**Wednesday, May 4, 2011**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 10:00 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:

From the outset the Lord God made his expectations of Solomon crystal-clear, saying:

“ ‘As for you, if you walk before me in integrity of heart and uprightness, as David your father did... I will establish your royal throne....’ ” (I Kings 9:4a, 5a)

Let us pray:

Gracious Lord, we are reminded how Solomon—so filled with vision and with promise—found himself unable to continue as the leader You expected him to be. Here in our own day and time, O Lord, the expectations placed upon these Senators are themselves formidable and the challenges of our age loom bigger than ever. And so we call upon You, God, to aid each of these leaders as they themselves work to bring about great good for the women and men and children whom they serve. In Your loving name we humbly pray, dear Lord.

Amen.

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

**MESSAGE FROM THE GOVERNOR**

Columbia, S.C., April 13, 2011

Mr. President and Senators:

I am vetoing and returning without my approval S. 533, R 17:

(R17, S533) -- Senators Coleman, Reese and Ford: AN ACT TO AMEND SECTION 12‑36‑2120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENTS FOR A SALES TAX EXEMPTION OF CERTAIN ITEMS FOR CERTAIN FACILITIES RESEARCHING AND TESTING THE IMPACT OF NATURAL DISASTERS, SO AS TO PROVIDE THAT THE QUALIFYING INVESTMENT OF AT LEAST TWENTY MILLION DOLLARS MAY BEGIN AT ANY TIME PERIOD AFTER DECEMBER 31, 2008, AND ALL OR A PORTION MAY OCCUR BEFORE THE TAXPAYER NOTIFIES THE DEPARTMENT OF REVENUE OF ITS INTENTION.

Respectfully submitted,

Nikki R. Haley

Governor

Received as information.

The veto was ordered placed on the Calendar for consideration tomorrow.

**Doctor of the Day**

Senator ALEXANDER introduced Dr. T. Edwin Evans of Seneca, S.C., Doctor of the Day.

**Leave of Absence**

On motion of Senator SHOOPMAN, at 12:30 P.M., Senator DAVIS was granted a leave of absence until 2:00 P.M.

**Leave of Absence**

At 3:45 P.M., Senator CLEARY requested a leave of absence beginning at 7:00 P.M. tomorrow evening and lasting until Saturday at 10:00 A.M.

**Leave of Absence**

At 5:30 P.M., Senator COURSON requested a leave of absence beginning at 8:00 P.M. this evening and lasting until 10:00 A.M. Thursday morning.

**Leave of Absence**

At 9:30 P.M., Senator SHEHEEN requested a leave of absence until 9:00 A.M. Thursday morning.

**Leave of Absence**

At 10:10 P.M., Senator O’DELL requested a leave of absence until 9:00 A.M. Thursday morning.

**Leave of Absence**

At 11:00 P.M., Senator FORD requested a leave of absence until 9:30 A.M. Thursday morning.

**Leave of Absence**

At 12:20 A.M., Senator RYBERG requested a leave of absence beginning at 8:00 P.M. Thursday night and lasting until 10:00 A.M. on Wednesday, May 11, 2011.

**Leave of Absence**

At 12:30 A.M., Senator JACKSON requested a leave of absence until 9:30 A.M. Thursday morning.

Senator KNOTTS objected.

**Leave of Absence**

At 12:30 A.M., Senator VERDIN requested a leave of absence beginning at 8:00 P.M. Thursday night and lasting until 10:00 A.M. on Wednesday, May 11, 2011.

Senator JACKSON objected.

**Expression of Personal Interest**

Senator COURSON rose for an Expression of Personal Interest.

**Motion Adopted**

On motion of Senator COURSON, with unanimous consent, Senators FAIR, HAYES, RANKIN, PEELER, DAVIS, GROOMS, MATTHEWS, MALLOY, LEVENTIS and LOURIE were granted leave to attend a subcommittee meeting and were granted leave to vote from the balcony.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 872 -- Senators Knotts, Rose, Reese, O'Dell, Verdin, Rankin, Bryant, Malloy, McConnell, Scott, Grooms, Fair, Campbell, Elliott, Setzler, McGill, Davis, Williams, Pinckney, Cromer, Hayes, Land, Jackson, Lourie, Nicholson, Matthews and L. Martin: A BILL TO AMEND SECTION 25-1-590, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RETIREMENT OF MEMBERS OF THE SOUTH CAROLINA NATIONAL GUARD, SO AS TO EXTEND THE RETIREMENT HONORARY PROMOTION PROVISIONS TO HONORABLY DISCHARGED SERVICE MEMBERS WHO ARE REMOVED FROM THE NATIONAL GUARD DUE TO MEDICAL CONDITIONS, AND TO PROVIDE THAT THE EXPANDED HONORARY PROMOTION ELIGIBILITY DESCRIBED ABOVE IS TO BE APPLIED RETROACTIVELY.

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Read the first time and referred to the General Committee.

S. 873 -- Senators McConnell, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Gregory, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McGill, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO CONDEMN THE COMPLAINT FILED BY THE ACTING GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD ASSERTING THAT THE BOEING COMPANY’S SELECTION OF NORTH CHARLESTON FOR ITS NEWEST FINAL ASSEMBLY AND DELIVERY PRODUCTION FACILITY FOR THE 787 DREAMLINER AIRPLANE VIOLATED THE NATIONAL LABOR RELATIONS ACT, AND TO URGE THAT THE COMPLAINT BE DISMISSED BY THE BOARD AS AN UNWARRANTED INTRUSION INTO A BUSINESS DECISION OF THE BOEING COMPANY AND THE ECONOMIC DEVELOPMENT ACTIVITIES OF THE STATE OF SOUTH CAROLINA, AND BECAUSE OF ITS ADVERSE IMPACT ON THE FUTURE ECONOMIC GROWTH OF THE UNITED STATES OF AMERICA.

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Senator LEATHERMAN spoke on the Resolution.

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

S. 874 -- Senators Malloy, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Gregory, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO EXPRESS THE BELIEF OF THE GENERAL ASSEMBLY THAT NASCAR RACING IS AN INTEGRAL AND VITAL PART OF THE STATE OF SOUTH CAROLINA AND ITS ECONOMY, TO RECOGNIZE THE DARLINGTON RACEWAY AS ONE OF OUR STATE’S MOST TREASURED ATTRACTIONS AND NASCAR RACING AS A SIGNIFICANT PART OF SOUTH CAROLINA’S RICH HISTORY, AND TO NAME THE WEEK OF MAY 2-8, 2011, AS “DARLINGTON RACEWAY WEEK, A WEEK TOO TOUGH TO TAME”.

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Senators MALLOY, SHANE MARTIN and KNOTTS spoke on the Resolution.

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

S. 875 -- Senator Scott: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE LIFE AND FAITHFULNESS OF JANET WILLIAMS BROWN OF RICHLAND COUNTY ON MOTHER'S DAY, AND TO COMMEND HER FOR YEARS OF DEVOTED SERVICE TO HER FAMILY AND HER CHURCH.

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The Senate Resolution was adopted.

H. 4165 -- Rep. Owens: A CONCURRENT RESOLUTION TO RECOGNIZE THE WEEK OF MAY 1ST THROUGH MAY 7TH AS NATIONAL CHARTER SCHOOL WEEK, AND TO ACKNOWLEDGE THE IMPORTANCE OF EDUCATING THE CHILDREN OF SOUTH CAROLINA IN INNOVATIVE CLASSROOMS AND SCHOOLS.

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

H. 4179 -- Reps. Weeks, G. M. Smith, G. A. Brown, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, H. B. Brown, R. L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrell, Harrison, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pinson, Pitts, Pope, Quinn, Rutherford, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Vick, Viers, Whipper, White, Whitmire, Williams, Willis and Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND DR. MARC C. DAVID, ASSOCIATE PROFESSOR OF ENGLISH AND CHAIRMAN OF THE DIVISION OF RELIGION AND HUMANITIES AT MORRIS COLLEGE, AND TO CONGRATULATE HIM UPON RECEIVING THE SOUTH CAROLINA COUNCIL OF INDEPENDENT COLLEGES AND UNIVERSITIES EXCELLENCE IN TEACHING AWARD.

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

**REPORT OF STANDING COMMITTEE**

Senator McCONNELL from the Committee on Judiciary polled out S. 732 with no report:

S. 732 -- Senators Pinckney, Knotts, Scott, Peeler, Fair, Cleary, Ford, Nicholson, Williams, Hutto, Elliott, Alexander, Matthews, Land, Setzler, Campbell, Hayes, McConnell, Davis, Thomas and Rose: A BILL TO AMEND SECTION 16‑11‑523, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO OBTAINING NONFERROUS METALS UNLAWFULLY, SO AS TO REVISE THE PENALTIES FOR VIOLATIONS OF THIS PROVISION; TO AMEND SECTION 16‑17‑680, AS AMENDED, RELATING TO THE PURCHASE OF NONFERROUS METALS, PROCEDURES AND REQUIREMENTS FOR PURCHASE OF NONFERROUS METALS, AND EXCEPTIONS, SO AS TO PROVIDE ADDITIONAL RESTRICTIONS RELATED TO THE SALE OF COPPER; TO AMEND SECTION 16‑17‑685, RELATING TO THE UNLAWFUL TRANSPORTATION OF NONFERROUS METALS, SO AS TO INCREASE THE PENALTIES FOR CERTAIN VIOLATIONS OF THIS PROVISION; AND BY ADDING CHAPTER 40 TO TITLE 40 SO AS TO REQUIRE SECONDARY METALS RECYCLERS TO REGISTER WITH THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, AND TO PROVIDE REGISTRATION AND RENEWAL REQUIREMENTS.

**Poll of the Judiciary Committee**

**Polled 20; Ayes 20; Nays 0; Not Voting 3**

**AYES**

McConnell Ford *Martin, Larry*

Rankin Hutto Knotts

Malloy Sheheen Cleary

Lourie Williams Campbell

Massey Coleman Davis

Nicholson Rose Scott

Shoopman Gregory

**Total--20**

**NAYS**

**Total--0**

**NOT VOTING**

Campsen Bright *Martin, Shane*

**Total--3**

Ordered for consideration tomorrow.

**HOUSE CONCURRENCES**

S. 505 -- Senator L. Martin: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE LOCATED ON MIRACLE HILL ROAD THAT CROSSES OVER OOLENOY RIVER IN PICKENS COUNTY “FRANK ‘SLIM’ KOTCHER BRIDGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THE WORDS “FRANK ‘SLIM’ KOTCHER BRIDGE”.

Returned with concurrence.

Received as information.

S. 506 -- Senators Bryant and O’Dell: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERCHANGE LOCATED AT EXIT 27 ALONG INTERSTATE HIGHWAY 85 IN ANDERSON COUNTY “LANCE CORPORAL JONATHAN SHEA NASH INTERCHANGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERCHANGE THAT CONTAIN THE WORDS “LANCE CORPORAL JONATHAN SHEA NASH INTERCHANGE”.

Returned with concurrence.

Received as information.

S. 735 -- Senator Reese: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 221 IN THE CITY OF CHESNEE FROM ITS INTERSECTION WITH MANNING STREET TO ITS INTERSECTION WITH GREENWOOD STREET “MAYOR CLIFF EDWARDS HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THE WORDS “MAYOR CLIFF EDWARDS HIGHWAY”.

Returned with concurrence.

Received as information.

S. 768 -- Senator Cleary: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE TO BE CONSTRUCTED TO CROSS THE INTRACOASTAL WATERWAY ALONG SOUTH CAROLINA HIGHWAY 31 IN HORRY COUNTY THE “COLONEL HOWARD DARST BARNARD III BRIDGE”, AND ERECT APPROPRIATE MARKERS OR SIGNS AT THE BRIDGE THAT CONTAIN THE WORDS “COLONEL HOWARD DARST BARNARD III BRIDGE”.

Returned with concurrence.

Received as information.

S. 873 -- Senators McConnell, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Gregory, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McGill, Nicholson, O’Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO CONDEMN THE COMPLAINT FILED BY THE ACTING GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD ASSERTING THAT THE BOEING COMPANY’S SELECTION OF NORTH CHARLESTON FOR ITS NEWEST FINAL ASSEMBLY AND DELIVERY PRODUCTION FACILITY FOR THE 787 DREAMLINER AIRPLANE VIOLATED THE NATIONAL LABOR RELATIONS ACT, AND TO URGE THAT THE COMPLAINT BE DISMISSED BY THE BOARD AS AN UNWARRANTED INTRUSION INTO A BUSINESS DECISION OF THE BOEING COMPANY AND THE ECONOMIC DEVELOPMENT ACTIVITIES OF THE STATE OF SOUTH CAROLINA, AND BECAUSE OF ITS ADVERSE IMPACT ON THE FUTURE ECONOMIC GROWTH OF THE UNITED STATES OF AMERICA.

Returned with concurrence.

Received as information.

S. 874 -- Senators Malloy, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Gregory, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Nicholson, O’Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO EXPRESS THE BELIEF OF THE GENERAL ASSEMBLY THAT NASCAR RACING IS AN INTEGRAL AND VITAL PART OF THE STATE OF SOUTH CAROLINA AND ITS ECONOMY, TO RECOGNIZE THE DARLINGTON RACEWAY AS ONE OF OUR STATE’S MOST TREASURED ATTRACTIONS AND NASCAR RACING AS A SIGNIFICANT PART OF SOUTH CAROLINA’S RICH HISTORY, AND TO NAME THE WEEK OF MAY 2-8 2011, AS “DARLINGTON RACEWAY WEEK, A WEEK TOO TOUGH TO TAME.”

Returned with concurrence.

Received as information.

