Commission~~department in an appropriate civil action in ~~any~~ a court of competent jurisdiction, and ~~shall~~ also ~~be~~is guilty of a misdemeanor and ~~shall~~, upon conviction, must be punished by a fine of not less than twenty ~~nor~~dollars but not more than one hundred dollars or imprisonment for not longer than thirty days, and each day ~~such~~the violation continues ~~shall be deemed to be~~is considered a separate offense.”

SECTION 113. Section 41‑42‑10 of the 1976 Code is amended to read:

“Section 41‑42‑10. The ~~South Carolina Employment Security Commission shall~~department must create a division ~~to be~~ known as the ‘South Carolina State Employment Service’ ~~which shall~~that must establish and maintain free public employment offices in ~~such~~a number and in ~~such~~ places ~~as may be~~ necessary for the proper administration of Chapters 27 through 42 of this title and for the purpose of performing ~~such~~ duties ~~as are~~ within the purview of the act of Congress, entitled ‘An Act to Provide for the Establishment of a National Employment System and for Cooperation With the States in the Promotion of Such System, and for Other Purposes’, approved June 6, 1933 (48 Stat. 113, U. S. Code, Title 29, Section 49(c) as amended). All duties and powers formerly conferred ~~upon any other~~on another department, agency or officer of this State relating to the establishment, maintenance, and operation of free public employment offices ~~shall be~~are vested in ~~such~~this division.”

SECTION 114. Section 41‑42‑20 of the 1976 Code is amended to read:

“Section 41‑42‑20. The division ~~shall~~must be administered by a full‑time salaried director, who shall cooperate with ~~any~~an official or agency of the United States having powers or duties under provisions of such act of Congress and shall do and perform all things necessary to secure to this State the benefits of that act of Congress in the promotion and maintenance of a system of public employment offices. The ~~Commission~~department shall appoint the director and other officers and employees of the State Employment Service. ~~Such~~These appointments ~~shall~~must be made ~~in accordance with~~pursuant to regulations issued under Section 41‑29‑90.”

SECTION 115. Section 41‑42‑30 of the 1976 Code is amended to read:

“Section 41‑42‑30. The provisions of the act of Congress mentioned in Section 41‑42‑10 are ~~hereby~~ accepted by this State, in conformity with Section 4 of that act and this State will observe and comply with the requirements ~~thereof~~of the act. The ~~South Carolina Employment Security Commission~~department is ~~hereby~~ designated and constituted the agency of this State for the purposes of that act.”

SECTION 116. Section 41‑42‑40 of the 1976 Code is amended to read:

“Section 41‑42‑40. For the purpose of establishing and maintaining free public employment offices the division may enter into agreement with ~~any~~a political subdivision of this State or with ~~any~~a private nonprofit organization and as a part of ~~any~~ such agreement the ~~Commission~~department may accept ~~moneys~~money, services, or quarters as a contribution to the unemployment compensation administration fund.”

SECTION 117. 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.

SECTION 118. The Legislative Audit Council shall contract for three independent management audits of the department’s finance and operations. This first audit must be completed by July 1, 2011, the second audit must be completed by July 1, 2013, and the third audit must be completed by July 1, 2018. The Legislative Audit Council may contract for follow-up audits or conduct follow-up audits as needed based upon the audit’s initial findings.

At minimum, the audits required pursuant to this SECTION must:

(1) provide a detailed accounting of the revenues and expenditures from the Unemployment Insurance Trust Fund since 2000;

(2) determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund;

(3) assess alternatives for maintaining the solvency of the Unemployment Insurance Trust Fund;

(4) examine the unemployment eligibility benefit process for efficiency and compliance with law and agency policy; and

(5) evaluate the effectiveness of the Employment Security Commission’s programs for assisting claimants in returning to work.

The costs of these audits, including related administrative and management expenses of the Legislative Audit Council, are an operating expense of the department. The department shall pay directly to the Legislative Audit Council the cost of the audits.

SECTION 119. (A) There is created the Workforce Initiative/Economic Development Research Committee. This committee shall review, examine, and make recommendations regarding steps that should be taken to improve the economy of this State, the employment of South Carolinians, and to restore a substantially greater sense of financial security to the citizens of this State. The review must include an inventory of workforce training and recruitment programs and their adequacy towards meeting the needs of South Carolina’s businesses. In addition, the review and recommendations must place emphasis on the goal of matching unemployed citizens with jobs.

