**Tuesday, May 31, 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.

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

As we read in I Kings,

“In the four hundred and eightieth year after the Israelites came out of the land of Egypt, in the fourth year of Solomon’s reign over Israel, in the month of Ziv, the second month, he began to build the house of the Lord.” (I Kings 6:1)

Join me, please, as we bow in prayer:

Glorious Lord, we don’t always know how to handle Bible references to time, but we do know this: these Senators and their staff members are all drawing closer and closer to their time of completing a large portion of this year’s work. Yet, O God, every one of us knows that so much remains to be addressed, to be finished. Meanwhile, we pray that You will give Your servants in this Chamber the stamina, the wisdom, and the faithfulness of Solomon of old. Help them to honor You, Lord, as they continue serving the people of our State. In Your loving name we pray, dear Savior.

Amen.

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

**Report of the Committee to Screen Candidates for Boards of Trustees of State Colleges and Universities**

**Findings of Fact**

Memorandum To: Clerk of the House

Clerk of the Senate

Re: Committee Hearings

May 25, 2011

The Committee to Screen Candidates for Boards of Trustees of State Colleges and Universities finds the following candidate for Boards of Trustees qualified. Background reports from the State Law Enforcement Division show no felony charges against the candidate.

**University of South Carolina**

*6th Judicial Circuit* Hubert F. “Hugh” Mobley

Respectfully submitted,

Senator Jake Knotts, Chairman Rep. Joan Brady, Vice-Chairman

Senator Thomas Alexander Rep. George Hearn

Senator Harvey Peeler, Jr. Rep. David Mack

Senator Yancey McGill Rep. Bill Whitmire

COMMITTEE TO SCREEN CANDIDATES

FOR BOARDS OF TRUSTEES

OF STATE COLLEGES AND UNIVERSITIES

\* \* \* \* \*

Wednesday, May 25, 2011

9:30 a.m. - 9:54 a.m.

The meeting was conducted on May 25, 2011 at The State House, Columbia, South Carolina, before Lisa F. Huffman, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Senator Jake Knotts, Chairman

Representative Joan Brady, Vice Chairman

Senator Thomas Alexander

Senator Harvey Peeler, Jr.

Senator Yancey McGill

Representative George Hearn

Representative David Mack

Representative Bill Whitmire (By proxy)

Also Present: Sophia Derrick

WEDNESDAY, MAY 25, 2011

CHAIRMAN KNOTTS: I’m going to call this Committee of the Screening of Boards and Trustees of the State Colleges and Universities to order for the purpose of screening candidates for the 6th Judicial Circuit University of South Carolina Board of Trustees. Does any members got anything they would like to say or add at this time? Okay. At this time, give us a report, Madam Secretary.

SECRETARY DERRICK: Our candidate is Mr. Hubert F. (Hugh) Mobley, the only candidate running for the USC board from the 6th Judicial Circuit.

CHAIRMAN KNOTTS: Okay. Let me ask you a few questions for the record at this point in time. Did we advertise it? And tell us what the advertisement was and how we did it.

SECRETARY DERRICK: Yes, we did. We have our website now. It was on the internet and it was also sent across the AP wire to all the newspapers in the state of South Carolina.

CHAIRMAN KNOTTS: Okay. And no other candidates except this person?

SECRETARY DERRICK: No one else applied.

CHAIRMAN KNOTTS: No one else applied. Okay. At this point in time, we have Mr. Hubert F. (Hugh) Mobley of 505 Briarwood Road in Lancaster, South Carolina present. If you would come forward, just have a seat at the desk and thank you for coming, sir.

MR. MOBLEY: Thank you.

CHAIRMAN KNOTTS: Okay.

SECRETARY DERRICK: You need to swear him in.

CHAIRMAN KNOTTS: Please raise your right hand and be sworn in by the secretary.

SECRETARY DERRICK: Do you swear to tell the truth, the whole truth, nothing but the truth, so help you God?

MR. MOBLEY: I do.

SECRETARY DERRICK: Okay.

CHAIRMAN KNOTTS: Thank you, Mr. Mobley. I’m going to ask you a few questions after we go through the formal process. Can you tell us about the background checks and?

SECRETARY DERRICK: Yes, sir. A SLED background check showed no criminal charges against the candidate. A 10-year driving record showed no major violations and a credit check showed no concerns.

CHAIRMAN KNOTTS: Thank you. Thank you. Mr. Mobley, do you have any interests professionally or personally that would present a conflict of interest because of your service on the board at USC?

MR. MOBLEY: I do not know of any.

CHAIRMAN KNOTTS: Okay. Do you now hold any public position of honor or trust that, if elected, would cause you to violate the dual office holding clause of the South Carolina constitution?

MR. MOBLEY: I’m currently serving as the 5th Congressional District Representative of the South Carolina Board of Pharmacy which I’ll resign prior to the election.

CHAIRMAN KNOTTS: Okay. If your seat is determined by congressional district or judicial circuit, do you reside at the address on your driver’s license and voter registration and property tax residency statement on a full-time basis?

MR. MOBLEY: Yes, sir.

CHAIRMAN KNOTTS: You reside within this district for which you are seeking election to?

MR. MOBLEY: I do.

CHAIRMAN KNOTTS: Do you understand that you are prohibited from seeking a commitment until 48 hours after the release of the committee’s report? And what’s meant by that is once we find you qualified and nominated that you would be prohibited from going to ask for votes or commitments from representatives or senators or have anyone on your behalf go and ask for -- seek votes of support for and commitments for your election to the board.