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

**HOUSE BILL RETURNED**

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

H. 3642 -- Reps. Cooper, Bingham, Allison, Harrell and Owens: A JOINT RESOLUTION TO PROVIDE THAT A LOCAL SCHOOL DISTRICT MAY PAY TEACHERS BASED ON THE YEARS OF EXPERIENCE THE TEACHERS POSSESSED IN FISCAL YEAR 2010‑2011 WITHOUT NEGATIVE IMPACT TO THEIR EXPERIENCE CREDIT; TO PROVIDE VOTING AND NOTICE REQUIREMENTS FOR THIS DECISION; TO REQUIRE THAT PAYMENT ACCORDING TO THE 2010‑2011 DATA BE APPLIED UNIFORMLY; TO PROVIDE THAT A LOCAL SCHOOL DISTRICT MAY NOT PAY DISTRICT OR SCHOOL ADMINISTRATORS MORE THAN THEY RECEIVED IN FISCAL YEAR 2010‑2011; TO REQUIRE A LOCAL SCHOOL DISTRICT TO PAY TEACHERS AND SCHOOL ADMINISTRATORS FOR CHANGES IN THEIR EDUCATION LEVELS; AND TO DEFINE CERTAIN TERMS.

**READ THE SECOND TIME**

S. 857 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO SEASONS, LIMITS, METHODS OF TAKE AND SPECIAL USE RESTRICTIONS ON WILDLIFE MANAGEMENT AREAS; AND TURKEY HUNTING RULES AND SEASONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4141, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

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

**Ayes 32; Nays 4**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Davis

Elliott Fair Ford

Gregory Grooms Hayes

Hutto Knotts Land

Leatherman Malloy *Martin, Larry*

*Martin, Shane* McConnell Nicholson

O'Dell Peeler Rose

Scott Setzler Sheheen

Shoopman Thomas

**Total--32**

**NAYS**

Bright Bryant Massey

Verdin

**Total--4**

The Resolution was read the second time and ordered placed on the Third Reading Calendar.

**ADOPTED**

S. 806 -- Senator Jackson: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF BLUFF ROAD IN RICHLAND COUNTY FROM ITS INTERSECTION WITH DRY BRANCH ROAD TO ITS INTERSECTION WITH SIMS ROAD “DEACON THOMAS MYERS MEMORIAL HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THE WORDS “DEACON THOMAS MYERS MEMORIAL HIGHWAY”.

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

**ADOPTED**

S. 871 -- Senator Anderson: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 25 FROM ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 291 TO ITS INTERSECTION WITH LENHART ROAD IN GREENVILLE COUNTY “DR. S. C. CURETON MEMORIAL HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THE WORDS “DR. S. C. CURETON MEMORIAL HIGHWAY”.

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

**ADOPTED**

S. 821 -- Senators Cleary and McGill: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 17 BUSINESS FROM ITS INTERSECTION WITH OCEAN HIGHWAY IN GEORGETOWN COUNTY TO ITS INTERSECTION WITH THE GEORGETOWN/HORRY COUNTY LINE “MICKEY SPILLANE WATERFRONT 17 HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS “MICKEY SPILLANE WATERFRONT 17 HIGHWAY”.

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

**ADOPTED**

H. 4024 -- Rep. Harrison: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERSECTION AT LONGTOWN ROAD AND CLEMSON ROAD IN RICHLAND COUNTY IN MEMORY OF DAVID DUPRE AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERSECTION THAT CONTAIN THE WORDS “DAVID DUPRE INTERSECTION”.

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

**CARRIED OVER**

H. 3431 -- Rep. G.M. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT “JOHN’S LAW” BY ADDING SECTION 57‑1‑80 SO AS TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO PUBLISH ITS LIST OF RAILROAD CROSSINGS AT WHICH IT PLANS TO INSTALL CROSSING ARMS, PLACE TRAFFIC STOP SIGNS AT DANGEROUS CROSSING LOCATIONS UNTIL CROSSING ARMS ARE INSTALLED, AND INCREASE THE NUMBER OF INSTALLATIONS OF CROSSING ARMS AT DANGEROUS RAILROAD CROSSINGS THROUGHOUT THE STATE.

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

**THE SENATE PROCEEDED TO A CONSIDERATION OF H. 3700, THE GENERAL APPROPRIATIONS BILL.**

**AMENDED, AMENDMENT PROPOSED**

**DEBATE INTERRUPTED**

**H. 3700--GENERAL APPROPRIATIONS BILL**

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

**Amendment No. 103**

Senator HUTTO proposed the following amendment (DG PRIVATE CORRECT), which was adopted (#39):

Amend the new proviso, which was amended by the adoption of Amendment No. 3A, bearing the path name L:\S-RES\  
AMEND\3700R060.CBH.DOCX by adding a sentence at the end of the amendment to read:

/ *This paragraph does not apply to any public institution of higher learning, as defined in Section 59-103-5, the South Carolina State Ports Authority, and the South Carolina Public Service Authority.*/

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HUTTO explained the amendment.

The amendment was adopted.

**Amendment No. 125**

Senators SETZLER, RYBERG and ALEXANDER proposed the following amendment (DG RISC), which was adopted (#40):

Amend the bill, as and if amended, Part IB, Section 89, GENERAL PROVISIONS, page 527, after line 12, by adding an appropriately numbered new proviso to read:

*/ 89.\_\_\_. (GP: Retirement Investment Commission) Of the funds appropriated, the Retirement System Investment Commission shall submit a report to the Senate Finance Retirement Subcommittee by January 15th that sets forth a plan regarding salary bonuses. The plan must be approved by the subcommittee before implementation.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator ALEXANDER explained the amendment.

The amendment was adopted.

**Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the adoption of Amendment No. 125.

**Statement by Senator McCONNELL**

I voted against Amendment No. 125 because it would give a subcommittee of the Senate Finance Committee the ability to veto a plan regarding salary bonuses of the Retirement System Investment Commission. I am concerned that this would be an unconstitutional delegation of power. Because I believe it could be unconstitutional and think it is a bad idea to give 6 people the ability to set executive policy, I voted “no.”

**Amendment No. 98**

Senators MASSEY, SHANE MARTIN, ROSE, CAMPSEN, COURSON, DAVIS, BRIGHT, BRYANT and THOMAS proposed the following amendment (3700R077.SRM.DOCX), which was adopted (#41):

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 535, paragraph 90.18, by striking lines 11 - 13, and inserting:

/ *In the event that the Fiscal Year 2010-11 unobligated general fund revenue, as certified by the Board of Economic Advisors, does not total at least $66,168,890, then the appropriations in subsection (B)(4) of this provision for Medicaid Maintenance of Effort shall be reduced to cover the amounts not realized. If the reduction in the Medicaid Maintenance of Effort appropriation is not sufficient to cover the amounts not realized, then the remaining appropriations in this provision shall be reduced on a pro-rata basis by an amount sufficient to cover the amounts not realized. In the event that $7,000,000 is not transferred from the Department of Motor Vehicles, then the remaining appropriations in this provision shall be reduced on a pro rata basis. /*

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator MASSEY explained the amendment.

The amendment was adopted.

**Amendment No. 33C**

Senators McCONNELL, SHANE MARTIN and MASSEY proposed the following amendment (DG DORINT3), which was adopted (#42):

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 536, paragraph 90.21, after line 21 by adding:

/ *During the current fiscal year, in applying the revenue statutes of this State, the department’s interpretation of those statutes must be based solely on the plain meaning of the statute’s text and the legislative intent giving rise to the enactment of the statutes. Terms contained in the tax statutes of this State may not be given broader meaning beyond the meaning of the statute. At least twice during the fiscal year, the department shall submit a report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee regarding any discovered ambiguity in the meaning of a revenue statute. The first report must be submitted no later than November first and the second report must be submitted no later than May first of the fiscal year.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator LEATHERMAN explained the amendment.

The amendment was adopted.

**Amendment No. 116**

Senators SHEHEEN, COURSON, CAMPSEN, GREGORY, MALLOY, CROMER, CLEARY, LOURIE, SETZLER, RANKIN, COLEMAN, RYBERG, LAND, SCOTT, DAVIS, ROSE, CAMPBELL, SHOOPMAN, O’DELL, NICHOLSON and ALEXANDER proposed the following amendment (DAD VS 2M CNSVTN BK), which was adopted (#43):

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 538, after line 14, by adding an appropriately numbered new proviso to read:

/ *(SR: Excess FY 11-12 - SC Conservation Bank ) Prior to the close of the books for Fiscal Year 2011-12, to the extent that unobligated Fiscal Year 2011-12 surplus revenues above the amount certified by the Board of Economic Advisors are available, the State Treasurer is directed to transfer the first $2,000,000 to the South Carolina Conservation Bank. The South Carolina Conservation Bank may retain and carry forward unexpended funds to succeeding fiscal years and expend these funds for the same purpose.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator SHEHEEN explained the amendment.

Senator BRIGHT spoke on the amendment.

Senator BRIGHT moved to lay the amendment on the table.

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

**Ayes 4; Nays 38**

**AYES**

Bright Bryant Fair

Peeler

**Total--4**

**NAYS**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Davis

Elliott Ford Gregory

Grooms Hayes Hutto

Knotts Land Leatherman

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Nicholson O'Dell

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--38**

**Statement by Senator BRYANT**

In years past I have supported funding for the Conservation Land Bank. Yet, in this year’s bleak economic times, with near double-digit unemployment, I cannot support this budget line item this year.

The Senate refused to table the amendment. The question then was the adoption of the amendment.

The amendment was adopted.

**RECESS**

At 11:59 P.M., on motion of Senator PEELER, the Senate receded from business until 12:30 P.M.

At 12:35 P.M., the Senate resumed.

**Point of Quorum**

At 12:35 P.M., Senator PEELER made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Elliott Fair

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill O'Dell Peeler

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

A quorum being present, the Senate resumed.

**Amendment No. 152B**

Senators MALLOY, SHANE MARTIN and McGILL proposed the following amendment (3700R106.GM.DOCX), which was adopted (#44):

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 538, after line 14, by adding an appropriately numbered new proviso to read:

*/ 90.\_\_\_. (SR: Admissions Tax) For fiscal year 2011-2012, up to one hundred fourteen thousand dollars in admissions tax revenue collected annually from all events held at a motorsports entertainment complex facility with at least sixty thousand permanent seats must be rebated to the motorsports entertainment complex facility in the current fiscal year to keep a NASCAR race at the motorsports entertainment complex facility. /*

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator SHANE MARTIN explained the amendment.

Senator MALLOY explained the amendment.

Senator BRIGHT argued contra to the adoption of the amendment.

Senator ELLIOTT spoke on the amendment.

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

**Ayes 36; Nays 6**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Elliott Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* Matthews McConnell

McGill O'Dell Peeler

Rankin Reese Rose

Scott Setzler Sheheen

Shoopman Thomas Williams

**Total--36**

**NAYS**

Bright Bryant Campsen

Massey Ryberg Verdin

**Total--6**

The amendment was adopted.

**Amendment No. 123**

Senators LEATHERMAN, RYBERG, BRYANT, BRIGHT, THOMAS, RANKIN, CAMPSEN, CLEARY, CAMPBELL, CROMER, ALEXANDER, O’DELL, NICHOLSON, DAVIS, ROSE and ELLIOTT proposed the following amendment (DAD 90.18 FUIR), which was carried over: (Amendment No. 123 was subsequently replaced by (DAD 90.18 DEW 100M) and the new amendment adopted.)

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 535, paragraph 90.18, lines 9-10, by striking / *Any excess Fiscal Year 2010-11 general fund revenue above the amounts appropriated in this provision shall be transferred to the S.C. Medicaid Reserve Fund.* / and inserting / *Any excess Fiscal Year 2010-11 general fund revenue above the amounts appropriated in this provision shall be transferred to the Department of Employment and Workforce and shall be placed in an account to be titled the Department of Employment and Workforce Unemployment Insurance Trust Fund. These funds may only be used by the Department of Employment and Workforce to make payments on outstanding loans from the Unemployment Insurance Trust Fund.* */*

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator LEATHERMAN explained the amendment.

Senator RYBERG argued in favor of the adoption of the amendment.

**Objection**

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

Senator HUTTO objected.

Senator RYBERG argued in favor of the adoption of the amendment.

**Objection**

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

Senator KNOTTS objected.

Senator RYBERG argued in favor of the adoption of the amendment.

**RECESS**

At 2:23 P.M., with Senator RYBERG retaining the floor, on motion of Senator LAND, with unanimous consent, the Senate receded from business subject to the Call of the Chair.

At 2:58 P.M., the Senate resumed.

Senator RYBERG argued in favor of the adoption of the amendment.

**Objection**

H. 3762 -- Reps. Cooper, White, Bowen, Gambrell, Thayer, Sandifer, D.C. Moss, McLeod, Viers and Clemmons: A BILL TO AMEND SECTION 41‑31‑45, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNEMPLOYMENT INSURANCE TRUST FUND, SO AS TO PROVIDE THAT IN A YEAR IN WHICH THE FUND IS IN DEBT STATUS, THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, AMONGST OTHER ESTIMATES, MUST ESTIMATE THE AMOUNT OF INCOME NECESSARY TO REPAY ALL OUTSTANDING FEDERAL LOANS WITHIN EIGHT YEARS.

Senator HUTTO asked unanimous consent to make a motion to recall H. 3762 from the Labor, Commerce and Industry Committee and place it on the Calendar in the primary position in the category of Special Order.

Senator PEELER objected.

Senator RYBERG resumed explaining Amendment No. 123.

**Objected**

With Senator RYBERG retaining the floor, Senator HUTTO asked unanimous consent to make a motion to recall H. 3762 from the Labor, Commerce and Industry Committee, make the Bill a Special Order and place it on the Calendar in the category of Interrupted Debate to be debated in one day without filibuster;

move the Tort Reform Bill, H. 3375, to the second position in the category of Special Order; and

amend Amendment No. 123 to cap at $123 million the amount that would be transferred under the proviso.

Senator PEELER objected.

**Objection**

Senator SHANE MARTIN asked unanimous consent to make a motion to recall H. 3762 from the Labor, Commerce and Industry Committee and place it on the Calendar in lieu of S. 630 in the category of Special Order.

Senator LOURIE objected.

**Objection**

Senator BRIGHT asked unanimous consent to make a motion to recall H. 3762 from the Labor, Commerce and Industry Committee and take it up for immediate consideration and after disposing of the measure, the Senate would revert to consideration of the General Appropriations Bill.

Senator LOURIE objected.

