**Wednesday, March 31, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT *Pro Tempore*.

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

In Hebrews we read:

“Therefore, since we are surrounded by such a great cloud of witnesses, let us throw off everything that hinders and the sin that easily entangles, and let us run with perseverance the race marked out for us.” (Hebrews 12:1)

Bow with me as we pray, won’t you?

Merciful God, pardon us while we pause briefly to catch our breath. The race we find ourselves in—to accomplish good during this session, to serve the people of this State faithfully and well—it is indeed a demanding, taxing race. Yet, as did those people of old, we also hear the encouraging cheers from that cloud of witnesses represented by many of the portraits which hang on the walls of this Chamber, and we are encouraged as we struggle on. May these Senators themselves continue charging ahead, dear God, drawing strength from You. In Your loving name we pray, O Lord.

Amen.

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

**REGULATION WITHDRAWN AND RESUBMITTED**

The following was received:

Document No. 4107

Agency: Department of Health and Environmental Control

Chapter: 61

Statutory Authority: 1976 Code Sections 44-1-60 and 44-93-10 et seq.

SUBJECT: Infectious Waste Management Regulations

Received by Lieutenant Governor January 28, 2010

Referred to Medical Affairs Committee

Legislative Review Expiration May 28, 2010

Withdrawn and resubmitted March 30, 2010

**Doctor of the Day**

Senators LOURIE and McGILL introduced Dr. Tommy Rowland of Columbia, S.C., Doctor of the Day.

**Leave of Absence**

On motion of Senator MARTIN, at 11:05 A.M., Senator COURSON was granted a leave of absence until 1:30 P.M.

**Leave of Absence**

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

**Leave of Absence**

At 1:45 P.M., Senator FAIR requested a leave of absence beginning at 5:00 P.M. this evening and lasting until 10:00 A.M. in the morning.

**Point of Quorum**

At 11:14 A.M., Senator SETZLER made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

Senator LARRY MARTIN moved that a Call of the Senate be made. The following Senators answered the Call:

Alexander Anderson Bright

Bryant Campbell Cleary

Courson Cromer Davis

Elliott Fair Ford

Grooms Hayes Hutto

Knotts Land Leatherman

Leventis Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Pinckney Rankin Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

A quorum being present, the Senate resumed.

**Recorded Presence**

Senators COLEMAN, COURSON, LOURIE, JACKSON and REESE recorded their presence subsequent to the Call of the Senate.

**CO-SPONSORS ADDED**

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

S. 134 Sen. Shane Martin

S. 735 Sen. Mulvaney

**RECALLED**

S. 1328 -- Senators Peeler and Land: A BILL TO AMEND SECTION 56‑3‑2330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MANUFACTURER LICENSE PLATES FOR MOTOR VEHICLES, SO AS TO INCREASE FROM FOUR TO FIVE HUNDRED THE NUMBER OF THESE PLATES THAT MAY BE ISSUED TO A MANUFACTURER AND TO INCREASE FROM TEN TO TWENTY DAYS THE MAXIMUM NUMBER OF CONSECUTIVE DAYS THAT VEHICLES WITH THESE PLATES MAY BE USED IN CONNECTION WITH CIVIC AND SPORTING EVENTS.

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

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

**RECALLED**

S. 1330 -- Senators Peeler and Land: A JOINT RESOLUTION TO PROVIDE THAT IN 2011 AND 2012, THE ANNUAL FEE FOR THE AUTOMOBILE MANUFACTURER STANDARD LICENSE PLATE FOR VEHICLES IN SUCH MANUFACTURER’S EMPLOYEE BENEFIT PROGRAM AND FOR THE TESTING, DISTRIBUTION, EVALUATION, AND PROMOTION OF ITS VEHICLES IS SIX HUNDRED NINETY‑NINE DOLLARS, TO PROVIDE THAT TWENTY DOLLARS OF EACH FEE IS CREDITED TO THE GENERAL FUND OF THE STATE AND THE BALANCE TO LOCAL GOVERNMENTS, AND TO PROVIDE THAT THE ENTIRE FEE AMOUNT BE CREDITED TO THE GENERAL FUND OF THE STATE FOR NONRESIDENT PARTICIPANTS IN THE EMPLOYEE BENEFIT PROGRAM.

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

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1332 -- Senator Pinckney: A SENATE RESOLUTION TO CONGRATULATE MRS. INEZ MELVINA MCKENZIE DRAYTON OF JASPER COUNTY ON THE OCCASION OF HER ONE HUNDREDTH BIRTHDAY, AND TO WISH HER A JOYOUS BIRTHDAY CELEBRATION AND CONTINUED HEALTH AND HAPPINESS.

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The Senate Resolution was adopted.

S. 1333 -- Senator Rankin: A BILL TO AMEND SECTION 12-6-3385, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REFUNDABLE STATE INDIVIDUAL INCOME TAX CREDIT DEFINITIONS, SO AS TO REVISE THE DEFINITION OF "STUDENT" TO INCLUDE PALMETTO FELLOWS AND LIFE SCHOLARSHIP RECIPIENTS.

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

S. 1334 -- Senator McGill: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 35, TITLE 43 SO AS TO ESTABLISH FINANCIAL ABUSE OF A PERSON SIXTY-FIVE YEARS OF AGE OR OLDER OR A VULNERABLE ADULT OR A HANDICAPPED PERSON AS A CIVIL CAUSE OF ACTION; TO DEFINE FINANCIAL ABUSE GENERALLY AS TAKING REAL OR PERSONAL PROPERTY FROM SUCH A PERSON FOR A WRONGFUL USE, WITH INTENT TO DEFRAUD, OR BY UNDUE INFLUENCE OR WHEN SUCH A PERSON LACKS CAPACITY; TO SPECIFY CONDUCT THAT IS DEEMED TO BE FINANCIAL ABUSE; TO AUTHORIZE THE AWARDING OF ATTORNEY'S FEES AND COSTS; AND TO ESTABLISH A FOUR-YEAR STATUTE OF LIMITATIONS.

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Read the first time and referred to the General Committee.

S. 1335 -- Senator Elliott: A BILL TO AMEND CHAPTER 2, TITLE 32 OF THE 1976 CODE, RELATING TO CONTRACTS AGAINST PUBLIC POLICY, BY ADDING SECTION 32-2-20 TO RENDER INEFFECTIVE CLAUSES IN CONTRACTS THAT ALLOW FOR ESCALATION OF THE AMOUNT OF CONSIDERATION PRICE, OR VALUE AGREED TO PURSUANT TO THE TERMS OF THE CONTRACT.

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

S. 1336 -- Senator Elliott: A BILL TO AMEND CHAPTER 2, TITLE 32 OF THE 1976 CODE, RELATING TO CONTRACTS AGAINST PUBLIC POLICY, BY ADDING SECTION 32-2-20 TO RENDER INEFFECTIVE CLAUSES IN CONTRACTS THAT ALLOW FOR ESCALATION OF THE AMOUNT OF CONSIDERATION PRICE, OR VALUE AGREED TO PURSUANT TO THE TERMS OF THE CONTRACT UNLESS THE CLAUSE IS CONTAINED IN A WRITTEN CONTRACT AND IS CONSPICUOUSLY STATED IN AT A LEAST FOURTEEN FONT SIZE WITH ALL LETTERS CAPITALIZED.

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Senator ELLIOTT spoke on the Bill.

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

S. 1337 -- Senator Cromer: A CONCURRENT RESOLUTION CONGRATULATING THE SALUDA RIVER CLUB ON RECEIVING THE BALA AWARD FROM THE NATIONAL HOME BUILDERS ASSOCIATION.

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

S. 1338 -- Senator Fair: A BILL TO AMEND ACT 432 OF 1947, AS AMENDED, RELATING TO THE GREENVILLE HOSPITAL SYSTEM, ITS CREATION, BOARD, POWERS, AND DUTIES, SO AS TO PROVIDE THAT THE GREENVILLE HOSPITAL SYSTEM BOARD OF TRUSTEES MAY ESTABLISH A POLICE DEPARTMENT, EMPLOY POLICE AND SECURITY OFFICERS, AND TO PROVIDE FOR THE POLICE DEPARTMENT'S DUTIES, RESPONSIBILITIES, POWERS, FUNCTIONS, AND JURISDICTION.

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Senator FAIR spoke on the Bill.

Read the first time and ordered placed on the Local and Uncontested Calendar.

S. 1339 -- Senator Peeler: A BILL TO AMEND TITLE 11 OF THE 1976 CODE, RELATING TO PUBLIC FINANCE, BY ADDING CHAPTER 55 TO ESTABLISH THE "I-85 CHEROKEE-SPARTANBURG CORRIDOR AUTHORITY ACT" AND TO PROVIDE FOR THE COMPOSITION, DUTIES, AND POWERS OF THE AUTHORITY.

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

**REPORTS OF STANDING COMMITTEES**

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

S. 285 -- Senators Malloy and Bright: A BILL TO AMEND SECTION 22‑3‑10 OF THE 1976 CODE, RELATING TO THE CIVIL JURISDICTION OF MAGISTRATES, TO INCREASE THE CIVIL JURISDICTION TO FIFTEEN THOUSAND DOLLARS.

Ordered for consideration tomorrow.

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

S. 912 -- Senator Land: A BILL TO AMEND SECTION 17‑22‑950 OF THE 1976 CODE, AS ADDED BY ACT 36 OF 2009, RELATING TO PROCEDURES FOR EXPUNGEMENT OF CRIMINAL CHARGES WHICH HAVE BROUGHT IN SUMMARY COURT, TO REMOVE THE REQUIREMENT THAT THE COMPLETED EXPUNGEMENT ORDER BE FILED WITH THE CLERK OF COURT.

Ordered for consideration tomorrow.

Senator LARRY MARTIN from the Committee on Judiciary submitted a majority favorable with amendment and Senator HUTTO a minority unfavorable report on:

S. 980 -- Senators Bright, S. Martin and Bryant: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE DECLARATION OF RIGHTS, BY ADDING SECTION 25 TO PREEMPT ANY FEDERAL LAW OR RULE THAT RESTRICTS A PERSON’S CHOICE OF PRIVATE HEALTH CARE PROVIDERS OR THE RIGHT TO PAY FOR MEDICAL SERVICES.

Ordered for consideration tomorrow.

Senator LARRY MARTIN from the Committee on Judiciary submitted a majority favorable with amendment and Senator HUTTO a minority unfavorable report on:

S. 987 -- Senators Rose, S. Martin and Bryant: A BILL TO AMEND CHAPTER 1, TITLE 38 OF THE 1976 CODE, BY ADDING SECTION 38‑1‑40 TO ENACT THE “FREEDOM OF CHOICE IN HEALTH CARE ACT”, TO PROVIDE THAT CITIZENS OF THIS STATE HAVE THE RIGHT TO PURCHASE PRIVATE HEALTH INSURANCE, TO PROVIDE THAT THE GENERAL ASSEMBLY MAY NOT REQUIRE ANY PERSON TO PURCHASE HEALTH CARE INSURANCE, AND TO REQUIRE THE ATTORNEY GENERAL TO CHALLENGE THE CONSTITUTIONALITY OF ANY HEALTH CARE PLAN MANDATED BY CONGRESS.

Ordered for consideration tomorrow.

Senator CAMPBELL from the Committee on Judiciary submitted a majority favorable and Senator KNOTTS a minority unfavorable report on:

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

Ordered for consideration tomorrow.

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

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

Ordered for consideration tomorrow.

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

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

Ordered for consideration tomorrow.

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

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

Ordered for consideration tomorrow.

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

S. 1243 -- Senator Knotts: A BILL TO AMEND SECTION 8‑13‑320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES AND POWERS OF THE STATE ETHICS COMMISSION, SO AS TO DELETE THE PROHIBITION OF THE RELEASE OF INFORMATION UNTIL FINAL DISPOSITION OF AN ETHICS INVESTIGATION AND REQUIRE THAT THE INFORMATION MAY NOT BE RELEASED UNTIL A FINDING OF PROBABLE CAUSE HAS BEEN MADE.

Ordered for consideration tomorrow.