(B) The twenty‑four member committee is composed of:

(1) one member appointed by the Governor;

(2) one member appointed by the President Pro Tempore of the Senate;

(3) one member appointed by the Speaker of the House of Representatives;

(4) the Secretary of Commerce, or his designee;

(5) the Director of the Department of Parks, Recreation and Tourism, or his designee;

(6) a county economic development director from each Congressional district chosen by the economic development person or his designee from the office of the member of Congress representing each district;

(7) the Dean of the Moore School of Business at the University of South Carolina, the Dean of the Francis Marion University School of Business, the Dean of the South Carolina State University School of Business, the Dean of the College of Charleston School of Business and Economics, the Dean of the Clemson University College of Business, and the Dean of the Winthrop University College of Business Administration;

(8) the Chairman of the Board of Economic Advisors;

(9) the Secretary of Agriculture, or his designee;

(10) the Executive Director of the Department of Employment and Workforce;

(11) the Chairman of the State Ports Authority, or his designee;

(12) the Director of the Office of Small and Minority Business Assistance;

(13) the President of the South Carolina Chamber of Commerce, or his designee; and

(14) the President of the South Carolina Manufacturers’ Alliance, or his designee.

(C) The Governor shall serve as the chairperson of the committee.

(D) A vacancy occurring on the committee must be filled in the same manner as the original appointment.

(E) The staffing for the committee must be provided by the appropriate committees of the Senate and House of Representatives that oversee legislation affecting economic development and finance in this State and the staff of the Workforce Investment Program.

(F) The committee shall submit its report to the General Assembly and Governor before January 1, 2011, at which time the Workforce Initiative/Economic Development Research Committee is abolished.

SECTION 120. The Code Commissioner is directed to change all references to the “Department of Workforce” to the “Department of Employment and Workforce.”

SECTION 121. Chapter 35, Title 41 of the 1976 Code is amended by adding:

“Section 41-35-615. All notices given to an employer concerning a request for determination of insured status, a request for initiation of a claim series in a benefit year, a notice of unemployment, a certification for waiting-week credit, a claim for benefits, and any reconsideration of a determination must be made by United States mail or electronic mail. The employer may designate with the department its preferred method of notice. If an employer does not make a designation, then notices must be made by United States mail. The employer may not be required to respond to the notice until twelve business days after the postmark on notices sent via United States Mail or ten business days after the date a notice is sent via electronic mail.”

SECTION 122. Section 41‑27‑590 of the 1976 Code is amended to read:

“Section 41‑27‑590. (A) All criminal actions for violation of any provision of Chapters 27 through 41 of this ~~Title~~ title or of any rules or regulations issued pursuant thereto shall be prosecuted by the Attorney General of the State or at his request and under his direction by the solicitor of any circuit or any prosecuting attorney in any court of competent jurisdiction in the county in which the employer has a place of business or the violator resides.

(B) The department must refer all cases of significant claimant and/or employer fraud to the Attorney General to determine whether to prosecute the offender.”

SECTION 123. 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.”

SECTION 124. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Article 7

South Carolina Department of Workforce Review Committee

Section 41‑29‑700. 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.

(E) The committee must discharge its duties related to screening and nominating qualified individuals for appointment by the Governor in the manner provided in Chapter 20, Title 2.

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;

(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 125. 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 126. 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 127. 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.

SECTION 128. The Code Commissioner is directed to change all references in the to the 1976 Code to the “Employment Security Commission” to the “Department of Employment and Workforce” and all references to the “Chairman of the Employment Security Commission” or “chairman” that refer to the Chairman of the Employment Security Commission to “Executive Director of the Department of Employment and Workforce” or “executive director”, as appropriate.

SECTION 129. Section 41‑29‑260 is repealed.

SECTION 130. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 131. (A) This act takes effect upon approval by the Governor.

(B) The provisions of this act requiring the name of the Employment Security Commission to be changed to the Department of Workforce do not take effect until funding becomes available through appropriations by the General Assembly or until sufficient federal funds are available.

(C) Where the provisions of this act transfers the duties and responsibilities of the South Carolina Employment Security Commission (transferring agency) to the Department of Workforce (receiving agency), the employees, authorized appropriations, and real and personal property of the transferring agency are also transferred to and become part of the receiving agency. All classified or unclassified personnel of the transferring agency shall become employees of the receiving agency, with the same compensation, classification, and grade level, as applicable. Where necessary and appropriate, the Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer and shall in consultation with the agency head of the transferring and receiving agencies prescribe the manner in which the transfer provided for in this section shall be accomplished. The board’s action in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(D) Employees or personnel of the transferring agency transferred to or made a part of the receiving agency shall continue to occupy the same office locations and facilities which they now occupy unless or until otherwise changed by appropriate action and authorization. The rent and physical plant operating costs of these offices and facilities, if any, shall continue to be paid by the transferring agency until otherwise provided by the General Assembly. The records and files of the transferring agency shall remain the property of the transferring agency, except that the transferred personnel shall have complete access to these records and files in the performance of their duties as new employees of the receiving agency.

(E) All remaining costs necessary for the implementation and operation of the Department of Workforce shall be provided for by the General Assembly in the annual appropriations act, however, for fiscal year 2009‑2010, the funds appropriated to the South Carolina Employment Security Commission shall be credited to the Department of Workforce for the implementation of this act and for the operation needs of the department.