**Objection**

Senator MASSEY asked unanimous consent to make a motion to amend Amendment No. 123 to cap at $100 million the amount that would be transferred under the proviso.

Senator LEATHERMAN objected.

Senator SHEHEEN moved to carry over the amendment.

Amendment 123 was carried over.

**Recorded Vote**

Senator BRIGHT desired to be recorded as voting against the motion to carry over the amendment.

**Amendment No. 143**

Senator MASSEY proposed the following amendment (DG INDIGENT), which was adopted (#45):

Amend the bill, as and if amended, Part IA, Section 47, COMMISSION ON INDIGENT DEFENSE, page 185, line 15, by:

COLUMN 7 COLUMN 8

/ STRIKING: 561,705

and

INSERTING: 2,061,705 /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator MASSEY explained the amendment.

Senator LEATHERMAN moved to lay the amendment on the table.

The Senate refused to table the amendment. The question then was the adoption of the amendment.

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

**Ayes 25; Nays 15**

**AYES**

Anderson Bryant Coleman

Courson Elliott Gregory

Grooms Hutto Jackson

Land Lourie Malloy

Massey McConnell McGill

Nicholson Rankin Reese

Rose Ryberg Scott

Setzler Shoopman Thomas

Williams

**Total--25**

**NAYS**

Alexander Bright Campbell

Campsen Cleary Cromer

Davis Fair Hayes

Knotts Leatherman *Martin, Larry*

*Martin, Shane* O'Dell Peeler

**Total--15**

The amendment was adopted.

**Motion Adopted**

On motion of Senator BRYANT, with unanimous consent, Senators MASSEY, BRIGHT, WILLIAMS, REESE, SETZLER and BRYANT were granted leave to attend a subcommittee meeting and were granted leave to vote from the balcony. Further, any amendments authored by these Senators would be carried over.

**Amendment No. 109**

Senators MALLOY, McCONNELL, MASSEY, SHOOPMAN, SCOTT and LOURIE proposed the following amendment (DG LOTTBUS), which was adopted (#46):

Amend the bill, as and if amended, Part IB, Section 2, LOTTERY EXPENDITURE ACCOUNT, page 371, paragraph 2.6, by striking lines 17 through 19 and inserting:

/ *For Fiscal Year 2011-12, of the funds certified from unclaimed prizes, $12,350,000 shall be appropriated to the Department of Education for the purchase of new school buses, and $50,000 shall be appropriated to the South Carolina Department of Alcohol and Other Drug Abuse Services for gambling related services.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator MASSEY explained the amendment.

Senator MALLOY spoke on the amendment.

Senator MATTHEWS spoke on the amendment.

Senator SCOTT spoke on the amendment.

Senator MATTHEWS moved to lay the amendment on the table.

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

**Ayes 20; Nays 23**

**AYES**

Alexander Campbell Cromer

Fair Ford Gregory

Grooms Jackson Land

Leatherman *Martin, Larry* Matthews

McGill Nicholson O'Dell

Peeler Setzler Sheheen

Verdin Williams

**Total--20**

**NAYS**

Bright Bryant Campsen

Cleary Coleman Courson

Davis Elliott Hayes

Hutto Knotts Lourie

Malloy *Martin, Shane* Massey

McConnell Rankin Reese

Rose Ryberg Scott

Shoopman Thomas

**Total--23**

The Senate refused to table the amendment. The question then was the adoption of the amendment.

The amendment was adopted.

**Amendment No. 112**

Senators DAVIS and LEATHERMAN proposed the following amendment (DG SA EFA SUPP), which was adopted (#47):

Amend the bill, as and if amended, Part IB, Section 1, DEPARTMENT OF EDUCATION, page 347, after line 15, by adding an appropriately numbered proviso to read:

/ *1.\_\_\_. (SDE: EFA State Share) A school district that does not recognize a State share of the EFA financial requirement shall be supplemented with an amount equal to seventy percent of the school district with the least State financial requirement. /*

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator LEATHERMAN explained the amendment.

The amendment was adopted.

**Amendment No. 145**

Senators MALLOY and SHEHEEN proposed the following amendment (DG LOTTELECT), which was adopted (#48):

Amend the bill, as and if amended, Part IB, Section 2, LOTTERY EXPENDITURE ACCOUNT, page 371, after line 28, by adding an appropriately numbered new proviso to read:

*/ 2.\_\_\_. (LEA: Election Day Sales) For the current fiscal year, Section 59-150-210(E) is suspended. /*

Amend the bill further, as and if amended, Part IA, Section 29, STATE LIBRARY, page 131, line 11, by:

COLUMN 7 COLUMN 8

/ STRIKING: 4,370,976 4,370,976

and

INSERTING: 5,103,976 5,103,976/

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator MALLOY explained the amendment.

The amendment was adopted.

**Recorded Vote**

Senators FAIR, SHANE MARTIN and VERDIN desired to be recorded as voting against the adoption of Amendment No. 145.

**Amendment No. 99**

Senator MASSEY proposed the following amendment (3700R063.SRM.DOCX), which was adopted (#49):

Amend the bill, as and if amended, Part IB, Section 18, STATE BOARD FOR TECHNICAL & COMPREHENSIVE EDUCATION, page 380, paragraph 18.1, by striking lines 29-33 and inserting:

/ 18.1. (TEC: Training of New & Expanding Industry)

*(A)* Notwithstanding the amounts appropriated in this section for the “Center for Accelerated Technology Training”, it is the intent of the General Assembly that the State Board for Technical and Comprehensive Education expend ~~whatever~~ the funds ~~as are~~ necessary to provide direct training for new and expanding business or industry.

*(B)* In the event *projected* expenditures are above the appropriation, the appropriation in this section for the “Center for Accelerated Technology Training” ~~shall~~ *may* be appropriately adjusted, if and only if, the Budget and Control Board ~~approves the adjustment.~~ *determines that the projected expenditures are directly related to:*

*(1) an existing technology training program where the demand for the program exceeds the program’s capacity and the additional funds are to be utilized to meet the demand; or*

*(2) a new program is necessary to provide direct training for new or expanding business or industry.*

*(C) The adjustment may occur only upon approval by the Budget and Control Board. Upon the Budget Control Board’s approval of the adjustment, the Executive Director of the Budget and Control Board must certify, in writing, that the adjustment is directly related to either subsection (B)(1) or (B)(2). The Executive Director must immediately provide a copy of the written certification, including the amount of the adjustment, to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.*

*(D) Upon the Executive Director’s written certification approving an adjustment, the State Board for Technical and Comprehensive Education must submit a statement to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee containing a detailed itemization of the manner in which funds initially appropriated for technology training were utilized, the specific purpose for the adjustment, and the ultimate recipient of the adjusted amount.*

*(E) The aggregate amount of all adjustments made pursuant to this section may not exceed ten million dollars.*

*(F) In the event that projected expenditures for the Center for Accelerated Technology Training exceed the amounts appropriated and the amount of any adjustments authorized, the State Board for Technical and Comprehensive Education may request a supplemental appropriation from the General Assembly.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator MASSEY explained the amendment.

The amendment was adopted.

**Motion to Ratify Adopted**

At 5:15 P.M., Senator LARRY MARTIN asked unanimous consent to make a motion to invite the House of Representatives to attend the Senate Chamber for the purpose of ratifying Acts at 10:30 A.M. on Thursday, May 5, 2011.

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

**Amendment No. 95**

Senator MASSEY proposed the following amendment (3700R074.SRM.DOCX), which was adopted (#50):

Amend the bill, as and if amended, Part IB, Section 21, DEPARTMENT OF HEALTH AND HUMAN SERVICES, page 384, paragraph 21.13, by striking lines 2 - 3, and inserting:

/ thirty‑first, each year, and submitted to the Governor and the ~~Chairmen of the Senate Finance and House Ways and Means Committees~~ *members of the General Assembly*. /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator MASSEY explained the amendment.

The amendment was adopted.

**Amendment No. 106**

Senator BRYANT proposed the following amendment (DAD BRYANT NON-GEN), which was adopted (#51):

Amend the bill, as and if amended, Part IB, Section 21, DEPARTMENT OF HEALTH AND HUMAN SERVICES, page 390, paragraph 21.49, by amending amendment 8B, adopted #23, bearing document designation DAD 21.49 THOMAS NON-GEN by inserting at the end:

*/ If a non-generic drug is less expensive due to rebates, then the non-generic drug may be covered.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator BRYANT explained the amendment.

The amendment was adopted.

**Amendment No. 111**

Senators BRYANT, BRIGHT and GROOMS proposed the following amendment (3700R072.KLB.DOCX), which was ruled out of order:

Amend the bill, as and if amended, Part IB, Section 22, DEPARTMENT OF HEALTH & ENVIRONMENTAL CONTROL, page 398, after line 5, by inserting a new proviso to read:

*/ 22.\_\_\_. (DHEC: Fetal Pain Awareness) (A) The department must utilize at least one hundred dollars to prepare printed materials concerning information that unborn children at twenty weeks gestation and beyond are fully capable of feeling pain and the right of a woman seeking an abortion to ask for and receive anesthesia to alleviate or eliminate pain to the fetus during an abortion procedure. The materials must be provided to each abortion provider in the State and must accompany any other written materials distributed to a woman prior to an abortion. The materials must contain only the following information:*

*“Fetal Pain Awareness*

*An unborn child who is twenty weeks old or more is fully capable of experiencing pain. Anesthesia provided to a woman for an abortion typically offers little pain prevention for the unborn child. If you choose to end your pregnancy, you have a right to have anesthesia or analgesic administered to alleviate the pain to your unborn child during the abortion.”*

*(B) The materials must be easily comprehendible and must be printed in a typeface large and bold enough to be clearly legible. The materials required under this section must be available on the department’s Internet website.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

**Point of Order**

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

Senator BRYANT spoke on the Point of Order.

Senator GROOMS spoke on the Point of Order.

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

Senator BRYANT explained the amendment.

The amendment was ruled out of order.

**Amendment No. 150A**

Senator GROOMS proposed the following amendment (DAD 26.22 TEEN PREG), which was adopted (#52):

Amend the bill, as and if amended, Part IB, Section 26, DEPARTMENT OF SOCIAL SERVICES, page 407, proviso 26.22, by striking the proviso in its entirety, lines 11-27, and by inserting:

/ 26.22. (DSS: Teen Pregnancy Prevention) *(A)* From the monies appropriated for the Continuation of Teen Pregnancy Prevention, the department must award two contracts to separate *private, non-profit 501(c)(3)* entities to provide teen pregnancy prevention programs and services within the State.

*(B)* *Contracts must be awarded utilizing a competitive approach in accordance with the South Carolina Procurement Code.*

*(C)* The monies appropriated must be divided equally between the contracts *and paid over a twelve month basis for services rendered*. *Unexpended funds shall be carried forward for the purpose of fulfilling the department’s contractual agreement.*

*(D)* Entities that have a proven and public history of having effectively implemented abstinence programs in this State may be given a preference during the contract evaluation and awarding process. *For the purposes of this proviso, a program is “effectively implemented” if the program has published positive behavioral outcomes by an independent and nationally recognized private or government agency demonstrating that a year after the program, program participants initiated sex at a rate of at least thirty percent lower than comparable non-program students.*

*(E)(1)* One contract must be awarded to an entity that utilizes an abstinence first, age appropriate comprehensive approach to health and sexuality education with a goal of preventing adolescent pregnancy throughout South Carolina.

*(2)(a)* One contract must be awarded to an entity that uses a National Abstinence Clearinghouse (NAC) approved curricula for a minimum of one year prior to their application. NAC is the agency the federal Department of Health and Human Services has chosen to provide a comprehensive, national list of approved abstinence-only education curricula that is consistent with the A through H legislative requirements defined in Title V, Section 510(b)(2). Any entity that is awarded one of the above contracts must agree to provide data to verify the program effectiveness.

*(b)* *The contract awarded pursuant to this item must be awarded to entities that utilize a program or evaluation process approved by, and under the supervision of, a federally approved Institutional Review Board (IRB) and have been evaluated and approved for medical accuracy by the United States Health and Human Services’ Office of Adolescent Health or the Office of Adolescent Pregnancy Prevention. Contracts may also awarded to entities that do not meet these requirements on the date of the award but the entity must meet the requirements by the end of the fiscal year or the entity must forfeit the final quarterly payment.*

*(c) Prior to receiving funding the entities awarded the contracts pursuant to this item must verify that the program they implement meets the Cooperative Agreement with the Centers for Disease Control Division of Adolescent School Health (CDC DASH) approved SMARTool (Systematic Method for Assessing Risk‑avoidance Tool) minimum standard for abstinence curriculum evaluation or the Cooperate Agreement with the Centers for Disease Control Division of Reproductive Health Tool to Assess the Characteristics of Effective Sex and STD/HIV Education Programs.*

*(F)* *The programs implemented by the entities awarded contracts pursuant to this proviso may not violate any portion of the South Carolina Comprehensive Health Education Act when implemented in a school setting. An entity that violates any portion of the South Carolina Comprehensive Health Education Act must reimburse the State for all funds disbursed.* ~~A five-member committee shall oversee the contract award process. The committee’s first meeting shall be on or before August 1, 2009. The five member committee shall be composed as follows: the President Pro Tempore of the Senate shall appoint two members of the committee, the Speaker of the House shall appoint two members of the committee and the Governor shall appoint one member of the committee. Members of the committee shall serve without compensation.~~ /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator GROOMS explained the amendment.

The amendment was adopted.

**Expression of Personal Interest**

Senator HUTTO rose for an Expression of Personal Interest.

**Objection**

Senator KNOTTS asked unanimous consent to make a motion to submit a further amendment for consideration and to take up Amendment No. 153 for immediate consideration.

Senator PEELER objected.

**Expression of Personal Interest**

Senator KNOTTS rose for an Expression of Personal Interest.

Senator KNOTTS asked unanimous consent to make a motion to submit a further amendment for consideration and to take up Amendment No. 153 for immediate consideration.

There was no objection.