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

H. 3536 -- Reps. J.E. Smith and McLeod: A BILL TO AMEND SECTION 17‑5‑130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS OF CORONERS, SO AS TO INCREASE THOSE QUALIFICATIONS BY REQUIRING THOSE PERSONS WITH HIGH SCHOOL DIPLOMAS TO ALSO HAVE AT LEAST SIX YEARS’ EXPERIENCE IN THE FIELD, BY REQUIRING THOSE PERSONS WITH A TWO YEAR ASSOCIATE DEGREE TO ALSO HAVE FOUR YEARS OF EXPERIENCE IN THE FIELD, AND BY REQUIRING THOSE PERSONS WITH A FOUR YEAR BACCALAUREATE DEGREE TO ALSO HAVE AT LEAST TWO YEARS OF EXPERIENCE IN THE FIELD; AND TO REQUIRE THAT A CANDIDATE FOR CORONER FILE A SWORN AFFIDAVIT WITH THE COUNTY EXECUTIVE COMMITTEE OF THE PERSON’S POLITICAL PARTY UNDER SPECIFIED TIME FRAMES, TO PROVIDE FOR THE FILING OF THE AFFIDAVIT BY PETITION CANDIDATES, AND TO DELINEATE THE INFORMATION THAT THE AFFIDAVIT MUST CONTAIN.

Ordered for consideration tomorrow.

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

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

Ordered for consideration tomorrow.

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

**HOUSE BILLS RETURNED**

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

H. 4511 -- Reps. Clyburn, Harrison, Wylie, Bales, Brantley, Cobb‑Hunter, Ott, Hosey, Hodges, Battle, Whipper, Alexander, Gilliard, Kennedy, Skelton, Jefferson, Merrill, Frye, King, Anderson, J.R. Smith, McEachern, Mitchell, Rice, A.D. Young, J.H. Neal, Allen, Hardwick, Williams, Harrell, Clemmons, G.M. Smith, Vick, Bingham, Branham, H.B. Brown, R.L. Brown, Cooper, Dillard, Duncan, Gunn, Hart, Hayes, Hearn, Littlejohn, V.S. Moss, J.M. Neal, Neilson, Rutherford, Thompson, Weeks, White, Willis, T.R. Young and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 50 TO TITLE 11 SO AS TO ENACT THE “SOUTH CAROLINA RURAL INFRASTRUCTURE ACT”, TO ESTABLISH THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, AND TO PROVIDE FOR ITS GOVERNANCE, POWERS, AND DUTIES; TO AUTHORIZE THE AUTHORITY TO PROVIDE LOANS AND OTHER FINANCIAL ASSISTANCE TO A MUNICIPALITY, COUNTY, SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICT, AND A PUBLIC WORKS COMMISSION TO FINANCE RURAL INFRASTRUCTURE FACILITIES; TO ALLOW STATE APPROPRIATIONS, GRANTS, LOAN REPAYMENTS, AND OTHER AVAILABLE AMOUNTS TO BE CREDITED TO THE FUND OF THE AUTHORITY; TO AUTHORIZE LENDING TO AND BORROWING BY ELIGIBLE ENTITIES THROUGH THE AUTHORITY.

**H. 4511--Recorded Vote**

Senator BRYANT desired to be recorded as voting against the third reading of the Bill.

**H. 4511--Recorded Vote**

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

H. 4248 -- Reps. Horne, Allison, Daning, Long, Littlejohn, Wylie, Gunn, Ballentine, Clemmons and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑19‑115 SO AS TO REQUIRE A SUBSTITUTE TEACHER HIRED BY A LOCAL SCHOOL DISTRICT TO UNDERGO A CRIMINAL RECORD SEARCH, TO REQUIRE EACH SCHOOL DISTRICT TO DEVELOP A WRITTEN POLICY ON THE CRIMINAL RECORD SEARCH, TO PROVIDE WHAT THE POLICY MUST INCLUDE, AND TO REQUIRE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO PROVIDE TRAINING TO APPROPRIATE SCHOOL DISTRICT PERSONNEL; AND TO AMEND SECTION 23‑3‑115, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO FIX THE FEE AT EIGHT DOLLARS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES.

**H. 4248--Recorded Vote**

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

**THIRD READING BILLS**

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

S. 950 -- Senator Elliott: A BILL TO AMEND SECTIONS 5‑37‑20, 5‑37‑35, 5‑37‑40, AS AMENDED, 5‑37‑50, AS AMENDED, AND 5‑37‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE MUNICIPAL IMPROVEMENT DISTRICT ACT, SO AS TO CLARIFY THAT AN EASEMENT FOR MAINTENANCE IN CHANNELS, CANALS, OR WATERWAYS IS SUFFICIENT PROPERTY INTEREST TO PROCEED WITH AN ASSESSED DISTRICT; TO AUTHORIZE SOME PORTION OF THE BONDS ISSUED TO FUND ASSESSMENTS MAY BE BACKED BY THE TAXING POWER OF A MUNICIPALITY; AND TO PROVIDE AN EXCEPTION OF AN OWNER OF RESIDENTIAL PROPERTY TO BE REQUIRED TO CONSENT TO INCLUSION IN AN IMPROVEMENT DISTRICT WHEN THE SOLE IMPROVEMENTS ARE THE WIDENING AND DREDGING OF CANALS.

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

There was no objection.

**S. 950--Recorded Vote**

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

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.

**S. 613--Recorded Vote**

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

S. 134 -- Senators Sheheen, Verdin, Fair, Campsen and S. Martin: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑1‑435 SO AS TO ENACT THE “RELIGIOUS VIEWPOINTS ANTIDISCRIMINATION ACT”, WHICH PROHIBITS A SCHOOL DISTRICT FROM DISCRIMINATING AGAINST A STUDENT BASED ON RELIGIOUS VIEWPOINT, ALLOWS A STUDENT TO EXPRESS HIS RELIGIOUS VIEWPOINT, ALLOWS A STUDENT TO EXPRESS HIS RELIGIOUS BELIEFS IN HOMEWORK AND CLASSROOM ASSIGNMENTS, AND ALLOWS STUDENTS TO ORGANIZE AND PARTICIPATE IN RELIGIOUS STUDENT GATHERINGS TO THE SAME EXTENT AS SECULAR NONCURRICULAR GROUPS.

**S. 134--Recorded Vote**

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

S. 953 -- Senator Jackson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑19‑117 SO AS TO REQUIRE AN INDIVIDUAL HIRED BY A SCHOOL DISTRICT TO SERVE IN ANY CAPACITY IN A PUBLIC SCHOOL WHICH REQUIRES DIRECT INTERACTION WITH STUDENTS TO UNDERGO A CRIMINAL RECORD SEARCH, TO REQUIRE EACH SCHOOL DISTRICT TO DEVELOP A WRITTEN POLICY ON THE CRIMINAL RECORD SEARCH, TO PROVIDE WHAT THE POLICY MUST INCLUDE, AND TO REQUIRE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO PROVIDE TRAINING TO APPROPRIATE SCHOOL DISTRICT PERSONNEL; AND TO AMEND SECTION 23‑3‑115, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO FIX THE FEE AT EIGHT DOLLARS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES.

**S. 953--Recorded Vote**

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

S. 1312 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO REQUIREMENTS FOR ADDITIONAL AREAS OF CERTIFICATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4117, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**S. 1312--Recorded Vote**

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

**SECOND READING BILL**

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

H. 4514 -- Rep. Cooper: A BILL TO AMEND SECTION 12‑44‑30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE THE DEFINITION OF “TERMINATION DATE”; AND TO AMEND SECTION 12‑6‑590, AS AMENDED, RELATING TO TREATMENT OF “S” CORPORATIONS FOR TAX PURPOSES, SO AS TO PROVIDE THAT A SPECIFIED AMOUNT OF INCOME TAXES PAID BY RESIDENT AND NONRESIDENT SHAREHOLDERS OF CERTAIN “S” CORPORATIONS MUST BE DEPOSITED INTO A SPECIAL FUND AND DISTRIBUTED BY THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT AS GRANTS FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS, WHICH DIRECTLY SUPPORT THE PROJECTS, AND TO PROVIDE FOR GUIDELINES TO ADMINISTER THE FUND AND APPLICATIONS FOR THE GRANTS.

Senator O'DELL explained the Bill.

**Recorded Vote**

Senators DAVIS, MULVANEY, VERDIN and SHOOPMAN desired to be recorded as voting against the second reading of the Bill.

**OBJECTION**

S. 1268 -- Senators Matthews, Scott and Williams: A BILL TO AMEND SECTION 59‑127‑20 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA STATE UNIVERSITY BOARD OF TRUSTEES, TO REMOVE TWO AT‑LARGE SEATS AND REPLACE THEM WITH TWO SEATS TO BE ELECTED BY THE SOUTH CAROLINA STATE UNIVERSITY NATIONAL ALUMNI ASSOCIATION.

Senator HUTTO objected.

H. 4244 -- Rep. Limehouse: A BILL TO AMEND SECTION 59‑130‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COLLEGE OF CHARLESTON BOARD OF TRUSTEES, SO AS TO ADD AN ADDITIONAL TRUSTEE TO BE APPOINTED BY THE COLLEGE OF CHARLESTON ALUMNI ASSOCIATION BOARD OF DIRECTORS, TO SET HIS TERM, AND TO PROVIDE CRITERIA FOR HIS SELECTION.

Senator HUTTO objected.

**CARRIED OVER**

S. 642 -- Senators Alexander, Ford and Knotts: 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.

On motion of Senator LARRY MARTIN, the Bill was carried over.

S. 314 -- Senator Fair: A BILL TO AMEND CHAPTER 1, TITLE 14 OF THE 1976 CODE, RELATING TO MISDEMEANOR TRAFFIC OFFENSES AND NONTRAFFIC VIOLATIONS, BY ADDING SECTION 14‑1‑240, TO IMPOSE AN ADDITIONAL FIVE DOLLAR SURCHARGE ON ALL FINES, FORFEITURES, ESCHEATMENTS, OR OTHER MONETARY PENALTIES FOR MISDEMEANOR TRAFFIC OFFENSES OR FOR NONTRAFFIC VIOLATIONS, AND TO PROVIDE THAT THE SURCHARGE SHALL BE USED TO FUND TRAINING AT THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY.

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.**

**MOTION ADOPTED**

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

**THE SENATE PROCEEDED TO THE ADJOURNED DEBATE.**

**CARRIED OVER**

S. 1 -- Senators McConnell, Peeler, Leatherman, Sheheen, Rose, Courson, Elliott, Massey, Hayes, Davis, Bright, Campsen, Campbell, L. Martin, Knotts, Alexander, S. Martin, Shoopman and Rankin: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE X OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE REQUIREMENT FOR THE STATE AND ITS POLITICAL SUBDIVISIONS TO HAVE BUDGET PROCESSES DESIGNED TO KEEP REVENUES AND EXPENDITURES IN BALANCE, THE LIMITATION ON STATE APPROPRIATIONS, AND THE LIMITATIONS ON STATE EMPLOYEES, SO AS TO DELETE THE EXISTING STATE SPENDING LIMITATION AND REQUIRE THE GENERAL ASSEMBLY TO REPLACE IT BY A LAW IMPOSING AN ANNUAL LIMIT ON THE APPROPRIATION OF STATE GENERAL FUND REVENUES BY ADJUSTING SUCH REVENUES BY A ROLLING TEN‑YEAR AVERAGE IN ANNUAL CHANGES IN GENERAL FUND REVENUES; TO ALLOW THE CREATION OF A BUDGET STABILIZATION FUND IN THE STATE TREASURY TO WHICH MUST BE CREDITED ALL GENERAL FUND REVENUES IN EXCESS OF THE ANNUAL LIMIT; AND TO PROVIDE BY GENERAL LAW FOR THE APPROPRIATIONS TO WHICH THE LIMIT APPLIES, THE METHOD OF AND SOURCES FOR CALCULATING THE LIMIT; AND TO PROVIDE FOR THE DISBURSEMENTS FROM THE BUDGET STABILIZATION FUND.

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

On motion of Senator LARRY MARTIN, the Joint Resolution was carried over.