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 third time, passed and ordered returned to the House of Representatives with amendments.

**AMENDED, DEBATE INTERRUPTED**

H. 3305 -- Reps. Bedingfield, Merrill, Bingham, Duncan, Loftis, G.R. Smith, Cato, Owens, Crawford, A.D. Young, Nanney, Bannister, Daning, Harrison, Horne, Kirsh, Lowe, Lucas, E.H. Pitts, Stringer, Thompson, Toole, Wylie, T.R. Young, Long, Rice, Parker, Allison, Littlejohn, Cole, Hiott, Edge, Whitmire, Hearn, Hardwick, D.C. Smith, Pinson, J.R. Smith, Simrill, Brantley, Willis, Hamilton, Erickson, Sottile, Scott, Harrell, Delleney, Gullick, Frye, Clemmons, G.M. Smith, Battle, Sandifer, Millwood, Haley, Ballentine, M.A. Pitts, Cooper, White, Gambrell, Bowen, Umphlett, Forrester, Barfield, Chalk, Herbkersman, Viers, Spires, Huggins, Limehouse, Stewart, Kelly, Brady and D.C. Moss: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO ELECTIONS BY SECRET BALLOT AND PROTECTION OF THE RIGHT OF SUFFRAGE, SO AS TO PROVIDE THAT THE GUARANTEE OF THE RIGHT TO VOTE BY SECRET BALLOT APPLIES IN REQUIRED DESIGNATIONS OR AUTHORIZATIONS FOR EMPLOYEE REPRESENTATION.

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

**Amendment No. 1**

Senators HUTTO and L. MARTIN proposed the following amendment (JUD3305.005), which was adopted:

Amend the joint resolution, as and if amended, by striking the joint resolution in its entirety and inserting therein the following:

/ A JOINT RESOLUTION

TO PROPOSE AN AMENDMENT TO ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE RIGHT OF SUFFRAGE, BY ADDING SECTION 12 SO AS TO GUARANTEE THE RIGHT OF AN INDIVIDUAL TO VOTE BY SECRET BALLOT FOR A DESIGNATION, A SELECTION, OR AN AUTHORIZATION FOR EMPLOYEE REPRESENTATION BY A LABOR ORGANIZATION.

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

SECTION 1. It is proposed that Article II of the Constitution of this State be amended by adding:

“Section 12. The fundamental right of an individual to vote by secret ballot is guaranteed for a designation, a selection, or an authorization for employee representation by a labor organization.”

SECTION 2. The proposed amendment in Section 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Article II of the Constitution of this State, relating to the right of suffrage, be amended by adding Section 12 so as to provide that the fundamental right of an individual to vote by secret ballot is guaranteed for a designation, a selection, or an authorization for employee representation by a labor organization?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the amendment.

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

**Ayes 32; Nays 1**

**AYES**

Alexander Bright Bryant

Campsen Cleary Coleman

Courson Cromer Davis

Hayes Hutto Jackson

Knotts Leatherman Leventis

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

Mulvaney Nicholson O’Dell

Peeler Pinckney Reese

Rose Scott Setzler

Shoopman Verdin

**Total--32**

**NAYS**

Ford

**Total--1**

The amendment was adopted.

There being no further amendments, the question then was the second reading of the Joint Resolution.

Senator HUTTO was recognized to speak on the Joint Resolution.

With Senator HUTTO retaining the floor, on motion of Senator McCONNELL, with unanimous consent, debate was interrupted by adjournment.

**LOCAL APPOINTMENTS**

**Confirmations**

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

Reappointment, Charleston County Master-in-Equity, with the term to commence December 24, 2010, and to expire December 24, 2016

At-Large:

Mikell R. Scarborough, 100 Broad Street, Suite 266, Charleston, SC 29401

Reappointment, Greenville County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

William E. Lynch, 211 Pimlico Road, Greenville, SC 29607

Reappointment, Greenville County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

Charles F. Crump, 217 Covington Road, Greenville, SC 29617

Reappointment, Greenville County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Gerald W. Barron, 20 Farrell Kirk Lane, Greenville, SC 29615

**MOTION ADOPTED**

On motion of Senator KNOTTS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Robert Carter of Lexington, S.C., beloved husband of 58 years to Marjorie, devoted father of four and doting grandfather of five and step-grandfather of four. Mr. Carter served in the Korean War and he retired in 1992 from BAE Systems, formerly FMC Corp. He helped start the Dixie Youth Baseball and Football Leagues and coached for many years. He was very involved in his church, Mt. Olive Lutheran Church in Irmo, and he will be missed by family and friends alike.

and

**MOTION ADOPTED**

On motion of Senators CAMPBELL and KNOTTS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Margaret “Peggy” Elizabeth Bauer of Charleston, S.C., beloved grandmother of Lieutenant Governor Bauer.

**ADJOURNMENT**

At 1:37 P.M., on motion of Senator McCONNELL, with unanimous consent, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

\* \* \*