**Amendment No. 153**

Senator KNOTTS proposed the following amendment (DAD 89.82 GOV SEC), which was adopted (#53):

Amend the bill, as and if amended, Part IB, Section 89, GENERAL PROVISIONS, page 511, proviso 89.82, by striking the proviso in its entirety, lines 29 - 35 and inserting:

/ 89.82. (GP: Governor’s Security Detail) The State Law Enforcement Division, the Department of Public Safety, and the Department of Natural Resources shall provide a security detail to the Governor in a manner agreed to by the State Law Enforcement Division, the Department of Public Safety, the Department of Natural Resources, and the Office of Governor. Reimbursement to the State Law Enforcement Division, the Department of Public Safety, and the Department of Natural Resources to offset the cost of the security detail for the Governor shall be made in an amount agreed to by the State Law Enforcement Division, the Department of Public Safety, the Department of Natural Resources, and the Office of Governor from funds appropriated to the Office of Governor for this purpose. *Law enforcement officers assigned to security detail for the Governor shall only perform services related to security and shall not provide any unrelated service during the assignment.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator KNOTTS explained the amendment.

The amendment was adopted.

**Amendment No. 39**

Senator SHEHEEN proposed the following amendment (3700 SHEHEEN-TREAS.DOCX), which was tabled:

Amend the bill, as and if amended, Part IB, Section 86, AID TO SUBDIVISIONS-STATE TREASURER, page 486, paragraph 86.10, by striking proviso 86.10 in its entirety.

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator SHEHEEN explained the amendment.

Senator GROOMS spoke on the amendment.

Senator GROOMS moved to lay the amendment on the table.

The amendment was laid on the table.

**Amendment No. 122**

Senator RYBERG proposed the following amendment (3700R053.SRM.DOCX), which was carried over:

Amend the bill, as and if amended, Part IB, Section 89, GENERAL PROVISIONS, page 527, after line 12, by adding an appropriately numbered new proviso to read:

*/ 89.\_\_\_. (GP: New TERI Enrollee Prohibition) Section 9-1-2210(A), relating to enrollment in the Teacher and Employee Retirement Incentive Program, is suspended.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator RYBERG explained the amendment.

**Point of Order**

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

Senator SHEHEEN spoke on the Point of Order.

Senator CAMPSEN spoke on the Point of Order.

Senator RYBERG spoke on the Point of Order.

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

Senator LAND argued contra to the adoption of the amendment.

**RECESS**

At 7:19 P.M., with Senator LAND retaining the floor, on motion of Senator PEELER, with unanimous consent, the Senate receded from business until 7:45 P.M.

At 8:05 P.M., the Senate resumed.

**OBJECTION**

With Senator LAND retaining the floor, Senator RYBERG asked unanimous consent to make the following motion as it relates to the Department of Employment and Workforce to:

(1) remove H. 3375 from the status of Interrupted Debate and place the Bill in the first Special Order slot when the session begins on the day following third reading of H. 3700, the Appropriations Bill;

(2) recall H. 3762 from the Labor, Commerce and Industry Committee and place it on the Calendar in the status of Interrupted Debate;

(3) place H. 3762 into cloture status with a time certain set at 3 hours from the beginning of the session to vote on second reading;

(4) strike all in H. 3762 and insert S. 478 as reported from the Labor, Commerce and Industry Committee (including the committee amendment—which includes seasonal workers) as the working document;

(5) take up one amendment that will include the following provisions: the addition of a natural disaster declared by the Governor to the exemption of charged benefits; the reduction of the maximum number of weeks of eligibility from 26 to 20; strike Section 11 of the Bill;

(6) take up another amendment to address the situation wherein an employer only briefly hires an unemployment beneficiary, that employee then returns to their benefits, but the temporary employer picks up their entire benefit experience; and

(7) a direction to DEW to recalculate the premium rates effective January 1, 2011, upon passage of this legislation; and

(8) place a cap on Amendment No. 123 of the General Appropriations Bill of the allowable transfer of 2010-2011 surplus money as described in the proviso at $100 million.

Senator MALLOY objected.

Senator RYBERG spoke on the motion.

Senator LEATHERMAN moved to carry over Amendment No. 122.

The amendment was carried over.

**Amendment No. 124A**

Senators ALEXANDER, SHEHEEN and SETZLER proposed the following amendment (DG 90.16), which was adopted (#54):

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 534, paragraph 90.16, line 2, after “access to care” and before “.” by inserting:

*/ in rural and underserved areas of the state* /

Amend the bill further, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 534, paragraph 90.16, line 5, by inserting a new sentence at the end:

/ *The department shall provide an assessment of access to care as part of the reporting requirements stipulated in Proviso 21.48, (DHHS: Medicaid Reporting). The director is not authorized to access any of the residual funds prior to January 31, 2012. The director must submit a proposal for any use of the funds to the General Assembly by January 1, 2012. If no action is taken on the proposal by the General Assembly by January 31, 2012, the director may access the residual funds as presented in the proposal.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator ALEXANDER explained the amendment.

The amendment was adopted.

**Amendment No. 10**

Senator HAYES proposed the following amendment (DG WPU CALC), which was adopted (#1), subsequently reconsidered and adopted again(#55):

Amend the bill, as and if amended, Part IB, Section 1, DEPARTMENT OF EDUCATION, page 346, proviso 1.97, by striking the proviso in its entirety, lines 24 - 31 and inserting:

/ *1.97. (SDE: Weighted Pupil Units Calculation) Of the funds appropriated to the Education Oversight Committee (EOC), the EOC shall calculate and publish the number of the weighted pupil units per weighting category in each district based upon the most recent 135-day average daily membership in each district and the weights as recommended in the most recent funding model developed by the Education Oversight Committee and suggested modifications made during Fiscal Year 2010-11 and make projections on how the revised weightings impact school districts for Fiscal Year 2011-12. In making its calculations, the EOC must use the Index of Taxpaying Ability and projected base student cost as adopted by the General Assembly for the current fiscal year. The EOC must report its findings electronically to the Chairman of the Senate Finance Committee and Chairman of the House Ways and Means Committee by November 1, 2011.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HAYES explained the amendment.

Senator SETZLER spoke on the amendment.

Senator SETZLER moved to lay the amendment on the table.

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

**Ayes 8; Nays 30**

**AYES**

Coleman Land Malloy

Matthews Pinckney Scott

Setzler Sheheen

**Total--8**

**NAYS**

Alexander Bright Bryant

Campbell Campsen Cleary

Cromer Davis Elliott

Fair Gregory Grooms

Hayes Knotts Leatherman

Lourie *Martin, Larry Martin, Shane*

Massey McConnell McGill

O'Dell Peeler Reese

Rose Ryberg Shoopman

Thomas Verdin Williams

**Total--30**

The Senate refused to table the amendment. The question was the adoption of the amendment.

The amendment was adopted.

**Amendment No. 2D**

Senator COLEMAN proposed the following amendment (DG 4BCBRURINF), which was adopted (#56):

Amend the bill, as and if amended, Part IB, Section 80A, BUDGET AND CONTROL BOARD, page 481, after line 26, by adding an appropriately numbered new proviso to read:

/ *80A.\_\_\_. (BCB: Rural Infrastructure) The Budget and Control Board, Office of Local Government, or its successor, shall transfer all monies under its control to the South Carolina Rural Infrastructure Fund, authorized by Act 171 of 2010. For purposes of this paragraph, the Budget and Control Board, Office of Local Government, or its successor, shall transfer all monies and balances from any appropriation, carry forward funds, earmarked and restricted accounts, or any other account under its control, except for the State Infrastructure Revolving Loan Fund and any federal monies and federal matching monies. The Rural Infrastructure Authority, created pursuant to Act 171 of 2010, by a majority vote of the board may hire a director for the authority, so long as one of the gubernatorial appointees and three of the legislative appointees votes in favor of the hiring.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator COLEMAN explained the amendment.

The amendment was adopted.

**Objection**

Senator BRIGHT asked unanimous consent to make a motion to take up for immediate consideration three further amendments.

Senator LEATHERMAN objected.

**Amendment No. 122**

Senator RYBERG proposed the following amendment (3700R053.SRM.DOCX) which was tabled:

Amend the bill, as and if amended, Part IB, Section 89, GENERAL PROVISIONS, page 527, after line 12, by adding an appropriately numbered new proviso to read:

*/ 89.\_\_\_. (GP: New TERI Enrollee Prohibition) Section 9-1-2210(A), relating to enrollment in the Teacher and Employee Retirement Incentive Program, is suspended.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

With Senator LAND retaining the floor, with unanimous consent, Senator LARRY MARTIN spoke on the amendment.

With Senator LARRY MARTIN retaining the floor, with unanimous consent, Senator RYBERG was recognized to make a motion.

**OBJECTION**

With Senator LARRY MARTIN retaining the floor, Senator RYBERG asked unanimous consent to make the following motion as it relates to the Department of Employment and Workforce to:

(1) remove H. 3375 from the status of Interrupted Debate and place the Bill in the first Special Order slot when the Session begins on the day following third reading of H. 3700, the Appropriations Bill;

(2) recall H. 3762 from the Labor, Commerce and Industry Committee and place it on the Calendar in the status of Interrupted Debate;

(3) strike all in H. 3762 and insert S. 478 as reported from the Labor, Commerce and Industry Committee (including the committee amendment—which includes seasonal workers) as the working document;

(4) take up one amendment that will include the following provisions: the addition of a natural disaster declared by the Governor to the exemption of charged benefits; the reduction of the maximum number of weeks of eligibility from 26 to 20; strike Section 11 of the Bill;

(5) take up another amendment to address the situation wherein an employer only briefly hires an unemployment beneficiary, that employee then returns to their benefits, but the temporary employer picks up their entire benefit experience; and

(6) a direction to DEW to recalculate the premium rates effective January 1, 2011, upon passage of this legislation; and

(7) place a cap on Amendment No. 123 of the General Appropriations Bill of the allowable transfer of 2010-2011 surplus money as described in the proviso at $100 million.

Senator KNOTTS objected.

Senator RYBERG asked unanimous consent to make a motion that the Senate stand adjourned.

Senator KNOTTS objected.

Senator LARRY MARTIN resumed speaking on the amendment.

**Objection**

With Senator LARRY MARTIN retaining the floor, Senator PEELER asked unanimous consent to make a motion to recede for ten minutes.

Senator SHEHEEN objected.

Senator LARRY MARTIN resumed speaking on the amendment.

**Remarks by Senator LARRY MARTIN**

Thank you, Mr. PRESIDENT. During the break, the Senator LAND and I had a brief discussion and I told him I wanted to share with the members what my concern was -- just for the record tonight.

We have a vote on this. I’m going to be asked, “Why did you vote against the amendment to suspend the TERI thing?” Do you all want to deal with this? Let me tell you what my reason is. There’s been enough litigation. There have been enough attorneys’ fees paid out for these changes made to TERI since we passed it to more than suit me. Maybe I’m the only one in here that feels that way about it, but I can tell you if we do this tonight -- as well intended as it is -- we'll be sued. I’m convinced of it. Let me tell you why.

There’s going to be an argument made -- just like the previous cases that the Supreme Court heard across the street. As a matter of fact, we just pretty much came out on one. Senator ALEXANDER reminded me that was on a motion for rehearing because the first decision made in that case would have been devastating to the retirement system. It would have cost the State millions and millions of dollars to fund it, but let me just read to you one part of the old laymen case. This is from 2005 and I find it very troubling. It’s my basis for this. I remember reading it at the time and it bothered me. But, this is the case law of the State now that it’s been resolved. The court said, “We find it telling that the legislature used terms that are indicative of a contract.” and then they cite the code section -- the specific code section that this amendment would suspend. That’s what is before you tonight.

Far from simply describing the terms of the old TERI participants’ employment -- what that issue was about concerned the old TERI participants versus the new TERI participants and how they would be treated. But what I’m telling you is, and I’m not suggesting to you that we can’t do this, but I can promise you that if we do it tonight, we will find ourselves the subject of another lawsuit. I’m convinced of it.

The Finance Committee Chairman has put together a subcommittee co-chaired by Senator RYBERG and Senator ALEXANDER. Why not have that committee look at this and get some good legal advice. What I will prevail upon Senator RYBERG to do in working with Senator ALEXANDER is try to get the benefit of the best legal advice that you can get as to how you go about ending TERI. There’s a way to do it, but I’m not sure this is the way to do it. I’m telling you, as I said to Senator RYBERG awhile ago, I’ve had it up to here with all this tweaking around with TERI and the working retired and all that kind of stuff. I would vote, if I could do it, to put us back where we were before we started all this. At this point in time I’m telling you, if you adopt this -- that’s the reason I’m going to vote against it.

On motion of Senator LAND, with unanimous consent, the remarks of Senator LARRY MARTIN were ordered printed in the Journal.

**Statement by Senator ALEXANDER**

The Senator from Pickens, Senator LARRY MARTIN, made a compelling case that the potential for a lawsuit causes great concern. There is a retirement subcommittee of which I am a member that will be reviewing and recommending changes to the system.

With Senator LAND retaining the floor, Senator DAVIS was recognized to speak on the amendment.

**Remarks by Senator DAVIS**

Senator LARRY MARTIN tells us about the law and what we should worry about.  But let me tell you something -- we are not talking about millions of dollars in legal fees.  This is a legal issue.  This will be decided on the law.  There will be no depositions and discovery.  There will be no witnesses. What we have a chance to do here, gentlemen, is obtain guidance from the State Supreme Court.  If we adopt this amendment, we can commence a declaratory judgment action and ask the court to take original jurisdiction and to tell us, definitively, how we can legally end the TERI program.

There will be not be millions of dollars in attorney’s fees. I don’t care if the parties involved retain McNair, Nexsen, Pruet, Nelson, Mullins and Parker Poe and have them all write briefs and make arguments.  Prompting a court action is necessary.  We need to stop the endless debate, year after year after year, about what we can and cannot do.  This is a chance for us to bring the issue to a head in a responsible way, to create a justiciable issue for the South Carolina Supreme Court to resolve.