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

**AMENDMENT PROPOSED**

**CONSIDERATION INTERRUPTED**

H. 3584 -- Reps. Harrell, Bingham, Cooper, Harrison, Owens, Sandifer, White, Crawford, Bannister, Huggins, Sottile, Spires, Herbkersman, Loftis, Bowen, Erickson, Daning, Hardwick, J.R. Smith, Pinson, Toole, Brady, Clemmons, Edge, Forrester, Frye, Gullick, Hearn, Hiott, Horne, Kelly, Littlejohn, Long, E.H. Pitts, Rice, Skelton, D.C. Smith, G.M. Smith, Whitmire, Wylie, Gunn, Limehouse, Willis, J.E. Smith and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑21‑625 SO AS TO IMPOSE A SURTAX ON EACH CIGARETTE IN AN AMOUNT OF TWO AND ONE‑HALF CENTS, PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE DEPARTMENT OF AGRICULTURE FOR MARKETING AND BRANDING STATE‑GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE-GROWN CROPS, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND DEFINE “CIGARETTE”; TO AMEND SECTION 12‑21‑620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO CONFORM DEFINITIONS; BY ADDING SECTION 11‑11‑230 SO AS TO CREATE AND ESTABLISH IN THE STATE TREASURY THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, ALL SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; BY ADDING CHAPTER 62 TO TITLE 38 SO AS TO CREATE AND ESTABLISH THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE PLAN, PROVIDING FOR A PREMIUM CREDIT NOT TO EXCEED THREE THOUSAND DOLLARS TO AN ELIGIBLE INDIVIDUAL OR EMPLOYER TOWARD THE PURCHASE OF A QUALIFYING HEALTH INSURANCE PLAN, DESCRIBING ELIGIBILITY REQUIREMENTS AND THE CERTIFICATION PROCESS, DEFINING THE QUALIFYING INDIVIDUALLY OR EMPLOYER‑SPONSORED INSURANCE PLANS, AND PROVIDING FOR ADMINISTRATION AND REPORTING BY THE DEPARTMENT OF INSURANCE; AND BY ADDING SECTION 38‑74‑75 SO AS TO CREATE THE PALMETTO HEALTH CARE SAFETY NET PROGRAM, ESTABLISHING A SELF‑SUSTAINING AND FINANCIALLY INDEPENDENT PORTION OF THE PREMIUM ASSISTANCE POOL, AND PROVIDING FOR ELIGIBILITY REQUIREMENTS, ADMINISTRATION, AND REPORTING BY THE DEPARTMENT OF INSURANCE AND OPERATING GUIDELINES.

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

Senator ALEXANDER, subcommittee chairman, was recognized to explain the Bill.

**Amendment No. P-1A**

Senators ALEXANDER, SHEHEEN and FORD proposed the following Amendment No. P-1A (3584FIN009.TCA), which was substituted by Amendment No. P-1B:

Amend the committee report, as and if amended, page [3584-1], by striking line 34 and inserting:

/ “Section 12‑21‑625. (A) Effective July 1, 2010, there is /

Amend the committee report further, as and if amended, page [3584-2], 3 through 6 and inserting:

/ cancer research;

(2) five million dollars to the Smoking Prevention and Cessation Trust Fund created pursuant to Section 11-11-230(A);

(3) the revenue of five hundredths of a cent of the surtax on each cigarette to the Department of Agriculture to cause the marketing and branding of South Carolina agricultural crops or produce as being grown in South Carolina when offered for sale in retail establishments and to assist in relief from natural disasters affecting state‑grown crops;

(4) the remaining annual revenue shall be deposited in the South Carolina Medicaid Reserve Fund created pursuant to Section 11‑11‑230(B). /

Amend the committee report further, as and if amended, by striking SECTION 3 and inserting:

/ SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. (A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program.

(B) There is created the South Carolina Medicaid Reserve Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The fund may be appropriated solely for the restoration and maintenance of effort of the Medicaid program as structured at the time this act takes effect. The fund is not intended to be used to expand any component of the existing Medicaid program.” /

Amend the committee report further, as and if amended, by striking SECTION 4 and inserting:

/ SECTION 4. In May or June of 2010, neither a wholesaler, distributor, or a retailer of cigarettes may purchase more cigarettes in any one month in an amount that exceeds one hundred ten percent of the average monthly amount of cigarettes purchased in the same three months of the previous calendar year. In examining aggregate business license tax revenue data, if the Department of Revenue determines that the revenue collected in May or June of 2010 exceeds one hundred ten percent of the amount collected during the same two months of the previous calendar year, the business license tax audit division of the department shall conduct an audit of random wholesalers, distributors, and retailers to ensure compliance with the requirements of this section. Any violation of this section shall result in a civil fine equal to five times the amount of tax owed on the purchased cigarettes that caused the wholesaler, distributor, or retailer to exceed one hundred ten percent of the amount purchased in the same two months of the previous calendar year. /

Amend the committee report further, as and if amended, by deleting SECTION 6.

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER explained the amendment.

**Objection**

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

Senator LEVENTIS objected.

Senator ALEXANDER explained the amendment.

**RECESS**

At 12:30 P.M., with Senator ALEXANDER retaining the floor, on motion of Senator PEELER, with unanimous consent, the Senate receded from business until 1:30 P.M.

On motion of Senator PEELER, with unanimous consent, consideration was interrupted by the recess.

**AFTERNOON SESSION**

The Senate reassembled at 1:51 P.M. and was called to order by the PRESIDENT *Pro Tempore*.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**AMENDED, READ THE SECOND TIME**

**RETURNED TO THE STATUS OF SPECIAL ORDER**

H. 3584 -- Reps. Harrell, Bingham, Cooper, Harrison, Owens, Sandifer, White, Crawford, Bannister, Huggins, Sottile, Spires, Herbkersman, Loftis, Bowen, Erickson, Daning, Hardwick, J.R. Smith, Pinson, Toole, Brady, Clemmons, Edge, Forrester, Frye, Gullick, Hearn, Hiott, Horne, Kelly, Littlejohn, Long, E.H. Pitts, Rice, Skelton, D.C. Smith, G.M. Smith, Whitmire, Wylie, Gunn, Limehouse, Willis, J.E. Smith and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑21‑625 SO AS TO IMPOSE A SURTAX ON EACH CIGARETTE IN AN AMOUNT OF TWO AND ONE‑HALF CENTS, PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE DEPARTMENT OF AGRICULTURE FOR MARKETING AND BRANDING STATE‑GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE-GROWN CROPS, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND DEFINE “CIGARETTE”; TO AMEND SECTION 12‑21‑620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO CONFORM DEFINITIONS; BY ADDING SECTION 11‑11‑230 SO AS TO CREATE AND ESTABLISH IN THE STATE TREASURY THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, ALL SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; BY ADDING CHAPTER 62 TO TITLE 38 SO AS TO CREATE AND ESTABLISH THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE PLAN, PROVIDING FOR A PREMIUM CREDIT NOT TO EXCEED THREE THOUSAND DOLLARS TO AN ELIGIBLE INDIVIDUAL OR EMPLOYER TOWARD THE PURCHASE OF A QUALIFYING HEALTH INSURANCE PLAN, DESCRIBING ELIGIBILITY REQUIREMENTS AND THE CERTIFICATION PROCESS, DEFINING THE QUALIFYING INDIVIDUALLY OR EMPLOYER‑SPONSORED INSURANCE PLANS, AND PROVIDING FOR ADMINISTRATION AND REPORTING BY THE DEPARTMENT OF INSURANCE; AND BY ADDING SECTION 38‑74‑75 SO AS TO CREATE THE PALMETTO HEALTH CARE SAFETY NET PROGRAM, ESTABLISHING A SELF‑SUSTAINING AND FINANCIALLY INDEPENDENT PORTION OF THE PREMIUM ASSISTANCE POOL, AND PROVIDING FOR ELIGIBILITY REQUIREMENTS, ADMINISTRATION, AND REPORTING BY THE DEPARTMENT OF INSURANCE AND OPERATING GUIDELINES.

The Senate resumed consideration of the Bill, the question being the adoption of Amendment No. P-1A (3584FIN009.TCA) proposed by Senators ALEXANDER, SHEHEEN and FORD. P-1A was substituted with Amendment No. P-1B, which was adopted.

Senator ALEXANDER resumed explaining the amendment.

Senator RYBERG argued contra to the adoption of the amendment.

**Objection**

Senator ALEXANDER asked unanimous consent to make a motion to perfect the amendment.

Senator LEVENTIS objected.

Senator RYBERG argued contra to the adoption of the amendment.

Senator ALEXANDER asked unanimous consent to make a motion to perfect the amendment.

There was no objection.

**Amendment No. P-1B**

Senators ALEXANDER, SHEHEEN and FORD proposed the following Amendment No. P-1B (3584R009.TCA), which was adopted:

Amend the committee report, as and if amended, page [3584-1], by striking line 34 and inserting:

/ “Section 12‑21‑625. (A) Effective July 1, 2010, there is /

Amend the committee report further, as and if amended, page [3584-2], 3 through 6 and inserting:

/ cancer research;

(2) five million dollars to the Smoking Prevention and Cessation Trust Fund created pursuant to Section 11-11-230(A);

(3) the revenue of five hundredths of a cent of the surtax on each cigarette to the Department of Agriculture to cause the marketing and branding of South Carolina agricultural crops or produce as being grown in South Carolina when offered for sale in retail establishments and to assist in relief from natural disasters affecting state‑grown crops;

(4) the remaining annual revenue shall be deposited in the South Carolina Medicaid Reserve Fund created pursuant to Section 11‑11‑230(B). /

Amend the committee report further, as and if amended, by striking SECTION 3 and inserting:

/ SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. (A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program.

(B) There is created the South Carolina Medicaid Reserve Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The fund may be appropriated solely for the restoration and maintenance of effort of the Medicaid program as structured at the time this act takes effect. The fund is not intended to be used to expand any component of the existing Medicaid program.” /

Amend the committee report further, as and if amended, by deleting SECTIONS 4 and 6.

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER moved that the amendment be adopted.

Senator CLEARY moved that the amendment be adopted.

The amendment was adopted.

**Recorded Vote**

Senators McCONNELL and ROSE desired to be recorded as voting against the adoption of Amendment No. P-1B.

**Statement by Senators McCONNELL and ROSE**

We voted against Amendment No. P-1B because the amendment would direct money away from the provision of health services to the Department of Agriculture.  We believe that if we are going to increase the tax on cigarettes because of the expenses of smoking on our health care system, then the money should go to health care and smoking cessation efforts.  However, this amendment would spend it for non-health care expenses.  For that reason and because we believe that beginning to use the tax money for other reasons will open Pandora’s box.

**Statement by Senator ALEXANDER**

I had included the Cigarette Stockpiling Provision in H. 3584 at a level 110% of the previous year’s purchasing.

However, to move the Bill forward for passage, it was evident to me that this section needed to be removed even with a reduction of $12 million fiscal impact to the Bill (a one-time revenue loss of $12 million).

There is no question that I would prefer to have the Stockpiling Provision included in the Bill. But, at the end of the day, the legislation was approved and that was my ultimate goal to reduce smoking.

Senator LAND asked unanimous consent to substitute Amendment No. P-8 for Amendment No. P-2B.

There was no objection.

**Amendment No. P-8**

Senators LEATHERMAN, LAND, ELLIOTT, PINCKNEY, LOURIE, NICHOLSON, McGILL, MATTHEWS, SHEHEEN, WILLIAMS and FORD proposed the following Amendment No. P-8 (3584R007.HKL), which was adopted:

Amend the committee amendment, as and if amended, SECTION 1, Section 12-21-625 by adding a new item to subsection (B) after item (3) to read:

/ ( ) upon creation of the I-95 Corridor Authority, three million five hundred thousand dollars to the I-95 Corridor Authority for a grant program for infrastructure improvements along the I-95 Corridor. Any grant awarded pursuant to this subitem shall be matched on a two to one basis by the grant recipient; and /

Renumber sections to conform.

Amend title to conform.

Senator LAND explained the amendment.

Senator LAND moved that the amendment be adopted.

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

**Ayes 35; Nays 10**

**AYES**

Anderson Bryant Campbell

Cleary Coleman Courson

Cromer Davis Elliott

Fair Ford Grooms

Hayes Hutto Jackson

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Matthews McGill Nicholson

O’Dell Pinckney Rankin

Reese Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--35**

**NAYS**

Alexander Bright Knotts

*Martin, Shane* Massey McConnell

Mulvaney Peeler Rose

Thomas

**Total--10**

The amendment was adopted.

**Statement by Senators McCONNELL and ROSE**

We voted against Amendment P-8 for these reasons. First, the cigarette tax should be used for health care costs and smoking cessation initiatives. This is neither and must be funded before either of these get anything. Money has already been diverted to the Department of Agriculture for an advertising campaign. This adds another expenditure which is not related to the purpose of raising the tax. We will not vote to divert money to non-health care expenditures.

**Objection**

Senator PEELER asked unanimous consent to make a motion to take up for immediate consideration Amendment No. P-10.

Senator SHEHEEN objected.

**Amendment No. P-3**

Senators CLEARY, LEVENTIS and LAND proposed the following Amendment No. P-3 (3584FIN008.REC), which was substituted with Amendment No. P3A, but not adopted:

Amend the committee report, as and if amended, page [3584-1], by striking line 36 and inserting:

/ to Section 12‑21‑620(1) in an amount equal to four and one‑half /

Amend the committee report further, as and if amended, page [3584-2], by striking lines 3 through 6 and inserting:

/ cancer research;

(2) one hundred million dollars of the remaining annual revenue shall be deposited in the South Carolina Healthcare Trust Fund created pursuant to Section 11‑11‑230;

(3) eighty-five million dollars of the remaining annual revenue shall be credited to the State Department of Education to fund any deficit for National Board Certification Incentives, including fringe benefits associated with receiving the incentives. Any revenue that is not needed to fully fund the National Board Certification Incentive program, shall be deposited in a separate account within the department to fulfill the State’s annual obligation to the program in any year in which the program is not fully funded. Earnings and interest on this account must be credited to it and any balance in the account at the end of a fiscal year carries forward in the account in the succeeding fiscal year.

If the revenue generated by this section generates more than one hundred ninety million, the remaining annual revenue shall be divided evenly between subitems (2) and (3). If the revenue generated by this section generates less than one hundred ninety million, the amounts credited pursuant to subitems (2) and (3) shall be reduced by a pro-rata percentage. /

Renumber sections to conform.

Amend title to conform.

Senator CLEARY explained the amendment.

**Objection**

Senator ROSE asked unanimous consent to make a motion to perfect the amendment.

Senator SETZLER objected.

On motion of Senator CLEARY, with unanimous consent, Amendment No. P-3A was substituted for Amendment No. P-3 as follows:

**Amendment No. P-3A**

Senators CLEARY, LEVENTIS and LAND proposed the following Amendment No. P-3A (3584R013.REC), which was not adopted:

Amend the committee report, as and if amended, page [3584-1], by striking line 36 and inserting:

/ to Section 12‑21‑620(1) in an amount equal to four and one‑half /

Amend the committee report further, as and if amended, page [3584-2], by striking lines 3 through 6 and inserting:

/ cancer research;

(2) one hundred million dollars of the remaining annual revenue shall be deposited in the South Carolina Healthcare Trust Fund created pursuant to Section 11‑11‑230;

(3) eighty-five million dollars of the remaining annual revenue shall be credited to the State Department of Education to fund any deficit for National Board Certification Incentives, including fringe benefits associated with receiving the incentives. Any revenue that is not needed to fully fund the National Board Certification Incentive program, shall be deposited in the Education Improvement Act account. Earnings and interest on this account must be credited to it and any balance in the account at the end of a fiscal year carries forward in the account in the succeeding fiscal year.

If the revenue generated by this section generates more than one hundred ninety million, the remaining annual revenue shall be divided evenly between subitems (2) and (3). If the revenue generated by this section generates less than one hundred ninety million, the amounts credited pursuant to subitems (2) and (3) shall be reduced by a pro-rata percentage. /

Renumber sections to conform.

Amend title to conform.

Senator CLEARY explained the amendment.

Senator CLEARY moved that the amendment be adopted.

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

**Ayes 18; Nays 26**

**AYES**

Cleary Coleman Elliott

Ford Hutto Jackson

Land Leventis Lourie

Malloy Matthews McGill

Nicholson Pinckney Reese

Scott Sheheen Williams

**Total--18**

**NAYS**

Alexander Bright Bryant

Campbell Courson Cromer

Davis Fair Grooms

Hayes Knotts Leatherman

*Martin, Larry Martin, Shane* Massey

McConnell Mulvaney O’Dell

Peeler Rankin Rose

Ryberg Setzler Shoopman

Thomas Verdin

**Total--26**

The amendment was not adopted.

**Statement by Senators McCONNELL and ROSE**

We voted against Amendment No. P-3A because the money is being diverted to a non-health care expense.

**Statement by Senator SHANE MARTIN**

I voted “no” on Amendment No. P-3A because it increases taxes on one group of society to pay for recurring core government services with dwindling tax resources.  Education is an important core government service that should be taken care of in the budget on its own.  Until we determine true needs and how to fund education consistently, we will continue to find piecemeal funding solutions that don’t truly fix the problem.  The proponents of the cigarette tax want to decrease smoking and state that an increased cigarette tax will in fact do that – thus setting up a decreased revenue stream.  I campaigned to vote against a cigarette tax increase and this is just another example of how government wants to tax anything it can and use the money as soon as possible without considering the long term effects.

**Amendment No. P-4A**

Senator BRIGHT proposed the following Amendment No. P-4A (BBM\9695AB10), which was tabled:

Amend the report, as and if amended, by striking SECTION 1, beginning on page 3584‑1 and inserting:

/ SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) Effective July 1, 2010 there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to one and one‑half cents on each cigarette.

(B) For purposes of this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection.

(C) Notwithstanding another provision of law providing for the credit of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited to a fund in the State Treasury separate and distinct from the general fund and all other funds titled the ‘Agricultural Real Property Tax Credit Fund’. Revenues in this fund must be distributed by the State Treasurer to the county treasurer of each county in the proportion that acreage in the county classified as agricultural real property pursuant to Section 12-43-220(d) is of such acreage statewide as calculated by the Office of Research and Statistics of the State Budget and Control Board in consultation with the Department of Revenue. The amount distributed to each county must be used to provide a credit against the property tax liability on each separate parcel of agricultural real property in the county classified pursuant to Section 12-43-220(d) calculated by multiplying a fraction in which the numerator is the acreage of the separate parcel of agricultural real property and the denominator is the total acreage of such property in the county by the total distribution to the county from the Agricultural Real Property Tax Credit Fund. The credit may not exceed the total property tax liability on the parcel and excess credit must be remitted to the State Treasurer on the schedule prescribed by the State Treasurer and credited to a special account with the Agricultural Real Property Tax Credit Fund which carries forward in that account to the succeeding fiscal year from which the balance in this account must be appropriated by the General Assembly in the annual general appropriations act to the Judicial Department.” /

Renumber sections to conform.

Amend title to conform.

Senator BRIGHT explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 27; Nays 15**

**AYES**

Alexander Campbell Cleary

Coleman Elliott Fair

Hayes Hutto Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Matthews McConnell

McGill Nicholson O’Dell

Pinckney Rankin Rose

Setzler Sheheen Williams

**Total--27**

**NAYS**

Bright Bryant Courson

Cromer Davis Grooms

Jackson Massey Mulvaney

Peeler Reese Scott

Shoopman Thomas Verdin

**Total--15**

The amendment was laid on the table.

**Statement by Senators McCONNELL and ROSE**

We voted to table Amendment No. P-4A because it is using the cigarette tax for a non-health care expenditure.

**Statement by Senator SHANE MARTIN**

I voted to table Amendment No. P-4A because it is using a declining revenue source for a recurring expense.

**Amendment No. P-5**

Senators BRYANT, DAVIS, MULVANEY and BRIGHT proposed the following Amendment No. P-5 (3584FIN016.KLB), which was tabled:

Amend the committee amendment as and if amended, SECTION 1, by striking Section 12-21-625(A) and (B) and inserting:

/ (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to one and one‑half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited to the general fund of the State. /

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

/ SECTION \_\_\_. Section 12-6-510(A) of the 1976 Code is amended to read:

“(A) For taxable years beginning after 1994, a tax is imposed on the South Carolina taxable income of individuals, estates, and trusts and any other entity except those taxed or exempted from taxation under Sections 12‑6‑530 through 12‑6‑550 computed at the following rates with the income brackets indexed in accordance with Section 12‑6‑520:

Not over $2,220 2.5 percent of taxable income Over $2,220 but not over $4,440 $56 plus 3 percent of the excess over

$2,220;

Over $4,440 but not over $6,660 $123 plus 4 percent of the excess over $4,440;

Over $6,660 but not over $8,880 $212 plus 5 percent of the excess of

$6,660;

Over $8,880 but not over $11,100 $323 plus 6 percent of the excess over

$8,880;

Over $11,100 $456 plus ~~7~~ 6.75 percent of the excess over

$11,100. /

Amend the bill further, as and if amended, by deleting SECTION 3.

Renumber sections to conform.

Amend title to conform.

Senator BRYANT explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator BRIGHT spoke on the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 29; Nays 15**

**AYES**

Alexander Campbell Cleary

Coleman Cromer Elliott

Ford Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Matthews McConnell McGill

Nicholson O’Dell Pinckney

Rankin Scott Setzler

Sheheen Williams

**Total--29**

**NAYS**

Bright Bryant Courson

Davis Fair Grooms

Massey Mulvaney Peeler

Reese Rose Ryberg

Shoopman Thomas Verdin

**Total--15**

The amendment was laid on the table.

**Statement by Senators McCONNELL and SHANE MARTIN**

While we agree with reducing the income tax of individuals and small businesses, we do not agree with the method attempted here. It would try to give a permanent tax cut with a tax that is designed to diminish over time. Even though this is an admirable goal, it is bad economic policy. For that reason, we had to vote against Amendment No. P-5. Building a beautiful tax house on an eroding foundation like the cigarette tax means that house will fall soon.

**RECESS**

At 4:45 P.M., on motion of Senator LARRY MARTIN, the Senate receded from business subject to the Call of the Chair.

At 5:16 P.M., the Senate resumed.

**PRESIDENT PRESIDES**

At 5:16 P.M., the PRESIDENT assumed the Chair.

**Amendment No. P-7**

Senator MASSEY proposed the following Amendment No. P-7 (3584R008.ASM), which was tabled:

Amend the committee amendment, as and if amended, SECTION 1, by striking Section 12-21-625(A) and inserting:

/ (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to one and one‑half cents on each cigarette. /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

Senator ALEXANDER spoke on the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 29; Nays 15**

**AYES**

Alexander Cleary Coleman

Courson Elliott Fair

Ford Hayes Hutto

Jackson Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Rose Scott Setzler

Sheheen Williams

**Total--29**

**NAYS**

Bright Bryant Campbell

Cromer Davis Grooms

Knotts Massey Mulvaney

Rankin Reese Ryberg

Shoopman Thomas Verdin

**Total--15**

The amendment was laid on the table.

**Statement by Senator SHANE MARTIN**

I voted to table the proposed amendment to remain consistent in my efforts not to increase taxes!

**Amendment No. P-9**

Senator SHEHEEN proposed the following Amendment No. P-9 (3584SHELOURPERFECTING), which was tabled:

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

/ SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to six and thirty-five-one-hundredths cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited as follows:

(1) five million dollars to the Medical University of South Carolina Hollings Cancer Center to be used for tobacco-related cancer research;

(2) each year, five million dollars to the Smoking Prevention and Cessation Trust Fund created pursuant to Section 11‑11‑230;

(3) the revenue of five hundredths of a cent of the surtax on each cigarette to the Department of Agriculture to cause the marketing and branding of South Carolina agricultural crops or produce as being grown in South Carolina when offered for sale in retail establishments and to assist in relief from natural disasters affecting state‑grown crops;

(4) three-million-five-hundred-thousand dollars annually to the I‑95 Corridor Authority to be used towards fulfilling the purposes of the Authority; and

(5) the remaining annual revenue shall be deposited equally into:

(a) the Medicaid Reserve Fund created pursuant to Section 11-11-240; and

(b) the State Department of Education to be distributed to school districts through the Education Finance Act formula.

(C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12‑21‑620.

(D) For purposes of this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1).” /

Amend the committee report further, as and if amended, by striking SECTION 3 in its entirety and inserting:

/ SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program.