Let’s find out what the five justices across the street say we can and cannot do.  Let’s not sit here and guess.  This debate has been going on for over 10 years. When I started working for Governor Sanford in 2003, the TERI program was a financial drain on our retirement system.  Yet, here we are eight years later with this issue still unresolved. Let’s pass this amendment and get this issue resolved.

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

Senator LAND spoke on the amendment.

Senator LAND moved to lay the amendment on the table.

**Ayes 21; Nays 20**

**AYES**

Alexander Coleman Cromer

Elliott Fair Ford

Hutto Land Leatherman

Lourie Malloy *Martin, Larry*

Matthews McGill Nicholson

O'Dell Reese Scott

Setzler Sheheen Williams

**Total--21**

**NAYS**

Bright Bryant Campbell

Campsen Cleary Davis

Gregory Grooms Hayes

Knotts *Martin, Shane* Massey

McConnell Peeler Rankin

Rose Ryberg Shoopman

Thomas Verdin

**Total--20**

The amendment was laid on the table.

Senator RYBERG was recognized to speak on the Bill.

**Motion Adopted**

Senator RYBERG asked unanimous consent to make the following motion as it relates to the Department of Employment and Workforce to:

(1) remove H. 3375 from the status of Interrupted Debate and place the Bill in the first Special Order slot when the Session begins on Wednesday, May 11, 2011;

(2) recall H. 3762 from the Labor, Commerce and Industry Committee and place it on the Calendar in the status of Interrupted Debate;

(3) allow three hours of consideration from the beginning of the Session to vote on second reading of H. 3762;

(4) strike all in H. 3762 and insert S. 478 as reported from the Labor, Commerce and Industry Committee (including the committee amendment—which includes seasonal workers) as the working document;

(5) take up one amendment that will include the following provisions: the addition of a natural disaster declared by the Governor to the exemption of charged benefits; the reduction of the maximum number of weeks of eligibility from 26 to 20; strike Section 11 of the Bill;

(6) take up another amendment to address the situation wherein an employer only briefly hires an unemployment beneficiary, that employee then returns to their benefits, but the temporary employer picks up their entire benefit experience; and

(7) take up a third amendment to deal with severance within parameters agreed upon by the Senator from Clarendon and the Senator from Charleston, Senator CAMPSEN;

(8) a direction to DEW to recalculate the premium rates effective January 1, 2011 upon passage of this legislation; and

(9) place a cap on Amendment No. 123 of the General Appropriations Bill of the allowable transfer of 2010-2011 surplus money as described in the proviso at $100 million.

The motion was adopted.

**REMOVED FROM STATUS OF INTERRUPTED DEBATE**

**RETURNED TO THE STATUS OF SPECIAL ORDER**

H. 3375 -- Reps. Harrell, Lucas, Cooper, Hardwick, Harrison, Owens, Sandifer, White, Bingham, Atwater, Parker, Crawford, Loftis, Bowen, G.R. Smith, Bedingfield, Toole, Sottile, V.S. Moss, Forrester, Bikas, Huggins, Brady, Allison, Pinson, Frye, Whitmire, Skelton, Nanney, Henderson, Limehouse, Corbin, Barfield, Battle, Clemmons, Cole, Crosby, Daning, Gambrell, Hamilton, Hiott, Hixon, Horne, Lowe, D.C. Moss, Murphy, Norman, Patrick, Simrill, G.M. Smith, J.R. Smith, Spires, Taylor, Willis, Young, Herbkersman, Ballentine, Thayer, Bannister, McCoy, Tallon, Stringer, Long, Hayes, Ott, J.M. Neal, Vick, G.A. Brown, Branham, Anthony, Bowers, Sellers, Quinn, Hearn, Edge, Anderson, Erickson, Knight, Chumley, Butler Garrick and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA FAIRNESS IN CIVIL JUSTICE ACT OF 2011” BY AMENDING ARTICLE 5, CHAPTER 32, TITLE 15, RELATING TO PUNITIVE DAMAGES, SO AS TO PROVIDE LIMITS ON THE AWARD OF PUNITIVE DAMAGES AND TO PROVIDE FOR CERTAIN PROCEDURES AND REQUIREMENTS RELATING TO THE AWARD OF THESE DAMAGES; BY ADDING SECTIONS 1‑7‑750 AND 1-7-760 SO AS TO ENACT THE “PRIVATE ATTORNEY RETENTION SUNSHINE ACT” TO GOVERN THE RETENTION OF PRIVATE ATTORNEYS BY THE ATTORNEY GENERAL OR A SOLICITOR AND TO PROVIDE TERMS AND CONDITIONS GOVERNING THE RETAINER AGREEMENT INCLUDING LIMITS ON THE COMPENSATION OF OUTSIDE COUNSEL IN CONTINGENCY FEE CASES, AND TO PROVIDE FOR THE SUSPENSION OF THE LIMITATIONS UNDER CERTAIN EXCEPTIONAL CIRCUMSTANCES; TO AMEND SECTION 15‑3‑670, RELATING TO LIMITATIONS ON ACTIONS BASED ON UNSAFE OR DEFECTIVE IMPROVEMENTS TO REAL PROPERTY, SO AS TO PROVIDE THAT THE VIOLATION OF A BUILDING CODE DOES NOT CONSTITUTE PER SE FRAUD, GROSS NEGLIGENCE, OR RECKLESSNESS BUT MAY BE ADMISSIBLE AS EVIDENCE; TO AMEND SECTION 18‑9‑130, AS AMENDED, RELATING TO THE EFFECT OF A NOTICE OF APPEAL ON THE EXECUTION OF JUDGMENT, SO AS TO PROVIDE LIMITS FOR APPEAL BONDS; AND TO AMEND SECTION 56‑5‑6540, AS AMENDED, RELATING TO THE PENALTIES FOR THE MANDATORY USE OF SEATBELTS, SO AS TO DELETE THE PROVISION THAT PROVIDED THAT A VIOLATION FOR FAILURE TO WEAR A SEATBELT IS NOT NEGLIGENCE PER SE OR COMPARATIVE NEGLIGENCE AND IS NOT ADMISSIBLE IN A CIVIL ACTION.

Pursuant to the motion by Senator RYBERG, the Bill was removed from the status of Interrupted Debate and placed in the status of the first Special Order slot when the Session begins on Wednesday, May 11, 2011.

**RECALLED AND AMENDED**

**PLACED IN THE STATUS OF INTERRUPTED DEBATE**

H. 3762 -- Reps. Cooper, White, Bowen, Gambrell, Thayer, Sandifer, D.C. Moss, McLeod, Viers and Clemmons: A BILL TO AMEND SECTION 41‑31‑45, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNEMPLOYMENT INSURANCE TRUST FUND, SO AS TO PROVIDE THAT IN A YEAR IN WHICH THE FUND IS IN DEBT STATUS, THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, AMONGST OTHER ESTIMATES, MUST ESTIMATE THE AMOUNT OF INCOME NECESSARY TO REPAY ALL OUTSTANDING FEDERAL LOANS WITHIN EIGHT YEARS.

Senator RYBERG asked unanimous consent to make a motion to recall the Bill from the Committee on Labor, Commerce and Industry.

The Bill was recalled from the Committee on Labor, Commerce and Industry.

On motion of Senator RYBERG, the Bill was taken up for immediate consideration.

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

**Amendment No. 1**

Senator RYBERG proposed the following amendment (3762R001.WGR), which was adopted:

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

/ A BILL TO AMEND SECTION 41‑31‑5 OF THE 1976 CODE, RELATING TO DEFINITIONS CONCERNING THE RATE OF CONTRIBUTIONS TO THE UNEMPLOYMENT TRUST FUND, TO MODIFY THE METHOD OF COMPUTATION; TO AMEND SECTION 41‑31‑20, RELATING TO EMPLOYER’S ACCOUNTS, TO PROVIDE THAT THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE SHALL MAINTAIN A SEPARATE ACCOUNT FOR EACH EMPLOYER AND SHALL ACCURATELY RECORD THE DATA USED TO DETERMINE AN EMPLOYER’S EXPERIENCE FOR THE PURPOSE OF RATE ASSIGNMENT; TO AMEND SECTION 41‑31‑40, RELATING TO BASE RATE COMPUTATION PERIODS, TO LOWER THE NEW EMPLOYER TAX CLASS FROM THIRTEEN TO TWELVE; TO AMEND SECTION 41‑31‑50, RELATING TO BASE RATE DETERMINATIONS, TO CLARIFY EXCLUSIONS TO TAXABLE WAGES AND TO PROVIDE THAT FOR CALENDAR YEAR 2011 AND SUBSEQUENT CALENDAR YEARS, VOLUNTARY PAYMENTS ARE NOT PERMITTED FOR THE PURPOSE OF OBTAINING A LOWER RATE OF REQUIRED CONTRIBUTIONS; TO AMEND SECTION 41‑31‑60, RELATING TO BASE RATES WHERE A DELINQUENT REPORT IS RECEIVED, TO CHANGE REFERENCES TO TAX RATES; TO AMEND SECTION 41‑31‑70, RELATING TO A PROHIBITION ON THE TERMINATION OF THE ACCOUNT OF AN EMPLOYER, TO DELETE A BENEFIT RATIO CALCULATION; TO AMEND SECTION 41‑31‑125, RELATING TO THE ASSIGNMENT OF AN EMPLOYMENT BENEFIT RECORD UPON ACQUISITION OR REORGANIZATION OF AN EXISTING EMPLOYMENT UNIT, TO PROVIDE IF THE EXPERIENCE RATING ACCOUNT OF A PREDECESSOR IS EQUAL TO OR EXCEEDS TAX CLASS THIRTEEN, THIS EXPERIENCE RATING ACCOUNT MUST BE TRANSFERRED TO THE SUCCESSOR EMPLOYER; TO AMEND SECTION 41‑31‑140, RELATING TO LIMITS ON THE TRANSFER OF AN EXPERIENCE RATING ACCOUNT IN CERTAIN CIRCUMSTANCES, TO CLARIFY TIME LIMITS OF APPLICABILITY AND TO PROVIDE FOR FUTURE LIMITS ON TRANSFERS FOR AN EXPERIENCE RATING ACCOUNT; TO AMEND SECTION 41‑31‑670, RELATING TO SPECIAL PROVISIONS FOR ORGANIZATIONS THAT MADE CONTRIBUTIONS PRIOR TO 1969, TO UPDATE REFERENCES TO APPLICABLE TAX FORMULAS AND TO PROVIDE FOR THE MANAGEMENT OF AN ACCOUNT IF THE ORGANIZATION TERMINATES THE ELECTION AVAILABLE UNDER THIS SECTION; TO AMEND SECTION 41‑35‑120, RELATING TO DISQUALIFICATIONS FOR BENEFITS, TO INCREASE THE PENALTY FOR FAILING A DRUG TEST OR BEING TERMINATED FOR GROSS MISCONDUCT AND TO PROVIDE AN ADDITIONAL SOURCE FOR CERTIFYING A LAB THAT MAY PERFORM A DRUG TEST; TO AMEND SECTION 41‑35‑125, RELATING TO BENEFITS FOR INDIVIDUALS UNEMPLOYED AS A RESULT OF DOMESTIC ABUSE, TO REDEFINE THE TERM “DISABILITY”; TO AMEND SECTION 41‑35‑130, RELATING TO PAYMENTS NOT CHARGEABLE TO A FORMER EMPLOYER, TO MAKE THE SECTION APPLICABLE TO BENEFITS PAID AS A RESULT OF A NATURAL DISASTER DECLARED BY THE PRESIDENT OF THE UNITED STATES; TO AMEND SECTION 41‑39‑30, RELATING TO LIMITS ON FEES, TO ELIMINATE THE REQUIREMENT THAT A PERSON APPEARING AT A HEARING UNDER THIS SECTION MUST BE REPRESENTED BY AN ATTORNEY; TO AMEND SECTION 41‑41‑40, RELATING TO THE RECOVERY OF BENEFITS PAID TO A PERSON NOT ENTITLED TO BENEFITS, TO PROVIDE AN ADDITIONAL MEANS FOR ATTEMPTING A COLLECTION UNDER THIS SECTION; TO AMEND SECTION 41‑27‑260, RELATING TO EXEMPTED EMPLOYMENT, TO PROVIDE THE CIRCUMSTANCES UNDER WHICH SERVICES PERFORMED BY A DIRECT SELLER ARE EXEMPT FROM THE PROVISIONS OF CHAPTERS 27 THROUGH 41 OF TITLE 41; TO AMEND SECTION 41‑31‑50, RELATING TO DETERMINATION OF BASE RATES, TO PLACE A LIMIT ON EMPLOYER BASE TAX RATE FOR TAX YEAR 2011; AND TO AMEND CHAPTER 31, TITLE 41, BY ADDING SECTION 41‑31‑52 TO PROVIDE FOR THE CIRCUMSTANCES UNDER WHICH A SEASONAL WORKER IS ELIGIBLE TO RECEIVE BENEFITS.

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

SECTION 1. Section 41‑31‑5(1) of the 1976 Code is amended to read:

“(1) ‘Benefit ratio’ means:

(a) for the period of January 1, 2011, through December 31, 2013, the number calculated by dividing the ~~average~~ sum of all benefits charged to an employer during the forty calendar quarters immediately preceding the calculation date by the sum of the employer’s ~~average~~ taxable payroll ~~during~~ for the same period. If fewer than forty but more than ~~four~~ one calendar ~~quarters~~ quarter of data are available, the data from those available calendar quarters shall be used in the calculation. The benefit ratio must be calculated annually ~~on July first~~ using data for quarters filed through June thirtieth of the current year to the sixth decimal place;

(b) from January 1, 2014, the number calculated by dividing the ~~average~~ sum of all benefits charged to an employer during the twelve calendar quarters immediately preceding the calculation date by the sum of the employer’s ~~average~~ taxable payroll ~~during~~ for the same period. If fewer than twelve but more than ~~four~~ one calendar quarters of data are available, the data from those available calendar quarters shall be used in the calculation. The benefit ratio must be calculated annually ~~on July first~~ using data for quarters filed through June thirtieth of the current year to the sixth decimal place.”