Section 11-11-240. “There is created in the State Treasury the Medicaid Reserve Fund, which is separate and distinct from the general fund of the State and all other funds. The Department of Health and Human Services may use the Fund to offset operating deficits of the Medicaid program.” /

Amend the committee report further, as and if amended, by striking SECTION 4 in its entirety and inserting:

/ SECTION 4. In May or June of 2010, neither a wholesaler, distributor, or a retailer of cigarettes may purchase more cigarettes in any one month in an amount that exceeds one hundred ten percent of the average monthly amount of cigarettes purchased in the same two months of the previous calendar year. In examining aggregate business license tax revenue data, if the Department of Revenue determines that the revenue collected in May or June of 2010 exceeds one hundred ten percent of the amount collected during the same two months of the previous calendar year, the business license tax audit division of the department shall conduct an audit of random wholesalers, distributors, and retailers to ensure compliance with the requirements of this section. Any violation of this section shall result in a civil fine equal to five times the amount of tax owed on the purchased cigarettes that caused the wholesaler, distributor, or retailer to exceed one hundred ten percent of the amount purchased in the same two months of the previous calendar year. /

Amend the committee report further, as and if amended, page [3584-3] after line 25 by adding an appropriately numbered new SECTION to read:

/ SECTION . Title 11 of the 1976 Code is amended by adding:

“Chapter 54

I‑95 Corridor Authority Act

Section 11‑54‑5. This chapter may be cited as the ‘I‑95 Corridor Authority Act’.

Section 11‑54‑10. There is established the I‑95 Corridor Authority. The Authority must:

(1) carry out economic development and educational improvement activities which, in the opinion of the Authority, will improve the economic conditions in its member counties;

(2) oversee the implementation of the recommendations contained in the I‑95 Corridor Human Needs Assessment published in December 2009; and

(3) report to the General Assembly, at least annually, on the progress made related to its charge, any modification of the laws of this State needed to allow the Authority to better fulfill its charge, programs, and operations.

Section 11‑54‑15. The Authority is a public body, politic and corporate, and an agency of the State and may:

(1) adopt bylaws, procedures, and regulations for the directors, officers, and employees and for implementation and operation of the programs authorized by this act;

(2) sue and be sued in its own name;

(3) enter into such contracts, agreements, and instruments and make such offers to contract with such persons, partnerships, firms, corporations, agencies, or entities, whether public or private, considered desirable in the furtherance of its purpose;

(4) acquire by purchase, donation, exchange, or otherwise, hold, improve, mortgage, pledge, or otherwise, encumber, manage, lease, convey, transfer, or dispose of any real or personal property, whether tangible or intangible, together with such rights and privileges as may be incidental and appurtenant thereto. To the extent that administrative funds are involved, the Authority must comply with the provisions of the South Carolina Consolidated Procurement Code. To the extent that the liability of the Authority is limited to program funds, any such acquisition or disposition may be pursuant to public or private sale upon such terms and conditions as the Authority may approve in accordance with prudent business practices;

(5) appoint officers, agents, employees, and consultants, prescribe their duties, and fix their compensation; and

(6) participate in and cooperate with any agency or instrumentality of the United States and with any agency or political subdivision of this State in the administration of any of the programs authorized by this act.

Section 11‑54‑20. The member counties of the Authority consist of all counties that:

(1) are contiguous with I‑95; or

(2)(a) have some point which is located within thirty miles of I‑95, and

(b) had total population of under forty thousand as calculated by the 2000 census.

Section 11‑54‑25. (A) The Authority is governed by a board of directors that is composed of nineteen members. The members must be appointed as follows:

(1) three members appointed by the senators whose districts include the member counties;

(2) three members appointed by the representatives whose districts include the member counties;

(3) one member, to serve as chairman, appointed by the senators and representatives whose districts include the member counties, with each senator and representative casting a vote weighted to be proportional to the percentage of the member counties’ total population they represent;

(4) one member, appointed by the Senate Finance Committee Chairman;

(5) one member, appointed by the Chairman of the House Ways and Means Committee;

(6) one member, appointed by the senators whose districts include the member counties, who is a president of a technical college located in a member county;

(7) one member, appointed by the representatives whose districts include the member counties, who is a president of a technical collage located in a member county;

(8) the President of Francis Marion University, or his designee;

(9) the President of South Carolina State University, or his designee; and

(10) six nonvoting members, one appointed by each individual Regional Council of Government that cover the member counties.

No two members designated in items (1) through (5) may reside in the same county. All members designated in items (1) through (5) must have sufficient experience in the fields of education, economic development, or business management to deem them qualified as determined by the appointing senators, representatives, or Chairman.

(B) Except as provided in subsection (C), members must serve a five‑year term. Any vacancy on the Authority must be filled in the same manner as the original appointment. Members of the Authority shall serve without mileage, per diem, and subsistence. (C) Initial appointments to the Authority shall be made within sixty days of the enactment of this section. Two of the members appointed pursuant to item (A)(1), one of the members appointed pursuant to item (A)(2), and the members appointed pursuant to (A)(4) and (A)(5) must serve an initial term of two years. The appointing authorities must designate in their initial appointments if the term of the member chosen is to be two or five years.

(D) The initial meeting of the Authority shall be convened by the chairman as soon as practical after the initial appointments are made. Business of the Authority may only be conducted when a quorum is present. A quorum consists of a majority of members appointed pursuant to (A)(1-9).

Section 11‑54‑30. (A) The Authority shall receive state funds as appropriated by the General Assembly.

(B) In addition to funding sources listed in subsection (A), the Authority is authorized to solicit and accept private and public donations, grants, gifts, and federal funds. All funds received by the Authority, regardless of their source, are to be held and accounted for by the State Treasure in a separate account to be known as the ‘I‑95 Corridor Authority Fund’. This fund is separate and distinct from all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Disbursements from the Authority Fund must only be made upon the signature of the chairmen of the board of directors, or a designee of the board, upon written warrants of the Comptroller General drawn on the state treasurer to the payee designated in the requisition.

(C) The Authority must distribute funds throughout the member counties as grants, in a manner which fulfills the charge in Section 11‑54‑10. The Authority must create guidelines to govern the selection of recipients of grants and the distribution of grant funds. Any grants awarded must be matched at a two-to-one ratio by the grant reciepient.

(D) The Authority must be audited annually by the State Auditor or by an independent certified public accounting firm approved by the State Auditor.

Section 11-54-35. The authority, in consultation with the South Carolina Research Authority, shall develop a process by which the I-95 Corridor Authority may execute recommendations of the I-95 Corridor Human Needs Assessment regarding technology-based economic development, including, but not limited to, test and deployment of bio‑technology to remediate brown-fields, crop and algae development for bio-fuels, water purification and freshwater aquaculture, and agricultural waste-to energy applications. The authority may hire the South Carolina Research Authority to execute the recommendations.”/

Renumber sections to conform.

Amend title to conform.

Senator SHEHEEN explained the amendment.

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

The amendment was laid on the table.

**Amendment No. P-11**

Senators MULVANEY, BRYANT, BRIGHT and DAVIS proposed the following Amendment No. P-11 (BBM\9693AB10), which was tabled:

Amend the report, as and if amended, by striking SECTION 1, beginning on page 3584‑1 and inserting:

/ SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) Effective July 1, 2010 there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to one and one‑half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited to the general fund of the State and used to offset revenue not collected as a result of the enactment of the South Carolina Business and Investment Opportunity Tax Act.

(C) For purposes of this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection.” /

Amend further, as and if amended, beginning on page 3584‑3, by striking all after SECTION 2 and inserting:

/ SECTION 3. A. This section may be cited as the “South Carolina Business and Investment Opportunity Tax Act.”

B. Section 12‑6‑1150 of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“Section 12‑6‑1150. (A) Individuals, estates, and trusts are allowed a deduction from South Carolina taxable income equal to ~~forty‑four~~ one hundred percent of net capital gain recognized in this State during a taxable year. In the case of estates and trusts, the deduction is applicable only to income taxed to the estate or trust or individual beneficiaries and not income passed through to nonindividual beneficiaries.

(B)(1) South Carolina income includes capital gains and losses from partnerships and ‘S’ Corporations.

(2) Net capital gain is as defined in Internal Revenue Code, Section 1222 and related sections.”

C. The amendments to Sections 12‑6‑545 and 12‑6‑1150 of the 1976 Code as amended in this subsection apply for taxable years beginning after 2009.

SECTION 4. In May or June of 2010, neither a wholesaler, distributor, or a retailer of cigarettes may purchase more cigarettes in any one month in an amount that exceeds one hundred ten percent of the average monthly amount of cigarettes purchased in the same two months of the previous calendar year. In examining aggregate business license tax revenue data, if the Department of Revenue determines that the revenue collected in May or June of 2010 exceeds one hundred ten percent of the amount collected during the same two months of the previous calendar year, the business license tax audit division of the department shall conduct an audit of random wholesalers, distributors, and retailers to ensure compliance with the requirements of this section. Any violation of this section shall result in a civil penalty equal to five times the amount of tax owed on the purchased cigarettes that caused the wholesaler, distributor, or retailer to exceed one hundred ten percent of the amount purchased in the same two months of the previous calendar year.

SECTION 5. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator MULVANEY explained the amendment.

Senator LEVENTIS argued contra to the adoption of the amendment.

Senator LEVENTIS moved to lay the amendment on the table.

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

**Ayes 32; Nays 11**

**AYES**

Alexander Campbell Cleary

Coleman Cromer Elliott

Ford Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Nicholson O’Dell

Pinckney Rankin Reese

Rose Scott Setzler

Sheheen Williams

**Total--32**

**NAYS**

Bright Bryant Courson

Davis Grooms Mulvaney

Peeler Ryberg Shoopman

Thomas Verdin

**Total--11**

The amendment was laid on the table.

**Statement by Senators McCONNELL and ROSE**

We voted to table Amendment No. P-11 because it is using the cigarette tax for a non-health care expenditure.

**Statement by Senator SHANE MARTIN**

While I support the efforts to eliminate the capital gains tax, I have to remain consistent with my voting on this issue.  We would, once again, be relying on a declining revenue source to support recurring costs.  I will be supporting Senator Mulvaney in his efforts to get a stand-alone bill to eliminate the capital gains tax.  I still maintain that we need to list the core government services that need to be taxpayer funded and how the taxpayer is willing to fund those core government services consistently.  Until we accomplish this, we will continue to have temporary, piecemeal funding solutions that will have to be changed every time we have a “budget crisis.”

**Amendment No. P-13**

Senators KNOTTS, SETZLER, COURSON and CROMER proposed the following Amendment No. P-13 (3584R012.JMK), which was not adopted:

Amend the committee amendment, as and if amended, SECTION 1, Section 12-21-625 by adding a new item to subsection (B) after item (3) to read:

/ ( ) fifteen million dollars to complete the John Hardee freeway extension to Interstate 26, with an interchange; and /

Renumber sections to conform.

Amend title to conform.

Senator KNOTTS explained the amendment.

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

**Ayes 13; Nays 31**

**AYES**

Courson Cromer Davis

Ford Grooms Jackson

Knotts Lourie Reese

Scott Setzler Shoopman

Verdin

**Total--13**

**NAYS**

Alexander Bright Bryant

Campbell Cleary Coleman

Elliott Fair Hayes

Hutto Land Leatherman

Leventis Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Pinckney Rankin Rose

Ryberg Sheheen Thomas

Williams

**Total--31**

The amendment was not adopted.

**Statement by Senator SHANE MARTIN**

I voted against Amendment No. P-13 because, once again, we are opening the government cookie jar and funding pork projects with other people’s money.  The supporters of the cigarette tax want to send the money to health related issues.  This is another example of fiscal irresponsibility.

**ACTING PRESIDENT PRESIDES**

At 5:58 P.M., Senator LARRY MARTIN assumed the Chair.

**Amendment No. P-15**

Senator MASSEY proposed the following Amendment No. P-15 (3584R015.ASM), which was tabled:

Amend the committee amendment, as and if amended, SECTION 1, Section 12-21-625 by adding a new item to subsection (B) after item (3) to read:

/ ( ) six million dollars to the South Carolina Judicial Department/

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

Senator McCONNELL argued contra to the adoption of the amendment.

Senator McCONNELL moved to lay the amendment on the table.

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

**Ayes 39; Nays 3**

**AYES**

Alexander Bright Campbell

Cleary Coleman Courson

Cromer Elliott Ford

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

**Total--39**

**NAYS**

Bryant Davis Massey

**Total--3**

The amendment was laid on the table.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

**Statement by Senator SHANE MARTIN**

I voted to table this amendment because we need to fund a branch of government in our budget, not on the back of a segment of the population.  Everyone benefits from a funded court system and we should fund it accordingly.  This would be a terrible way to fund our Judicial Department.  I have remained consistent today with ALL of my votes on the cigarette tax issue.

The question then was the adoption of the amendment proposed by the Committee on Finance.

The Committee on Finance proposed the following amendment (3584FIN001), which was adopted:

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

/ SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) Effective July 1, 2009, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to two and one‑half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited as follows:

(1) five million dollars to the Medical University of South Carolina Hollings Cancer Center to be used for tobacco-related cancer research; and

(2) the remaining annual revenue shall be deposited in the South Carolina Healthcare Trust Fund created pursuant to Section 11‑11‑230.

(C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12‑21‑620.

(D) For purposes of this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1).”

SECTION 2. Section 12‑21‑620 of the 1976 Code is amended to read:

“Section 12‑21‑620. (A) There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in this section the following amounts:

(1) upon all cigarettes made of tobacco or any substitute for tobacco, three and one‑half mills on each cigarette;

(2) upon all tobacco products, as defined in Section 12‑21‑800, five percent of the manufacturer’s price.

Manufacturer’s price as used in this section is the established price at which a manufacturer sells to a wholesaler.

(B) As used in this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection.”

SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. There is created the South Carolina Healthcare Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year.”

SECTION 4. In May or June of 2009, neither a wholesaler, distributor, or a retailer of cigarettes may purchase more cigarettes in any one month in an amount that exceeds one hundred ten percent of the average monthly amount of cigarettes purchased in the same three months of the previous calendar year. In examining aggregate business license tax revenue data, if the Department of Revenue determines that the revenue collected in May or June of 2009 exceeds one hundred ten percent of the amount collected during the same two months of the previous calendar year, the business license tax audit division of the department shall conduct an audit of random wholesalers, distributors, and retailers to ensure compliance with the requirements of this section. Any violation of this section shall result in a civil fine equal to five times the amount of tax owed on the purchased cigarettes that caused the wholesaler, distributor, or retailer to exceed one hundred ten percent of the amount purchased in the same two months of the previous calendar year.

SECTION 5. Except where otherwise provided, this act takes effect upon approval by the Governor.

SECTION 6. (A) The General Assembly recognizes that the federal government is in the process of developing a program to substantially increase access to healthcare to all individuals. As a result of the federal government’s anticipated action, the General Assembly finds that it is necessary to impose the additional surtax provided by Section 12-21-625, as added by this act, on a provisional basis pending the federal expansion of healthcare.

(B) Unless extended prior to the date of repeal imposed by this subsection by a concurrent resolution adopted by each house of the General Assembly strictly for this purpose that references this act, the surtax imposed by Section 12-21-625, as added by this act, is repealed effective June 30, 2010. /

Renumber sections to conform.

Amend title to conform.

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

**Ayes 26; Nays 17**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Ford

Hayes Hutto Jackson

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Matthews McGill Nicholson

O’Dell Pinckney Rankin

Reese Scott Setzler

Sheheen Williams

**Total--26**

**NAYS**

Bright Bryant Cleary

Courson Davis Grooms

Knotts *Martin, Shane* Massey

McConnell Mulvaney Peeler

Rose Ryberg Shoopman

Thomas Verdin

**Total--17**

The committee amendment was adopted, as perfected.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

**Amendment No. 7**

Senators MASSEY, SHOOPMAN, DAVIS, ALEXANDER and ROSE proposed the following Amendment No. 7 (3584R005.ASM), which was adopted:

Amend the bill, as and if amended, SECTION 3, by striking Section 11-11-230(A) and inserting:

/ (A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program. The funds must not be appropriated for any other purpose and the Department of Health and Environmental Control may not use the funds for any purposes other than administering a statewide smoking prevention and cessation program. /

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER explained the amendment.

Senator ALEXANDER moved that the amendment be adopted.

The amendment was adopted.

**Amendment No. 8**

Senators SHOOPMAN, MASSEY, DAVIS and ROSE proposed the following Amendment No. 8 (3584R004.ASM), which was adopted:

Amend the bill, as and if amended, SECTION 3, by striking Section 11-11-230(B) and inserting:

/ (B) There is created the South Carolina Medicaid Reserve Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The fund may only be appropriated for the restoration and maintenance of effort of the Medicaid program as structured at the time this act takes effect, and must not be appropriated for any other purpose. The fund must not be used to expand any component of the existing Medicaid program.”/

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

Senator MASSEY moved that the amendment be adopted.

The amendment was adopted.

**Amendment No. 11**

Senators BRIGHT, DAVIS and MULVANEY proposed the following Amendment No. 11 (3584FIN013.LB), which was tabled:

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

/ SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to one and one‑half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited to the Manufactured Property Tax Relief Fund created pursuant to Section 11-11-230.

(C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12‑21‑620.

(D) For purposes of this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1).”

SECTION 2. Section 12‑21‑620 of the 1976 Code is amended to read:

“Section 12‑21‑620. (A) There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in this section the following amounts:

(1) upon all cigarettes made of tobacco or any substitute for tobacco, three and one‑half mills on each cigarette;

(2) upon all tobacco products, as defined in Section 12‑21‑800, five percent of the manufacturer’s price.

Manufacturer’s price as used in this section is the established price at which a manufacturer sells to a wholesaler.

(B) As used in this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection.”

SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. (A) There is created in the State Treasury the Manufactured Property Tax Relief Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year.

(B) For property tax years beginning with 2011, the State Treasurer shall establish a Manufactured Property Tax Relief Credit. The credit must be based on the amount of revenue from the additional surtax imposed pursuant to Section 12-21-625 collected during the prior calendar year and the property tax collected on manufacturing property pursuant to Section 12-43-220(a)(1) during the prior calendar year. The credit must be set by dividing the total amount of manufacturing property tax revenue collected by one hundred thousand dollars and then dividing the total amount of cigarette tax revenue collected by this amount. The amount determined is the amount that must be credited to each one hundred thousand dollars of assessed value of manufacturing property. The credit must be established prior to July first of the applicable tax year and the State Treasurer must inform each county assessor of the credit amount. Each county assessor must credit each taxpayer paying property tax on manufacturing property the appropriate amount based on the amount of the credit and the assessed value of the property taxed. Each tax bill must conspicuously display the amount the taxpayer’s bill was reduced by the credit. Upon application by a county assessor, the state treasurer shall remit the amount credited to taxpayers in the county. Each assessor must make application prior to December first of the tax year and the state treasurer must remit the reimbursement prior to the first penalty date for the payment of property taxes for the tax year.”

SECTION 4. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator BRIGHT explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 28; Nays 13**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Matthews McConnell

McGill Nicholson O’Dell

Pinckney Rankin Reese

Scott Setzler Sheheen

Williams

**Total--28**

**NAYS**

Bright Bryant Courson

Davis Grooms Massey

Mulvaney Peeler Rose

Ryberg Shoopman Thomas

Verdin

**Total--13**

The amendment was laid on the table.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

**Statement by Senator McCONNELL**

I voted to table Amendment No. 11 because it is using the cigarette tax for a non-health care expenditure.

**Amendment No. 12**

Senator BRIGHT proposed the following Amendment No. 12 (3584FIN014.LB), which was tabled:

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

/ SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to one and one‑half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited to the Commercial and Rental Property Tax Relief Fund created pursuant to Section 11-11-230.

(C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12‑21‑620.

(D) For purposes of this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1).”

SECTION 2. Section 12‑21‑620 of the 1976 Code is amended to read:

“Section 12‑21‑620. (A) There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in this section the following amounts:

(1) upon all cigarettes made of tobacco or any substitute for tobacco, three and one‑half mills on each cigarette;

(2) upon all tobacco products, as defined in Section 12‑21‑800, five percent of the manufacturer’s price.

Manufacturer’s price as used in this section is the established price at which a manufacturer sells to a wholesaler.

(B) As used in this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection.”

SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. (A) There is created in the State Treasury the Commercial and Rental Property Tax Relief Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year.

(B) For property tax years beginning with 2011, the State Treasurer shall establish a Commercial and Rental Property Tax Relief Fund Credit. The credit must be based on the amount of revenue from the additional surtax imposed pursuant to Section 12-21-625 collected during the prior calendar year and the property tax collected on commercial and rental property pursuant to Section 12-43-220(e) during the prior calendar year. The credit must be set by dividing the total amount of commercial and rental property tax revenue collected by one hundred thousand dollars and then dividing the total amount of cigarette tax revenue collected by this amount. The amount determined is the amount that must be credited to each one hundred thousand dollars of assessed value of commercial and rental property. The credit must be established prior to July first of the applicable tax year and the State Treasurer must inform each county assessor of the credit amount. Each county assessor must credit each taxpayer paying property tax on commercial or rental property the appropriate amount based on the amount of the credit and the assessed value of the property taxed. Each tax bill must conspicuously display the amount the taxpayer’s bill was reduced by the credit. Upon application by a county assessor, the state treasurer shall remit the amount credited to taxpayers in the county. Each assessor must make application prior to December first of the tax year and the state treasurer must remit the reimbursement prior to the first penalty date for the payment of property taxes for the tax year.”

SECTION 4. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator BRIGHT explained the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 28; Nays 13**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Matthews McConnell

McGill Nicholson O’Dell

Pinckney Rankin Reese

Scott Setzler Sheheen

Williams

**Total--28**

**NAYS**

Bright Bryant Courson

Davis Grooms Massey

Mulvaney Peeler Rose

Ryberg Shoopman Thomas

Verdin

**Total--13**

The amendment was laid on the table.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

**Statement by Senator McCONNELL**

I voted to table Amendment No. 12 because it is using the cigarette tax for a non-health care expenditure.

**Amendment No. 13**

Senator GROOMS proposed the following Amendment No. 13 (3584R016.LKG), which was tabled:

Amend the bill, as and if amended, SECTION 1, Section 12-21-625(B), by adding a new subitem after (3) and inserting:

/ ( ) fifteen millions dollars, for fiscal year 2011-2012 only, to the South Carolina Aeronautics Commission to fund grants pursuant to the South Carolina Air Service Incentive and Development Fund. This amount shall be repaid to the Medicaid Reserve Fund pursuant to Chapter 19, Title 55.

Amend the bill further, as and if amended, by adding two appropriately numbered SECTIONS to read:

/ SECTION \_\_\_. Title 55 of the 1976 Code is amended by adding:

“CHAPTER 19

Air Service Incentive and Development Fund

Section 55‑19‑10. (A) There is established within the South Carolina Aeronautics Commission a fund which shall be known and referred to as the South Carolina Air Service Incentive and Development Fund and which shall be administered by the commission. The General Assembly in the annual general appropriations act or in other acts may provide or appropriate monies for the South Carolina Air Service Incentive and Development Fund. All expenditures from the fund shall be for a program to provide more air flight options, more competition for air travel and more affordable air fares for this State, including regional airports.

(B) The monies credited to the South Carolina Air Service Incentive and Development Fund shall be disbursed as a grant by the commission to regional economic development organizations, local governing bodies, or the governing bodies of airports and shall be used for the development and implementation of a program to provide more air flight options, more competition for air travel, and more affordable air fares for this State. Each grant shall be matched by monies from the grantee or the local jurisdiction in which it is located, on the basis of at least twenty‑five percent from the grantee or the local jurisdiction in which it is located with the remainder from the South Carolina Air Service Incentive and Development Fund.

(C) Annually, before November fifteenth, beginning one year after the effective date of this chapter, the commission shall evaluate and present a report on the effectiveness of this program to the House Ways and Means Committee, the Senate Finance Committee, and the Joint Transportation Review Committee which shall include a detailed summary of the expenditures from the fund and local matching monies received under the program and the results obtained for such expenditures.

(D) Any monies remaining in the Air Service Incentive and Development Fund at the end of any fiscal year must be carried forward from fiscal year to fiscal year and earnings of the fund shall remain part of the fund.

Section 55‑19‑20. The commission shall accept grant applications from the governing bodies of regional economic development organizations, local governing bodies, or the governing bodies of airports to accomplish the purposes of the program in accordance with the following guidelines:

(1) proposals shall specify how the program will provide more flight options, more competition for air travel, and more affordable air fares for the people of the State of South Carolina. An applicant shall demonstrate that due diligence has been conducted with respect to a proposal for funding. Due diligence must be documented with an analysis of feasibility from a professional air service consultant or a letter of intent from a commercial scheduled air carrier;

(2) proposals shall specify the amount of funding requested through the South Carolina Air Service Incentive and Development Fund and indicate the source of the local match;

(3) proposals shall specify how the applicant will document the effectiveness of funding received under this program;

(4) proposals shall specify how expenditures and results from this program and local matching monies will be reported; and

(5) proposals shall specify how grant monies will be repaid to the State.