SECTION 2. Section 41‑31‑20(A) of the 1976 Code is amended to read:

“(A) The department shall maintain a separate account for each employer and shall ~~credit the account of each with all the contributions paid on his behalf, but~~ accurately record the data used to determine an employer’s experience for the purpose of rate assignments. Nothing in Chapters 27 through 41 of this title shall be construed to grant any employer or individual in his service prior claims or rights to the amounts paid by him into the fund either on his behalf or on behalf of such individuals. Benefits paid to an eligible individual shall be charged, in the amounts provided in Chapters 27 through 41 of this title, against the accounts of his most recent employer. No employer shall be deemed as the most recent employer for the purpose of this section unless the eligible person to whom benefits are paid earned wages in the employ of the employer equal to at least eight times the weekly benefit amount of the eligible claimant.”

SECTION 3. Section 41‑31‑40 of the 1976 Code is amended to read:

“Section 41‑31‑40. Each employer’s base rate for the twelve months commencing January first of any calendar year is determined in accordance with Section 41‑31‑50 on the basis of his record up ~~to July first~~ through June thirtieth of the preceding calendar year, but no employer’s base rate is less than the rate applicable for rate class ~~thirteen~~ twelve until there have been twelve consecutive months of coverage after first becoming liable for contributions under Chapters 27 through 41 of this title. Each employer who completes twelve consecutive calendar months of coverage after first becoming liable for contributions during the current calendar year shall have a base rate computed on the basis of his record up through the next occurring June thirtieth, with that base rate being effective for the next calendar year beginning in January.”

SECTION 4. Section 41‑31‑50 of the 1976 Code is amended to read:

“Section 41‑31‑50. Each employer eligible for a rate computation shall have his ~~base~~ tax rate determined in the following manner:

(1)(a)(i) Annually the department must calculate a contribution rate for each employer qualified for an experience rating. The contribution rate must correspond to the rate calculated for the employer’s benefit ratio class.

(ii) To determine an employer’s benefit ratio rank, the department must list all employers by increasing benefit ratios, from the lowest benefit ratio to the highest benefit ratio. The list must be divided into classes ranked one through twenty. Each class must contain approximately five percent of the total taxable wages, excluding ~~reimbursable employment wage~~ employers with less than twelve months of accomplished liability, employers with outstanding tax liens, delinquent tax class employers, and employers who reimburse the department in lieu of contributions, paid in covered employment during the four completed calendar quarters immediately preceding the computation date. Each employer must be placed in the class that corresponds with the employer’s benefit ratio.

(iii) If an employer’s taxable wages qualify the employer for two separate classes, the employer shall be afforded the class assigned the lower contribution rate. Employers with identical benefit ratios shall be assigned to the same class.

(b) The income needed to pay benefits for the calendar year plus any applicable income needed to reach the solvency target must be divided by the estimated taxable wages for the calendar year. The result rounded to the next higher one‑hundredth of one percent is the average required rate needed to pay benefits and achieve solvency targets.

(c) The rate for class twenty will be set such that the entire schedule raises the income required to pay benefits for the year, as well as the income necessary to move the trust fund toward the solvency target, subject to the structure provided in this chapter. However, the rate for class twenty must be at least five and four‑tenths percent.

(2)(a) If the calculated rate necessary for benefit rate class twenty exceeds five and four‑tenths percent, then the rate for each preceding benefit rate class shall be equal to ninety percent of the rate calculated for the succeeding class, except that rate class twelve shall be set at one‑fourth the rate calculated for class twenty, provided that the rate for class one shall be zero.

(b)(i) If the computed rate necessary for class twenty is less than five and four‑tenths percent, then the rate for class twenty shall be set at five and four‑tenths percent.

(ii) The rate for rate class twelve shall be calculated by multiplying the average tax rate computed in ~~subsection~~ item (1)(b) by twenty, subtracting five and four‑tenths percent, and dividing by nineteen.

(iii) The contribution rate for rate classes eleven through one shall be equal to ninety percent of the rate for the succeeding class, provided that the rate for class one shall be zero.

(iv) The contribution rate for class thirteen shall be equal to one hundred twenty percent of the rate calculated for rate class twelve.

(v) The contribution rate for rate class nineteen shall be set at an amount that allows for average contributions, beginning with class eighteen and ending with class fourteen, that are equal to ninety percent of the preceding class.

(3) For calendar year 2011 and any subsequent calendar year, voluntary payments are not permitted for the purpose of obtaining a lower rate of required contributions.”

SECTION 5. Section 41‑31‑60 of the 1976 Code is amended to read:

“Section 41‑31‑60. (A) If on the computation date upon which an employer’s ~~base~~ tax rate is to be computed as provided in Section 41‑31‑40 there is a delinquent report, ~~a base rate of two and sixty‑four hundredths percent~~ the tax class twenty rate must be assigned to the employer for the period to which the computation applies. ~~If the base rate for the prior year or the computed base rate for the computation period is greater than two and sixty‑four hundredths percent, the higher rate must be assigned until the next computation date.~~

(B) No employer is permitted to pay his unemployment compensation tax at a reduced ~~base~~ tax rate class for any quarter when a tax execution issued in accordance with Section 41‑31‑390 with respect to delinquent unemployment compensation tax for a previous quarter is unpaid and outstanding against the employer. If on the computation date upon which an employer’s ~~base~~ tax rate is computed as provided in Section 41‑31‑40 there is an outstanding tax execution, ~~a base rate of two and sixty‑four hundredths percent~~ the tax class twenty rate must be assigned ~~for the period to which the computation applies. If the base rate for the prior year or the computed base rate for the computation period is greater than two and sixty‑four hundredths percent, the highest base rate must be assigned~~ to the employer until the next computation date or until such time as ~~any~~ all outstanding tax ~~execution has~~ executions have been paid.”

SECTION 6. Section 41‑31‑70 of the 1976 Code is amended to read:

“Section 41‑31‑70. If the department finds that an employer ceased to render employment solely due to the closing of the business because of the entrance of one or more of the owners, officers, partners, or the majority stockholders into the Armed Forces of the United States, or any of its allies, or of the United Nations after January 1, 1951, such employer’s account shall not be terminated; and, if the business is resumed and employment rendered within two years after the discharge or release from active duty in the armed forces of the person or persons, the employer’s experience shall be deemed to have been continuous throughout that period. The benefit ratio of the employer shall be the amount calculated pursuant to Section 41‑31‑5, including benefits paid to any individual during the period the employer was in the armed forces~~, divided by his average annual payroll for the most recent year during the whole of which the employer has been in business and has rendered employment~~. This provision shall not be construed to authorize cash refunds and any adjustments required hereunder shall be only by credit certificate.”

SECTION 7. Section 41‑31‑125(C) of the 1976 Code is amended to read:

“(C) If the experience rating account of the predecessor ~~employer contains a debit balance, defined as an excess of total benefits charged over total contributions paid, the experience rating account of the predecessor employer must be transferred to the successor employer in accordance with the provisions of Section 41‑31‑140~~ is equal to or exceeds tax class thirteen, the experience rating account of the predecessor employer in any event must be transferred to the successor employer in accordance with the provisions of Section 41‑31‑140.”

SECTION 8. Section 41‑31‑140 of the 1976 Code is amended to read:

“Section 41‑31‑140. (A) For the purposes of this section and for tax years 2010 and prior, ‘debit balance’ means the excess of total benefits charged over total contributions made.

(B) For acquisitions that occur in tax years 2010 and prior, no transfer of experience rating accounts, in whole or in part, is permitted under the provisions of Sections 41‑31‑100 to 41‑31‑130 unless all unemployment compensation taxes based on wages paid by the transferring employer prior to the date of the transfer are paid by the transferring employer when due or assumed by the acquiring employer within sixty days from the date he is notified by the department that the transfer cannot be allowed because of unpaid unemployment compensation taxes. If the experience rating account of the predecessor employer contains a debit balance, the experience rating account of the predecessor employer in any event must be transferred to the successor employer in accordance with the provisions of Sections 41‑31‑100 and 41‑31‑120.

(C) Effective for acquisitions occurring in tax years 2011 and later, no transfer of benefit charges or taxable wages, in whole or in part, is permitted pursuant to the provisions of Sections 41‑31‑100 through 41‑31‑130 unless all unemployment compensation taxes based on wages paid by the transferring employer prior to the date of transfer are paid by the transferring employer when due or assumed by the acquiring employer within sixty days from the date he is notified by the department that the transfer cannot be allowed because of unpaid unemployment compensation taxes or outstanding contribution reports. If the predecessor employer has an acquisition year tax class of thirteen or higher, the experience of the predecessor employer in any event must be transferred to the successor employer in accordance with the provisions of Sections 41‑31‑100 and 41‑31‑120.”

SECTION 9. Section 41‑31‑670(B) of the 1976 Code is amended to read:

“(B) Any nonprofit organization which has elected to become liable for payments in lieu of contributions under the provisions of Sections 41‑31‑620 and 41‑31‑630 and thereafter terminates the election shall become an employer liable for the payments of contributions upon the effective date of the termination but no such employer’s ~~base~~ tax rate thereafter may be less than ~~two and sixty‑four hundredths percent~~ tax rate class twelve until there have been twenty‑four consecutive calendar months of coverage ~~after so becoming liable for the payment of contributions. If the employer has been an employer liable for the payment of contributions prior to election to become liable for payments in lieu of contributions, the balance in the experience rating account of the employer as of the termination date of the election to become liable for payments in lieu of contributions is transferred to the new experience rating account then established for the employer~~. Upon termination of the election to reimburse the department in lieu of contributions, if the employer was previously an employer liable for contributions, the previously established contributory account will be reopened.”

SECTION 10. Section 41‑35‑120 of the 1976 Code is amended to read:

“Section 41‑35‑120. An insured worker is ineligible for benefits for:

(1) Leaving work voluntarily. If the department finds he left voluntarily, without good cause, his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim.

(2) Discharge for cause connected with the employment. If the department finds that he has been discharged for cause connected with his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request, and continuing not less than five nor more than the next twenty‑six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker’s benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification. The ineligibility period must be determined by the department in each case according to the seriousness of the cause for discharge. A charge of discharge for cause connected with the employment may not be made for failure to meet production requirements unless the failure is occasioned by wilful failure or neglect of duty. ‘Cause connected with the employment’ as used in this item requires more than a failure in good performance of the employee as the result of inability or incapacity.

(3)(a) Discharge for illegal drug use, and is ineligible for benefits beginning with the effective date of the request and continuing ~~until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim~~ not less than twenty‑six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker’s benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification if the:

(i) company has communicated a policy prohibiting the illegal use of drugs, the violation of which may result in termination; and

(ii) insured worker fails or refuses to provide a specimen pursuant to a request from the employer, or otherwise fails or refuses to cooperate by providing an adulterated specimen; or

(iii) insured worker provides a blood, hair, or urine specimen during a drug test administered on behalf of the employer, which tests positive for illegal drugs or legal drugs used unlawfully, provided:

(A) the sample was collected and labeled by a licensed health care professional or another individual authorized to collect and label test samples by federal or state law, including law enforcement personnel; and

(B) the test was performed by a laboratory certified by the National Institute on Drug Abuse, the College of American Pathologists, the Substance Abuse and Mental Health Services Administration, or the State Law Enforcement Division; and

(C) an initial positive test was confirmed on the specimen using the gas chromatography/mass spectrometry method, or an equivalent or a more accurate scientifically accepted method approved by the National Institute on Drug Abuse;

(iv) for purposes of this item, ‘unlawfully’ means without a prescription.

(b) If an insured worker makes an admission pursuant to the employer’s policy, which provides that voluntary admissions made before the employer’s request to the employee to submit to testing may protect an employee from immediate termination, then the admission is inadmissible for purposes of this section as long as the:

(i) employer has communicated a written policy, which provides protection from immediate termination for employees who voluntarily admit prohibited drug use before the employer’s request to submit to a test; and

(ii) employee makes the admission specifically pursuant to the employer’s policy.

(c) Information, interviews, reports, and drug‑test results, written or otherwise, received by an employer through a drug‑testing program may be used or received in evidence in proceedings conducted pursuant to the provisions of this title for the purposes of determining eligibility for unemployment compensation, including administrative or judicial appeal.

(4) Discharge for gross misconduct, and is ineligible for benefits beginning with the effective date of the request and continuing ~~until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim~~ not less than twenty‑six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker’s benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification if he is discharged due to:

(i) wilful or reckless employee damage to employer property that results in damage of more than fifty dollars;

(ii) ~~employee~~ an employee’s consumption of alcohol or being under the influence of alcohol on employer property in violation of a written company policy restricting or prohibiting consumption of alcohol;

(iii) employee theft of items valued at more than fifty dollars;

(iv) failure to comply with applicable state or federal drug and alcohol testing and use regulations including, but not limited to, 49 C.F.R. part 40 and part 382 of the federal motor carrier safety regulations, while on the job or on duty, and regulations applicable for employees performing transportation and other safety sensitive job functions as defined by the federal government;

(v) employee committing criminal assault or battery of another employee or a customer;

(vi) employee committing criminal abuse of patient or child in his professional care;

(vii) employee insubordination, which is defined as wilful failure to comply with a lawful, reasonable order of a supervisor directly related to the employee’s employment as described in an applicable written job description; or

(viii) employee wilful neglect of duty directly related to the employee’s employment as described in an applicable written job description.

(5) Failure to accept work.

(a) If the department finds he has failed, without good cause:

(i)(A) either to apply for available suitable work, when so directed by the employment office or the department;

(B) to accept available suitable work when offered to him by the employment office or an employer; or

(C) to return to his customary self‑employment, if any, when so directed by the department, the ineligibility begins with the week the failure occurred and continues until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined in Chapters 27 through 41 of this title and earned wages for services equal to at least eight times the weekly benefit amount of his claim.

(b) In determining whether work is suitable for an individual, the department must consider, based on a standard of reasonableness as it relates to the particular individual concerned, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(c) Notwithstanding another provision of Chapters 27 through 41 of this title, work is not considered suitable and benefits may not be denied under these chapters to an otherwise eligible individual for refusing to accept new work under any of the following conditions:

(i) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(iii) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) Notwithstanding another provision of Chapters 27 through 41 of this title, an otherwise eligible individual may not be denied a benefit for a week for failure to apply for, or refusal to accept, suitable work because he is in training with the approval of the department.