Section 55‑19‑30. (A) Grants from the South Carolina Air Service Incentive and Development Fund must be considered and may be awarded in accordance with the purposes of the program, which are more flight options, more competition for air travel, and more affordable air fares for this State. Selection criteria include the following:

(1) More air flight options including:

(a) number of scheduled, nonstop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(b) number of scheduled, one‑stop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(c) number of connecting cities by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(2) More competition for air travel including:

(a) number of scheduled, nonstop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both, served by two or more airlines;

(b) number of scheduled, one‑stop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both, served by two or more airlines;

(c) average airfare for scheduled, connecting flights in terms of origin and destination passengers;

(3) More affordable air fares for South Carolina including:

(a) average airfare for scheduled, round‑trip, nonstop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(b) average airfare for scheduled, round‑trip, one‑stop flights by commercial scheduled passenger air carriers to domestic destinations;

(c) average airfare for scheduled, round‑trip, one‑stop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both.

(B) In making awards, the commission must give:

(1) highest priority to maintaining affordable airfares;

(2) high priority to publicly traded network carriers; and

(3) due consideration to the method of repayment, the likelihood of timely repayment, and the amount of the local match.

Section 55‑19‑40. (A) In any fiscal year following Fiscal Year 2010‑2011 in which the annual aircraft property tax revenues collected pursuant to Article 19, Chapter 37, Title 12, exceed five million two hundred thousand dollars, the revenues in excess of five million two hundred thousand dollars shall be used to repay the Medicaid Reserve Fund instead of being paid into the State General Fund. The money must be repaid together with interest calculated by the State Treasurer’s Office in an amount determined to approximate investment earnings that otherwise may have been realized on the monies.

(B) If there are no outstanding loans pursuant to this section or any and all loans entered pursuant to this section have been fully repaid, in any fiscal year in which annual aircraft property tax revenues collected pursuant to Article 19, Chapter 37, Title 12, exceed five million two hundred thousand dollars, the revenues in excess of five million two hundred thousand dollars shall be paid into the South Carolina Air Services Incentive and Development Fund instead of being paid into the State General Fund.

Section 55-19-50. (A) The commission may not award a grant from the South Carolina Air Service Incentive and Development Fund without the opportunity for review by the Joint Transportation Review Committee.

(B) Prior to awarding a grant, the commission shall file with the review committee a copy of the grant application and a written statement that identifies:

(1) the reasons the grant should be made;

(2) the manner and time within which the grant is to be repaid; and

(3) a detailed analysis of the selection criteria utilized by the commission and the manner in which those criteria are expected to achieve with the purposes of the program.

(C) Within forty‑five days after the review committee receives the grant application and statement, the review committee may hold a public hearing concerning the proposed grant and, whether or not a public hearing is held, shall issue a report to the commission. The report shall include any recommendations approved by the committee.

(1) If the review committee’s report does not contain any recommended changes, the commission may award the grant.

(2) If the review committee’s report contains recommendations, the commission shall review the recommendations and may work with the grant applicant to revise the application in light of the recommendations and file a revised application with the review committee.

(3) Following its review of the review committee’s report, the commission may resubmit the initial application for reconsideration or a revised application for consideration.

(a) If the commission resubmits the initial application with no changes as recommended by the review committee, the commission shall include with the resubmitted application correspondence stating the reasons why the recommendations were not adopted. The review committee may hold additional hearings and issue additional reports at its discretion. Not earlier than forty‑five days after the filing of any correspondence and resubmitting the initial application with the committee, the commission may award the grant based on the initial application.

(b) If the commission submits a revised application that contains one or more, but not all, of the changes recommended by the review committee, the commission shall include with the application correspondence stating the reasons why the recommendations were not adopted. The review committee may hold additional hearings and issue additional reports at its discretion. Not earlier than forty‑five days after the filing of any correspondence and revised application with the committee, the commission may award the grant based on the revised application.

(c) If the commission submits a revised application that incorporates all of the changes recommended by the review committee, the commission may award the grant following the review committee’s consideration of, and report concerning, the revised application.

(D) In the event that the commission determines that the review process required by this section would result in frustrating the purposes of this program, the commission may award a grant. Any grant awarded pursuant to this subsection must contain a provision that the grant is subject to review by the review committee, and the terms, conditions, or amount of the grant are subject to change based on any recommendations made by the review committee.

(E) To carry out their respective duties, the commission and the review committee shall work in consultation and cooperation with the Budget and Control Board.”

SECTION \_\_\_. Section 57-1-730 of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) provide oversight of the South Carolina Air Service Incentive and Development Fund pursuant to Section 55-19-50.” /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator LEATHERMAN moved to lay the amendment on the table.

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

**Ayes 33; Nays 8**

**AYES**

Alexander Bright Coleman

Courson Cromer Elliott

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Williams

**Total--33**

**NAYS**

Bryant Campbell Davis

Grooms Peeler Shoopman

Thomas Verdin

**Total--8**

The amendment was laid on the table.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

**Statement by Senator SHANE MARTIN**

I voted to table this amendment to remain consistent with my voting today.  I support the efforts to bring low cost carriers to the State and to help our manufacturers.  I will support Senator Grooms in his efforts to get H.4343 passed and help bring low cost carriers to the Upstate.  However, I cannot allow this effort to be supported with a declining revenue source.

**Clerk’s Conforming Amendment**

The following Clerk’s Conforming Amendment incorporated all adopted amendments to H. 3584 and was adopted:

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

/ SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑625. (A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(1) in an amount equal to two and one‑half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other taxes, the revenue of the surtax imposed pursuant to this section must be credited as follows:

(1) five million dollars annually to the Medical University of South Carolina Hollings Cancer Center to be used for tobacco‑related cancer research;

(2) five million dollars annually to the Smoking Prevention and Cessation Trust Fund created pursuant to Section 11‑11‑230(A);

(3) the revenue of five hundredths of a cent of the surtax on each cigarette annually to the Department of Agriculture to cause the marketing and branding of South Carolina agricultural crops or produce as being grown in South Carolina when offered for sale in retail establishments and to assist in relief from natural disasters affecting state‑grown crops;

(4) upon creation of the I‑95 Corridor Authority, three million five hundred thousand dollars annually to the I‑95 Corridor Authority for a grant program for infrastructure improvements along the I‑95 Corridor. Any grant awarded pursuant to this subitem shall be matched on a two‑to‑one basis by the grant recipient; and

(5) the remaining annual revenue shall be deposited in the South Carolina Medicaid Reserve Fund created pursuant to Section 11‑11‑230(B).

(C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12‑21‑620.

(D) For purposes of this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1).”

SECTION 2. Section 12‑21‑620 of the 1976 Code is amended to read:

“Section 12‑21‑620. (A) There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in this section the following amounts:

(1) upon all cigarettes made of tobacco or any substitute for tobacco, three and one‑half mills on each cigarette;

(2) upon all tobacco products, as defined in Section 12‑21‑800, five percent of the manufacturer’s price.

Manufacturer’s price as used in this section is the established price at which a manufacturer sells to a wholesaler.

(B) As used in this section, ‘cigarette’ means:

(1) any roll for smoking containing tobacco or any substitute for tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco or any substitute for tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection.”

SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑230. (A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program. The funds must not be appropriated for any other purpose and the Department of Health and Environmental Control may not use the funds for any purposes other than administering a statewide smoking prevention and cessation program.

(B) There is created the South Carolina Medicaid Reserve Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The fund may only be appropriated for the restoration and maintenance of effort of the Medicaid program as structured at the time this act takes effect, and must not be appropriated for any other purpose. The fund must not be used to expand any component of the existing Medicaid program.”

SECTION 4. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The amendment was adopted.

Senator KNOTTS spoke on the Bill.

Senator GROOMS spoke on the Bill.

Senator ROSE spoke on the Bill.

**Remarks by Senator GROOMS**

Senator KNOTTS from Lexington made a comment a minute ago that, unfortunately, is all too true. This Senate is all about getting what you can for your people, not getting what is best for the State of South Carolina, but getting what is best for your people. If I can’t get something for me, you are not getting anything for you. Too many times we play this game. Too many times the people of South Carolina suffer because we have got to chisel a little bit off here, chisel a little bit off there -- somebody is objecting, although they agree with the Bill -- we have got to give them something. We have got to give them that piece of bacon because, man, bacon tastes good, especially in springtime in South Carolina.

We have a Bill that would be beneficial for everybody in South Carolina. Everyone would get an equal shot at it. But, you know why we are not getting it? Because there is a group of legislators in the midlands that say we’ve got to get a guarantee for ours, or you aren’t getting yours. That bothers me. When a Senator puts up an amendment to this tobacco Bill that we just passed, asking for $25 million for a single interchange and he gets eighteen votes, and when I am trying to do something for the entire State of South Carolina and we get eight, it just proves that the statement from the Senator of Lexington is true, “The only thing this Senate is about is getting what you can get for your people. Because if we can get what is good for us back home, then it doesn’t matter what happens in other Senate districts. It doesn’t matter what happens in other school districts. It doesn’t matter what happens in other parts of the State. As long as I’m getting mine, the heck with you!” That is probably why education spending is so out of whack. What are we spending now? Is it about twelve-and-a-half thousand dollars per child on average? But did you know that that number varies? It is about $7,800 up to almost $16,000. Do you know why? Because there are a couple of Senators that are very happy with what they are getting in their districts and could care less about what is happening in other folks’ districts. It’s not about South Carolina, it is all about me. I am not saying that it is not important to look out for the folks that elected you; it is extremely important. But, sometimes you have got to consider what is best for the entire State.

The Bible talks about this -- talks about the body being a whole. What good is a hand separated from the rest of the body? What good is a foot separated from the body? What good is a county separated from the rest of the State? It does not do those folks in that particular county that have been left out for way too long -- doesn’t do them a whole heck of a lot of good. But when we look at South Carolina as a whole, when we try to adopt policy that is best for the entire State, we all win. We all do a little bit better. It pains me, when good legislation doesn’t pass because, “I’m not getting mine.” I saw that today; it did not taste too good. We have this Bill right now, this tobacco tax; we are the lowest in the nation, no doubt. In years past, I have supported even putting the cigarette tax up to a dollar a pack. But I did it in the overall scheme of tax restructuring. You know why that did not pass back then? You know why we didn’t equalize school funding back then? Because there were a couple of Senators who analyzed it really close and they were looking at their school districts and realized that, “I’m getting it pretty good compared to everybody else and that is all that matters. The heck with what happens 5 years, 10 years, 20 years down the road. Right now, my numbers are looking better than my neighbors, so, I am voting against it.”

Sometimes we need to take a step back and understand that we are only here for a little while. But, there are a lot of people that will be here long after us. There have been men that have served in this body whose portraits are on these walls all around us; there are a couple of folks that I remember. I see Senator THURMOND, Senator DENNIS, Senator DRUMMOND -- fine men. I see Senator HOLLAND is up there; I see Senator J. VERNE SMITH. Some of these other fellows that served in here, I don’t know their names. Probably, you all do not either. But, they were here. The decisions they made really affect our lives today. And the decisions that we make today, affect the lives of those that will be here 25, 50, and 100 years from now. But too many times, we get caught up on what can I bring home today. Too many times we get caught up on what can I bring home right now. That’s part of the problem we have got with our budget. We create unsustainable spending; we create unsustainable expectations; we are talking about trying to institute some spending caps to level off those peaks -- to be able to put some of those peaks in the valleys so that things are sustainable.

You know, in conservation terms, Senator from Sumter, it is about sustainability. Is our Medicaid spending on any type of sustainable track right now? Does anybody in this Senate Chamber believe that we will be able to sustain long-term, the types of programs we envision happening because of this new cigarette tax? Spread across the State, it will provide some folks with some much needed insurance, but long-term, what is it going to do? How is it going to help this State in the long-term? We are trading tomorrow for today.

We are trading what we have no right to. We are trading what belongs to our children. Not with just this Bill, but many other things. I’m a little keyed up right now about not getting something out of the Senate that would benefit the entire State and I appreciate you all letting me vent a little bit. I do not intend in holding this Bill up; I was just disappointed in the action that some members took today when other Senators are willing to look out for other parts of the State; the rest of them turned their back on us. I have a long memory.

Thank you.

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

**Remarks by Senator ROSE**

Members of the Senate, I’ll be brief.  I am afraid that we’ve missed an important opportunity because of how our Senate has voted regarding increasing the tax on cigarettes.  I think that if every member of the Senate were polled, virtually every Senator would agree that our cigarette tax is too low and needs to be raised, and that increased cigarette taxes should be spent on health care.   That is our common denominator.   It looks  to me that it’s virtually certain that we’re going to lose the opportunity to accomplish that common goal, because of our  lack of restraint, by piling on  other things we know are  going to cause the Governor to veto this Bill, H. 3584, and because the veto  probably will be sustained.  There’s something wrong with our system here when we know at least some things -- the end results -- that we can agree on, but we can’t attain those things because of our process.  And what’s particularly upsetting to me is the strong impression I have that some people deliberately voted to put things on this Bill to kill it.  In other words, it wasn’t added really because some wanted it on the Bill, but judging by some comments I’ve heard, it was in order to sabotage it.  I don’t feel like the interests of the people are served by that process.  I am afraid we’ve missed an opportunity.  I hope people will think about what we could have accomplished if we would have just stuck with what we commonly agreed with instead of pushing the outer limits with extraneous add-ons.

Thank you.

**Remarks by Senator KNOTTS**

I’m not going to be very long; I just want to make sure that everybody out there knows exactly where I have been on this Bill. I could have voted for a 30 cents tax increase on cigarettes with it going to Medicaid for, medical and one cent for farmers. I could have voted for the one cent for farmers because it hurts the farmer. I possibly could have voted for a 50 cents sales tax on cigarettes if it all went for medical and one cent for the farmer. I’ve been consistent with my voting and whenever they started putting other things in it other than what I had agreed to for the past two or three years--I cannot go along with that. I cannot vote for this Bill. I know it’s going to pass, but also I’m going to tell you now, when it gets vetoed--if it gets vetoed, I’m going to vote with the Governor to sustain his veto. I was one of those Senators who voted a few minutes ago when we got 18 votes. Gentlemen, that was the veto vote. Putting things on the cigarette tax that are not going for Medicaid or medical--we have essentially killed the Bill for the year, hopefully. I do not believe in taxing one segment of society to benefit another segment. If we go down that road and start picking and choosing who we are going to tax to benefit other people, we are going to be taking South Carolina down a trail that we do not want to go down, because who are we going to pick next?

Right now, we’re picking the smokers. We had amendments up here for lowering the income tax. I would love it if we just wanted to lower it. But to use a tax on a group of citizens to benefit the upper echelon with tax deduction is wrong. There was talk about doing away with the boat tax. Why should a person who smokes pay for me to reduce my taxes on a boat? That’s not right, people. Whenever we get to reality, we are going to find out that this Bill is not doing what the people of South Carolina want it to do. As much I wanted to vote while ago to put some money for education, I could not. I’ve got schools in my district that are going to have to cut jobs and cut classes, but it’s not right to throw that in on the cigarette tax. Cigarettes, when you smoke, cause health problems. I admire people who were able to get things in it, and I don’t mind their efforts. I commend you on being able to be successful. See that’s what the Senate and the House are all about, being able to get what you can get for your people. I tried to get what I could get for my people when everything started being added in by putting up an amendment for the John Hardee Freeway. I didn’t really want to vote on that one but it was my amendment. I started to vote against it but it wasn’t going to pass any way I saw it. I’ll tell you one thing--let’s not go down the road picking and choosing certain segments of society to reduce the taxes on other segments of society. Because who is going to be next? We’re going to go down that trail and we are going to pick and choose one and one day the people we choose might be one of you. And you’re going to be sitting there saying, “Why me?” I don’t smoke, never have smoked and I don’t have anybody in my family that smokes, but I do feel and I strongly feel that if we’re going to put a tax on smokers, it should go to smokers for the benefit of their medical conditions. It should benefit those people who are hurt by it and that is the farmer who is going to be growing less tobacco. There are some justifications for some of the things that went on today and everybody had their own little justification. My justification is I’m not going to vote for this Bill because it’s got in it things I feel in my opinion shouldn’t be in it. And so, therefore, I’m not going to belabor the vote. I could stand here half the night but the result is going to be the result and a good warrior knows when he’s been defeated. He just backs up and replenishes. This is a battle we fought here today. This is not the end of the war. The end of the war is going to be that veto vote. And I certainly hope that the Governor sticks to his guns like I stuck to my guns and continues to say that he’s not going to support a Bill that’s not revenue neutral. Just like I won’t support a Bill that doesn’t go for Medicaid. And I’ve got friends on both sides and it’s not anything against any of you. You have your views and we’ve got to get this thing out, but I don’t think we’ve accomplished anything today. I think that we are going to go out of here and go home and we are going to say we’ve done something. But this was just a battle and you don’t win the war by one battle. Because when it goes back to the House, they’ll put the 30 cents tax on and they’ll have it going for medical and I’ll vote for that if that happens. But anyway, thank you for listening to me and I hope all of you get to go home and have a good night’s rest and tell the people in your districts what we have accomplished and what we’re going to be doing. I’m going to tell them what I’ve been telling them for three years. I’m going to tell them about my consistency in not voting for a tax on a segment of society to benefit another segment of society.

Thank you.

On motion of Senator SHANE MARTIN, with unanimous consent, the remarks of Senators ROSE and KNOTTS, were ordered printed in the Journal.

Senator GROOMS moved to recommit the Bill to the Committee on Finance.

Senator SCOTT moved to table the motion to recommit.

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

**Ayes 25; Nays 16**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Hayes

Hutto Jackson Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Matthews

McGill Nicholson O’Dell

Pinckney Rankin Reese

Scott Setzler Sheheen

Williams

**Total--25**

**NAYS**

Bright Bryant Courson

Davis Grooms Knotts

*Martin, Shane* Massey McConnell

Mulvaney Peeler Rose

Ryberg Shoopman Thomas

Verdin

**Total--16**

The motion to recommit the Bill was tabled.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

At 7:25 P.M., Senator GROOMS moved that the Senate stand in recess for one hour.

Senator SETZLER moved to table the motion to recede.

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

**Ayes 31; Nays 10**

**AYES**

Alexander Campbell Coleman

Courson Cromer Elliott

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Massey Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Rankin Reese Ryberg

Scott Setzler Sheheen

Williams

**Total--31**

**NAYS**

Bright Bryant Davis

Grooms *Martin, Shane* Mulvaney

Rose Shoopman Thomas

Verdin

**Total--10**

The motion to recede was tabled.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

Senator GROOMS moved to continue the Bill.

Senator LOURIE moved to table the motion to continue.

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

**Ayes 29; Nays 13**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Ford

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Matthews McConnell

McGill Nicholson O’Dell

Pinckney Rankin Reese

Rose Scott Setzler

Sheheen Williams

**Total--29**

**NAYS**

Bright Bryant Courson

Davis Grooms *Martin, Shane*

Massey Mulvaney Peeler

Ryberg Shoopman Thomas

Verdin

**Total--13**

The motion to continue the Bill was laid on the table.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

**Objection**

Senator FORD asked unanimous consent to make a motion to take up H. 3161 for immediate consideration.

Senator RYBERG objected.

Senator GROOMS moved that the Senate stand adjourned.

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

**Ayes 7; Nays 35**

**AYES**

Bright Bryant Davis

Grooms Matthews Thomas

Verdin

**Total--7**

**NAYS**

Alexander Campbell Coleman

Courson Cromer Elliott

Ford Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Williams

**Total--35**

The Senate refused to adjourn.

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “no.”

Senator GROOMS was recognized to speak on the Bill.

**Objection**

With Senator GROOMS retaining the floor, Senator FORD asked unanimous consent to make a motion to take up H. 3161 for immediate consideration.

Senator RYBERG objected.

Senator GROOMS spoke on the Bill.

There being no further amendments, the question then was the second reading of the Bill.

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

**Ayes 26; Nays 16**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Ford

Hayes Hutto Jackson

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Matthews McGill Nicholson

O’Dell Pinckney Rankin

Reese Scott Setzler

Sheheen Williams

**Total--26**

**NAYS**

Bright Bryant Courson

Davis Grooms Knotts

*Martin, Shane* Massey McConnell

Mulvaney Peeler Rose

Ryberg Shoopman Thomas

Verdin

**Total--16**

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

**Statement by Senator FAIR**

Had I been present in the Chamber at the time the vote was taken, I would have voted “aye.”

The Bill was returned to the status of Special Order.

**Statement by Senator SHANE MARTIN**

I voted against ALL amendments and NO to the entire Bill (H.3584) dealing with the cigarette tax increase.  The goal of the proponents of this tax increase was to get people to quit smoking and to use the revenue for healthcare issues.  I am sympathetic to, and agree with, getting our children not to smoke.  I certainly don’t want my children or any other child to touch a cigarette.  However, this Bill was amended from the start to send money to areas other than healthcare right off of the bat.  The government cookie jar was opened to fund an I-95 infrastructure fund and other folks tried to stick their hand in the cookie jar to get money for their district.  The Bill was ultimately amended to give $3.5 million to the I-95 infrastructure fund, farmers, and advertisers before even sending a dime to health care issues.  The I-95 project also will give 1 state dollar to every 2 dollars of grant money given to this project, thus creating an never-ending state government obligation. This spending increase cannot be sustained and core, recurring expenses are expected to be funded with a declining revenue source.

I signed a NO new tax pledge and campaigned against the cigarette tax increase and have remained consistent with my voting today and kept my campaign promises.  Until this General Assembly lays out the needs of this State and determines what core government services should be taxpayer funded and how the taxpayer is willing to fund the services consistently, we will continue to have piecemeal solutions that will only be temporary until we have the next budget crisis and have to find other piecemeal solutions.  Fundamental reform is what this State needs to insure that our core government services are funded consistently.

Senator McCONNELL moved that the Senate revert to the Motion Period.

**THE SENATE REVERTED TO THE MOTION PERIOD.**

**MADE SPECIAL ORDER**

H. 3161 -- Rep. Harrison: A BILL TO AMEND SECTION 1‑23‑660, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE OFFICE OF MOTOR VEHICLE HEARINGS WITHIN THE ADMINISTRATIVE LAW COURT, SO AS TO REQUIRE THE OFFICE OF MOTOR VEHICLE HEARINGS TO EMPLOY CERTAIN PROFESSIONAL AND SUPPORT STAFF; AND TO AMEND SECTION 56‑5‑2952, AS AMENDED, RELATING TO THE FILING FEE TO REQUEST AN ADMINISTRATIVE HEARING, SO AS TO INCREASE THE FILING FEE FROM ONE HUNDRED FIFTY TO TWO HUNDRED FIFTY DOLLARS AND PROVIDE FOR THE DISTRIBUTION OF THE FILING FEE FUNDS COLLECTED.

Senator McCONNELL moved that the Bill be made a Special Order.

The Bill was made Special Order.

**MOTION ADOPTED**

Senator McCONNELL moved that, when the Senate stands adjourned on Wednesday, March 31, 2010, the Senate would stand adjourned to meet on Thursday, April 1, 2010, subject to the times and limitations set forth in Rule 1B;

and, further, when the Senate adjourns on Thursday, April 1, 2010, the Senate would stand adjourned to meet on Monday, April 5, 2010, 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;

and, further, when the Senate stands adjourned on Monday, April 5, 2009, the Senate will stand adjourned to meet on Tuesday, April 6, 2010, Wednesday, April 7, 2010, and Thursday, April 8, 2010, subject to the times and limitations set forth in Rule 1B;

and, further, when the Senate stands adjourned on Thursday, April 8, 2010, it will stand adjourned to meet on Friday, April 9, 2010, 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;

and, further, when the Senate stands adjourned on Friday, April 9, 2010, the Senate will stand adjourned to meet in Statewide Session on Tuesday, April 13, 2010, at 12:00 Noon.

The motion was adopted.

**MOTION ADOPTED**

On motion of Senator MATTHEWS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Rola Mae Green of Reevesville, S.C. Mrs. Green was predeceased by her husband of 61 years, Bishop Lun Green. Mrs. Green was a devoted mother of three daughters, Fannie, Patricia and Joyce, and was a doting grandmother of 15, great-grandmother of 24 and great-great-grandmother of 11.

and

**MOTION ADOPTED**

On motion of Senator LARRY MARTIN, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Louise Hendricks of Easley, S.C., longtime former administrative secretary to the Pickens County Legislative Delegation who died on Tuesday, March 30, 2010.

**ADJOURNMENT**

At 8:09 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1B.

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