(e) Notwithstanding another provision of this chapter, an otherwise eligible individual may not be denied a benefit for a week because he is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor may the individual be denied benefits by reason of leaving work to enter training, if the work left is not suitable employment, or because of the application to a week in training of provisions in this law or an applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subitem, ‘suitable employment’ means, with respect to an individual, work of a substantially equal or higher skill level than the individual’s past adversely affected employment, as defined for purposes of the Trade Act of 1974, and wages for the work at not less than eighty percent of the individual’s average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) Labor dispute. For a week in which the department finds that his total or partial unemployment is directly due to a labor dispute in active progress in the factory, establishment, or other premises at which he was last employed. This paragraph does not apply if it is shown to the satisfaction of the department that he:

(a) is not participating in, financing, or directly interested in the labor dispute;

(b) does not belong to a grade or class of workers of which, immediately before he became unemployed by reason of the dispute, there were members employed at the premises at which the dispute exists, any of whom are participating in or directly interested in the dispute. If separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each department for the purpose of this item is considered to be a separate factory, establishment, or other premises.

(7) Receiving benefits elsewhere. For a week in which, or a part of which, he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. If the appropriate agency of the other state or of the United States finally determines that he is not entitled to unemployment benefits, this disqualification does not apply.

(8) Voluntary retirement. If the department finds that he voluntarily retired from his most recent work with the ineligibility beginning with the effective date of his claim and continuing for the duration of his unemployment and until the individual submits satisfactory evidence of having had new employment and of having earned wages of not less than eight times his weekly benefit amount as defined in Section 41‑35‑40. For the purpose of this section, ‘most recent work’ means the work from which the individual retired regardless of any work subsequent to his retirement in which he earned less than eight times his weekly benefit amount.”

SECTION 11. Section 41‑35‑125 of the 1976 Code is amended to read:

“Section 41‑35‑125. (A)(1) Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the department finds that the individual has left work voluntarily or has been discharged because of circumstances directly resulting from domestic abuse and:

(a) reasonably fears future domestic abuse at or en route to the workplace;

(b) needs to relocate to avoid future domestic abuse; or

(c) reasonably believes that leaving work is necessary for his safety or the safety of his family.

(2) When determining if an individual has experienced domestic abuse for the purpose of receiving unemployment compensation, the department must require him to provide documentation of domestic abuse ~~including, but not limited to,~~ such as police or court records or other documentation of abuse from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the individual has sought assistance.

(3) Documentation or evidence of domestic abuse acquired by the department pursuant to this section must be kept confidential unless consent for disclosure is given, in writing, by the individual.

(B)(1) Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the department finds that the individual was separated from employment due to compelling family circumstances.

(2) For the purposes of this subsection:

(a) ‘Immediate family member’ means a claimant’s spouse, parents, or ~~minor~~ dependent children.

(b) ‘Illness’ means a verified ~~disability~~ illness that necessitates the care of the ~~disabled~~ ill person for a period of time that exceeds the amount of time the employer will provide paid or unpaid leave. ~~Disability, includes, but is not limited to, mental and physical disabilities, permanent and temporary disabilities, and partial and total disabilities.~~

(c) ‘Disability’ means a verified disability which necessitates the care of the disabled person for a period of time longer than the employer is willing to grant paid or unpaid leave. Disability encompasses all types of disability, including mental and physical disabilities, permanent and temporary disabilities, and partial and total disabilities.

(d) ‘Compelling family circumstances’ means:

(i) that a claimant was separated from employment with the employer because of the illness or disability of the claimant and, based upon available information, the department finds that it was medically necessary for the claimant to stop working or change occupations;

(ii) the claimant was separated from work due to the illness or disability of an immediate family member; and

(iii) the claimant’s spouse was transferred or employed in another city or state, the family is required to move to the location of that job, the location is outside the commuting distance of the claimants previous employment, and the claimant separates from employment in order to move to the new location with his spouse.

~~(2)~~ ~~Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the department finds that the individual was separated from employment due to compelling family circumstances.~~”

SECTION 12. Section 41‑35‑130 of the 1976 Code is amended to read:

“Section 41‑35‑130. (A) A benefit paid to a claimant for unemployment immediately after the expiration of disqualification for:

(1) voluntarily leaving his most recent work without good cause;

(2) discharge from his most recent work for misconduct; or

(3) refusal of suitable work without good cause must not be charged to the account of an employer.

(B) A benefit paid to a claimant must not be charged against the account of an employer by reason of the provisions of this subsection if the department determines under Section 41‑35‑120 that the individual:

(1) voluntarily left his most recent employment with that employer without good cause;

(2) was discharged from his most recent employment with that employer for misconduct connected with his work; or

(3) subsequent to his most recent employment refused without good cause to accept an offer of suitable work made by that employer if the employer furnishes the department with those notices regarding the separation of the individual from work or the refusal of the individual to accept an offer of work as are required by the law and regulations of the department.

(C) If a benefit is paid pursuant to a decision that is finally reversed in subsequent proceedings with respect to it, an employer’s account must not be charged with a benefit paid.

(D) A benefit paid to a claimant for a week in which he is in training with the approval of the department must not be charged to an employer.

(E) Benefits paid as a result of a natural disaster declared by the President of the United States.

(F) The provisions of subsections (A) through ~~(D)~~ (E), all inclusive, with respect to the noncharging of benefits paid must be applicable only to an employer subject to the payment of contributions.

(~~F~~G) A benefit paid to a claimant during an extended benefit period, as defined in Article 3, Chapter 35, must not be charged to an employer; except that a ~~non‑profit~~ nonprofit organization electing to become liable for payments in lieu of contributions in accordance with Section 41‑31‑620 must reimburse fifty percent of extended benefits attributable to services performed in its employ and that after January 1, 1979, the State or a political subdivision or instrumentality of it as defined in Section 41‑27‑230(2)(b) electing to become liable for payment in lieu of contributions in accordance with Section 41‑31‑620 must reimburse all extended benefits attributable to services performed in its employ.

(~~G~~H) A nonprofit organization that elects to make a payment in lieu of a contribution to the unemployment compensation fund as provided in Section 41‑31‑620(2) or Section 41‑31‑810 is not liable to make those payments with respect to the benefits paid to an individual whose base period wages include wages for previously uncovered services as defined in Section 41‑35‑65 to the extent that the unemployment compensation fund is reimbursed for those benefits pursuant to Section 121 of P.L. 94‑566.

(~~H~~I) A benefit paid to an individual whose base period wages include wages for previously uncovered services as defined in Section 41‑35‑65 must not be charged against the account of an employer to the extent that the unemployment compensation fund is reimbursed for those benefits pursuant to Section 121 of P.L. 94‑566.

(~~I~~J) A benefit paid to an individual pursuant to Section 41‑35‑125 must not be charged to the account of a contributing employer.

(~~J~~K) A benefit paid to an individual pursuant to Section 41‑35‑126 must not be charged to the account of a contributing employer.”

SECTION 13. Section 41‑39‑30 of the 1976 Code is amended to read:

“Section 41‑39‑30. An individual claiming benefits may not be charged a fee in a proceeding under Chapters 27 through 41 of this title by the department or its representatives or by a court or an officer, except an attorney, of it. An individual claiming a benefit in a proceeding before the department or a court ~~must~~ may be represented by an attorney or other duly authorized agent, but an attorney or agent must not charge or receive for this service more than an amount approved by the department. A person who violates a provision of this section, for each offense, must be fined not less than fifty dollars nor more than five hundred dollars, imprisoned for not more than six months, or both.”

SECTION 14. Section 41‑41‑40(A) of the 1976 Code is amended to read:

“(A)(1) A person who has received a sum as benefits under Chapters 27 through 41 while conditions for the receipt of benefits imposed by these chapters were not fulfilled or while he was disqualified from receiving benefits is liable to repay the department for the unemployment compensation fund a sum equal to the amount received by him.

(2) If full repayment of benefits, to which an individual was determined not entitled, has not been made, the sum must be deducted from future benefits payable to him under Chapters 27 through 41, and the sum must be collectible in the manner provided in Sections 41‑31‑380 to 41‑31‑400 for the collection of past due contributions.

(3) The department may attempt collection of overpayments through the South Carolina Department of Revenue in accordance with Section 12‑56‑10, et seq. If the overpayment is collectible in accordance with Section 12‑56‑60, the department shall add to the amount of the overpayment a collection fee of not more than twenty‑five dollars for each collection attempt to defray administrative costs.

(4) The department may attempt collection of overpayment through the federal Unemployment Compensation Treasury Offset Program (UCTOP). If the overpayment is collectible, the department shall add to the amount of the overpayment a collection fee not to exceed the administrative costs set by this program.

(5) Notwithstanding any other provision of this section, no action to enforce recovery or recoupment of any overpayment may begin after five years from the date of the final determination for nonfraudulent overpayments nor after eight years from the date of the final determination for fraudulent overpayments.”

SECTION 15. Section 41‑27‑260 of the 1976 Code is amended by adding an appropriately numbered new item to read:

“(18) Services performed by a direct seller, provided that:

(a) the individual:

(i) is engaged in the trade or business of selling or soliciting the sale of consumer products, including, but not limited to, services or other intangibles, to any buyer on a buy‑sell basis, a deposit‑commission basis, or any similar basis for resale by the buyer or any other person in the home or otherwise than in a permanent retail establishment; or

(ii) is engaged in the trade or business of selling or soliciting the sale of consumer products, including, but not limited to, services or other intangibles, in the home or otherwise than in a permanent retail establishment;

(b) substantially all the remuneration, whether or not paid in cash, for the performance of the services described in item (a) is directly related to sales or other output, including, but not limited to, the performance of services, rather than to the number of hours worked; and

(c) the services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee for federal and state tax purposes.”

SECTION 16. Section 41‑31‑50 of the 1976 Code is amended by adding:

“(3) For tax year 2011, no employer shall have a base tax rate higher than the base tax rate for rate class twelve if during the applicable rate computation period, as defined in Section 41‑31‑5, the employer has been credited with more in tax contributions than have been charged to that employer’s account for benefits.”

SECTION 17. Chapter 31, Title 41 of the 1976 Code is amended by adding:

“Section 41‑31‑52. Effective with claims filed on or after January 1, 2012:

(1) A seasonal pursuit is one which, because of seasonal conditions making it impracticable or impossible to do otherwise, customarily carries on production operations only within a regularly recurring active period or periods of less than an aggregate of thirty‑six weeks in a calendar year. No pursuit shall be considered seasonal until the department makes a determination that the pursuit is seasonal. However, any successor to a seasonal pursuit shall be deemed seasonal unless the successor requests cancellation of the seasonal pursuit status within one hundred twenty days after the acquisition. This provision shall not be applicable to pending cases nor retroactive in effect.

(2) Upon application by a pursuit for seasonal pursuit status, the department shall determine or redetermine whether the pursuit is seasonal and, if seasonal, the pursuit’s active period. The department may, on its own motion, redetermine a seasonal pursuit’s active period. An application for a seasonal determination must be made on forms prescribed by the department and must be made at least thirty days prior to the beginning date of the period of production operations for which a determination is requested.

(3) Whenever the department has determined or redetermined a pursuit to be seasonal, the pursuit shall be notified immediately, and the notice must contain the beginning and ending dates of the pursuit’s active period or periods. Pursuits determined or redetermined to be a seasonal pursuit shall display notices of its seasonal determination conspicuously on its premises in a sufficient number of places to be available for inspection by its workers. The notices shall be furnished by the department.

(4) A seasonal determination must become effective unless an interested party files an application for review within ten days of the beginning date of the first period of production operations to which it applies. An application for review shall be an application for a determination of status.

(5) All wages paid to a seasonal worker during his base period must be used in determining his weekly benefit amount; provided, however, that all weekly benefit amounts so determined shall be rounded to the nearest lower full dollar amount, if not a full dollar amount.

(6)(a) A seasonal worker is eligible to receive benefits based on seasonal wages only for a week of unemployment which occurs, or the greater part of which occurs, within the active period of the seasonal pursuit in which he earned base period wages.

(b) A seasonal worker is eligible to receive benefits based on nonseasonal wages for any week of unemployment which occurs during any active period of the seasonal pursuit in which he has earned base period wages; provided he has exhausted benefits based on seasonal wages. The worker is also eligible to receive benefits based on nonseasonal wages for any week of unemployment which occurs during the inactive period or periods of the seasonal pursuit in which he earned base period wages irrespective as to whether he has exhausted benefits based on seasonal wages.

(c) The maximum amount of benefits which a seasonal worker is eligible to receive, based on seasonal wages, shall be an amount, adjusted to the nearest multiple of one dollar, determined by multiplying the maximum benefits payable in his benefit year, as provided in Section 41‑35‑50, by the percentage obtained by dividing the seasonal wages in his base period by all of his base period wages.

(d) The maximum amount of benefits which a seasonal worker is eligible to receive based on nonseasonal wages shall be an amount, adjusted to the nearest multiple of one dollar, determined by multiplying the maximum benefits payable in his benefit year, as provided in Section 41‑35‑50, by the percentage obtained by dividing the nonseasonal wages in his base period by all of his base period wages.

(e) In no case is a seasonal worker eligible to receive a total amount of benefits in a benefit year in excess of the maximum benefits payable for such benefit year, as provided in Section 41‑35‑50.

(7)(a) All benefits paid to a seasonal worker based on seasonal wages shall be charged, as prescribed in Section 41‑31‑20, against the account of his base period employer who paid him such seasonal wages, and for the purpose of this paragraph such seasonal wages shall be deemed to constitute all of his base period wages.

(b) All benefits paid to a seasonal worker based on nonseasonal wages shall be charged, as prescribed in Section 41‑31‑20, against the account of his base period employer who paid him such nonseasonal wages, and for the purpose of this paragraph such nonseasonal wages shall be deemed to constitute all of his base period wages.

(8) The benefits payable to any otherwise eligible individual shall be calculated in accordance with this section for any benefit year which is established on or after the beginning date of a seasonal determination applying to a pursuit by which such individual was employed during the base period applicable to such benefit year, as if such determination had been effective in such base period.

(9) Nothing in this section shall be construed to limit the right of any individual whose claim for benefits is determined in accordance herewith to appeal from such determination as provided in Section 41‑35‑660.

(10) As used in this section:

(a) ‘Pursuit’ means an employer or branch of an employer.

(b) ‘Branch of an employer’ means a part of an employer’s activities which is carried on or is capable of being carried on as a separate enterprise.

(c) ‘Production operations’ means all the activities of a pursuit which are primarily related to the production of its characteristic goods or services.

(d) ‘Active period or periods’ of a seasonal pursuit means the longest regularly recurring period or periods within which production operations of the pursuit are customarily carried on.

(e) ‘Seasonal wages’ means the wages earned in a seasonal pursuit within its active period or periods. The department may prescribe by regulation the manner in which seasonal wages shall be reported.

(f) ‘Seasonal worker’ means a worker at least twenty‑five percent of whose base period wages are seasonal wages.

(g) ‘Interested party’ means any individual affected by a seasonal determination.

(h) ‘Inactive period or periods’ of a seasonal pursuit means that part of a calendar year which is not included in the active period or periods of such pursuit.

(i) ‘Nonseasonal wages’ means the wages earned in a seasonal pursuit within the inactive period or periods of such pursuit, or wages earned at any time in a nonseasonal pursuit.

(j) ‘Wages’ means remuneration for employment.”

SECTION 18. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The amendment was adopted.

Pursuant to the motion by Senator RYBERG, the Bill was placed in the status of Interrupted Debate.

The Senate resumed consideration of H. 3700.

**Amendment No. 123**

Senators LEATHERMAN, RYBERG, BRYANT, BRIGHT, THOMAS, RANKIN, CAMPSEN, CLEARY, CAMPBELL, CROMER, ALEXANDER, O’DELL, NICHOLSON, DAVIS, ROSE and ELLIOTT proposed the following amendment (DAD 90.18 DEW 100M) which was previously carried over, revised from DAD 90.18 FUIR and adopted (#57):

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 535, paragraph 90.18, lines 9-10, by striking / *Any excess Fiscal Year 2010-11 general fund revenue above the amounts appropriated in this provision shall be transferred to the S.C. Medicaid Reserve Fund.* / and inserting / *The first $100,000,000 of any excess Fiscal Year 2010-11 general fund revenue above the amounts appropriated in this provision shall be transferred to the Department of Employment and Workforce and shall be placed in an account to be titled the Department of Employment and Workforce Unemployment Insurance Trust Fund. These funds may only be used by the Department of Employment and Workforce to make payments on outstanding loans from the Unemployment Insurance Trust Fund.* */*

Renumber sections to conform.

Amend sections, totals and title to conform.

The amendment was adopted.

Pursuant to the motion by Senator RYBERG, the Bill was placed in the status of Interrupted Debate.

**Amendment No. 74**

Senator GROOMS proposed the following amendment (3700R050.LKG.DOCX), which was amended and subsequently replaced by Amendment No. 74A:

Amend the bill, as and if amended, Part IB, Section 1, DEPARTMENT OF EDUCATION, page 347, after line 15, by adding an appropriately numbered new proviso to read:

*/ 1. . (SDE: Health Education) Each school district is required to ensure that all comprehensive health education, reproductive health education, and family life education conducted within the district, whether by school district employees or a private entity, must utilize curriculum that complies with the provisions contained in Chapter 32, Title 59. Any school district in which instruction contrary to the provisions contained in this proviso occurs must have its base student cost reduced by twenty percent. /*

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator GROOMS explained the amendment.

**Point of Order**

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

Senator GROOMS spoke on the Point of Order.

Senator CAMPSEN spoke on the Point of Order.

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

Senator GROOMS resumed explaining the amendment.

Senator ROSE spoke on the amendment.

Senator MATTHEWS spoke on the amendment.

Senator GROOMS spoke on the amendment.

**Objection**

Senator GROOMS asked unanimous consent to make a motion to perfect Amendment No. 74.

Senator LEATHERMAN objected.

Senator GROOMS spoke on the amendment.

Senator HUTTO moved to lay the amendment on the table.

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

**Ayes 14; Nays 25**

**AYES**

Coleman Ford Hutto

Land Lourie Malloy

Matthews Nicholson Pinckney

Rankin Reese Rose

Ryberg Scott

**Total--14**

**NAYS**

Alexander Bright Bryant

Campbell Campsen Cleary

Cromer Davis Elliott

Fair Grooms Hayes

Knotts Leatherman *Martin, Larry*

*Martin, Shane* Massey McConnell

McGill Peeler Setzler

Shoopman Thomas Verdin

Williams

**Total--25**

**Statement by Senator ROSE**

I voted to table Amendment 74 to H. 3700 solely because the penalty in the amendment is inappropriate for the offense. I strongly oppose the conduct sought to be prevented in the amendment.  However, cutting 20% of a school district’s base student cost due to one instance of a violation, no matter how minor, by a rogue person in violation of school policy could penalize thousands of students, teachers and administrators who had no prior knowledge of or any ability to control or prevent the violation.  That could result laying off teachers, shutting down classes, the non-operation of school buses, and other disruptions of school operations harming thousands of totally innocent people.  I believe the penalty for violation of the amendment should be more narrowly directed against those responsible for complying with the amendment, such as the superintendent or board of directors of the offending school district.

The Senate refused to table the amendment. The question then was the adoption of the amendment.

Senator HUTTO was recognized to speak on the Bill.

**Objection**

Senator GROOMS asked unanimous consent to make a motion to perfect Amendment No. 74 by reducing Base Student Cost from 20% to 5%.

Senator HUTTO objected.

**Objection**

Senator GROOMS asked unanimous consent to make a motion to perfect Amendment No. 74 by reducing Base Student Cost from 20% to 1%.

Senator MALLOY objected.

**Objection**

Senator ROSE asked unanimous consent to make a motion to perfect Amendment No. 74 by penalizing the superintendent at 20% of his salary instead of the school district.

Senator MALLOY objected.

**Objection**

Senator ROSE asked unanimous consent to carry over the amendment until the penalty on the amendment can be determined.

Senator LEATHERMAN objected.

**Objection**

Senator COLEMAN asked unanimous consent to make a motion to perfect Amendment No. 74 to include language reporting any actions instantaneously to the school board and the school board be directed to take appropriate action.

Senator KNOTTS objected.

Senator HUTTO resumed arguing contra to the amendment.

**Objection**

Senator COLEMAN asked unanimous consent to make a motion to amend Amendment No. 74 by including language that the offending teacher be suspended or terminated immediately.

Senator KNOTTS objected.

Senator HUTTO resumed speaking on the amendment.

**Objection**

Senator ROSE asked unanimous consent to make a motion to amend Amendment No. 74 by including language that written notice be provided to the chairman of the school board and if no affirmative action is taken by the school board to correct the problem, then there would be a 1% penalty assessed.

Senator MALLOY objected.

**Motion Adopted**

Senator HUTTO asked unanimous consent to make a motion to perfect Amendment No. 74.

The motion was adopted.

**Amendment No. 74A**

Senator GROOMS proposed the following amendment (3700R108.LKG.DOCX), which was adopted (#58):

Amend the bill, as and if amended, Part IB, Section 1, DEPARTMENT OF EDUCATION, page 347, after line 15, by adding an appropriately numbered new proviso to read:

*/ 1. . (SDE: Health Education) Each school district is required to ensure that all comprehensive health education, reproductive health education, and family life education conducted within the district, whether by school district employees or a private entity, must utilize curriculum that complies with the provisions contained in Chapter 32, Title 59. Any person may complain in a signed, notarized writing to the chairman of the governing board of a school district that matter not in compliance with the requirements of Chapter 32, Title 59 is being taught in the district. Upon receiving a notarized complaint, the chairman of the governing board must ensure that the complaint is immediately investigated and, if the complaint is determined to be founded, that immediate action is taken to correct the violation. If corrective action is not taken, then the district must have its base student cost reduced by one percent. /*

Renumber sections to conform.

Amend sections, totals and title to conform.

The amendment was adopted.

**Recorded Vote**

Senators ROSE, KNOTTS and BRIGHT desired to be recorded as voting in favor of the adoption of the amendment.

**Statement by Senator ROSE**

I voted for Amendment 74A because it had been amended by unanimous consent to direct a more reasonable penalty after, and only after, a school district’s board of trustees had been notified and given an opportunity to correct a violation.

**Amendment No. 154**

Senators BRYANT, BRIGHT, SHANE MARTIN, GROOMS, KNOTTS, ROSE, DAVIS, CROMER, CAMPSEN, SHOOPMAN, VERDIN and FAIR proposed the following amendment (3700R107.KLB.DOCX), which was adopted (#59):

Amend the bill, as and if amended, Part IB, Section 22, DEPARTMENT OF HEALTH & ENVIRONMENTAL CONTROL, page 398, after line 5, by inserting a new proviso to read:

*/ 22.\_\_\_. (DHEC: Fetal Pain Awareness) (A) The department must utilize at least one hundred dollars to prepare printed materials concerning information that unborn children at twenty weeks gestation and beyond are fully capable of feeling pain and the right of a woman seeking an abortion to ask for and receive anesthesia to alleviate or eliminate pain to the fetus during an abortion procedure. The materials must be provided to each abortion provider in the State and must be placed in a conspicuous place in each examination room at the doctor’s office. The materials must contain only the following information:*

*“Fetal Pain Awareness*

*An unborn child who is twenty weeks old or more is fully capable of experiencing pain. Anesthesia provided to a woman for an abortion typically offers little pain prevention for the unborn child. If you choose to end your pregnancy, you have a right to have anesthesia or analgesic administered to alleviate the pain to your unborn child during the abortion.”*

*(B) The materials must be easily comprehendible and must be printed in a typeface large and bold enough to be clearly legible.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator BRYANT explained the amendment.

The amendment was adopted.

**Amendment No. 149**

Senator HUTTO proposed the following amendment (DG ABORTHNAME):

Amend Amendment #87 bearing path number L:\S-RES\  
AMEND\3700.R051.LB.DOCX by striking paragraph 80C.2 and inserting:

/ 80C.2. (BCB/EB: Funding Abortions Prohibited) No funds appropriated for employer contributions to the State Health Insurance Plan may be expended ~~to reimburse the expenses of an abortion, except in cases of rape, incest or where the mother’s medical condition is one which, on the basis of the physician’s good faith judgment, so complicates the pregnancy as to necessitate an immediate abortion to avert the risk of her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function, and the State Health Plan may not offer coverage for abortion services, including ancillary services provided contemporaneously with abortion services~~ *for any abortion, except for abortions that are specifically excluded from the federal prohibition on the use of federal funds as contained in the federal law commonly referred to as the Hyde amendment*. /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HUTTO explained the amendment.

Senator BRYANT moved to lay the amendment on the table.

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

**Ayes 16; Nays 24**

**AYES**

Bright Bryant Campsen

Davis Fair Grooms

Hayes Jackson *Martin, Shane*

Massey McGill Rose

Shoopman Thomas Verdin

Williams

**Total--16**

**NAYS**

Alexander Campbell Cleary

Coleman Cromer Elliott

Ford Hutto Knotts

Land Leatherman Lourie

Malloy *Martin, Larry* Matthews

McConnell Nicholson Peeler

Pinckney Rankin Reese

Ryberg Scott Setzler

**Total--24**

The Senate refused to table the amendment. The question then was the the adoption of the amendment.

Senator BRIGHT argued contra to the adoption of the amendment.

**Point of Quorum**

At 11:29 P.M., Senator THOMAS made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Cromer Fair

Grooms Hayes Jackson

Knotts Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Nicholson Peeler

Pinckney Rankin Rose

Scott Setzler Shoopman

Thomas Verdin Williams

A quorum being present, the Senate resumed.

Senator BRIGHT resumed arguing contra to the adoption of the amendment.

**Objection**

With Senator BRIGHT retaining the floor, Senator PEELER asked unanimous consent to make a motion that when the Senate adjourns today, it stand adjourned to meet tomorrow at 10:00 A.M. and stand adjourned.

Senator KNOTTS objected.

**Objection**

With Senator BRIGHT retaining the floor, Senator PEELER asked unanimous consent to make a motion that when the Senate adjourns today, it stand adjourned to meet tomorrow at 10:00 A.M.

Senator KNOTTS objected.

Senator BRIGHT resumed arguing contra to the adoption of the amendment.

**Objection**

With Senator BRIGHT retaining the floor, Senator SHANE MARTIN asked unanimous consent to make a motion to table the amendment.

Senator HUTTO objected.

Senator BRIGHT resumed arguing contra to the adoption of the amendment.

**Point of Quorum**

At 12:35 A.M., Senator HUTTO made the point that a quorum was not present. It was ascertained that a quorum was not present.

Senator HUTTO moved that the Senate stand adjourned.

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

**Ayes 21; Nays 11**

**AYES**

Alexander Cleary Cromer

Hayes Hutto Jackson

Leatherman Lourie Malloy

*Martin, Larry* McConnell McGill

Peeler Pinckney Rankin

Rose Ryberg Scott

Setzler Thomas Williams

**Total--21**

**NAYS**

Bright Bryant Campbell

Davis Elliott Fair

Grooms Knotts *Martin, Shane*

Shoopman Verdin

**Total--11**

Debate was interrupted by adjournment.

**MOTION ADOPTED**

On motion of Senator PEELER, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet tomorrow at 9:30 A.M. and, that when the Senate adjourns on Tuesday, May 10, 2011, pursuant to the provisions of Rule 1B, the Senate would convene at 10:00 A.M. on Wednesday, May 11, 2011.

**MOTION ADOPTED**

On motion of Senator McGILL, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Kay Louise Williams Tisdale of Kingstree, S.C., who passed away on April 28, 2011.

**ADJOURNMENT**

At 12:45 A.M., on motion of Senator HUTTO, the Senate adjourned to meet Thursday, May 5, 2011, at 9:30 A.M.

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