MR. MOBLEY: I do.

CHAIRMAN KNOTTS: Until you’re released from this committee.

MR. MOBLEY: I do.

CHAIRMAN KNOTTS: Okay. At this time, tell us a little bit about yourself and why you want to be on the USC board.

MR. MOBLEY: I’m a 1978 graduate of the University of South Carolina College of Pharmacy. It’s been 30 years since the time I graduated. I’ve been active at the University via the athletic programs and Alumni Association. Have a local campus in Lancaster, South Carolina -- USC Lancaster. It’s a growing institution.

I participated there in many activities. Most recently, we had a 50th Year campaign, which I was a division leader on fund-raising effort to build a $7 million classroom building which we’re getting ready to start. So we got growth in that area and make sure that we provide an access there for students to get affordable, quality education. I feel like that do. I have four children.

Two of them went to that campus and then came to main campus, finished and went to graduate school at University. So that gives me a little bit different of perspective on the access issue and the affordability issue. Also, I’ve served since 1995 in some various form on the South Carolina Board of Pharmacy. And owning a pharmacy for 30 years as a business owner, gives me a perspective on, you know, the costs effectiveness of running a business as well as what it takes to blend the educational, the regulatory environment in the state, how that translates into the educational process. Also, being a pharmacist, I think it would bring a different perspective to the board than exists today.

CHAIRMAN KNOTTS: Okay. Mr. Mobley, on the tuition issue at University, have you had a chance to look over the years the rising costs in tuition at USC and other colleges in this state to -- would you like to address that on how you --

MR. MOBLEY: I’ve notice that there has been an increase due to whatever reasons within these universities. I think it’s important to make sure that any increases are understood in light of what parents are going through. And I think that gives me a little bit different perspective having four children, having to educate them myself. So I kind of have a personal vested interest in that. I think, you know, we need to look at all cost-cutting measures available first before that’s addressed. Because that filters down the parent that’s trying to get accessible, affordable education.

CHAIRMAN KNOTTS: How about out-of-state tuition versus in-state tuition?

MR. MOBLEY: Well I think the University of South Carolina, being flagship University and touching all corners of the state has its first obligations to the citizens and the students in South Carolina. Obviously, that would be the primary concern, I think, of the University since they are the flagship university. Obviously there is some demand for out-of-state students to come to our university for various reasons, whatever those reasons may be, maybe a competitive program that’s not available in their state. So I think we have to look at the balance between those things and make sure that we keep our first obligation in mind as to the people in South Carolina.

CHAIRMAN KNOTTS: Okay. Any members here got any questions for Mr. Mobley? Senator from Gaffney, Senator.

SENATOR PEELER: Mr. Mobley, I appreciate a man of your caliber willing to serve in this capacity. I appreciate that. I noticed that you have a business or business interest in Union County. We have a school there at USC Union and you talked about your interest in USC Lancaster. What’s your thoughts on satellite campuses like USC Union. I represent part of Union County --

MR. MOBLEY: Right.

SENATOR PEELER: -- so we’re really concerned in that area. They’ve been now for over a year trying to close that campus. What’s your policy on those schools?

MR. MOBLEY: When you compare the regional campuses, you have to look at what people are going through in the economy today. I know in my community, there are some students who would not be able to go off and stay the main campus because the economics. Try to -- they’re able to work a job and reach an education through these regional campuses. I think they’re important. I think we have to look at the total cost factor. I think it’s something that makes the University of South Carolina somewhat unique. I know Clemson does a great job with the bridge program. I think it’s important for access and affordability that students be able to go close to where they are. Not all of them are blessed to have the finances to fund an education away from home.

SENATOR PEELER: Thank you, Mr. Chairman.

CHAIRMAN KNOTTS: Uh-huh.

REPRESENTATIVE BRADY: Thank you, Mr. Chairman. And along the questions of Senator Peeler and Senator Knotts, as an appointee from the General Assembly, would you be accessible to the General Assembly and certainly responsive when we have questions and concerns regarding issues in our respective --

MR. MOBLEY: What -- and I think the letter that I turned in which I think will be distributed to the legislature. I think one of the points that I make in there is that I think it’s important for you to represent the university as well as the legislature. Create a working relationship that works for both of you and it would be my plan to provide everybody a contact information for myself, so that if they had concerns or questions, it wouldn’t be an obstacle getting in touch with me.

CHAIRMAN KNOTTS: Okay. Senator Alexander.

SENATOR ALEXANDER: Thank you, Mr. Chairman. For all I know you may have already covered this. I was running a little late. You started out at Clemson?

MR. MOBLEY: I did.

SENATOR ALEXANDER: And then you left and went to --

MR. MOBLEY: Momma told me to be a well-rounded individual. No. I --

CHAIRMAN KNOTTS: You started out well.

MR. MOBLEY: I did a lot. A made a decision when I was 18 that a lot of people, you know, following your classmates off to school and think that it’s going to be the same. I always had an interest in pharmacy and coupled with the fact that, you know, the environment when I got there wasn’t like it was in high school. And my interest in pharmacy, I couldn’t afford not to make it.

SENATOR ALEXANDER: And then the other thing, too, I had the pleasure of knowing your dad and working with him and hold him in the highest esteem and regard, so appreciate your willingness to serve, and also notice that you actually are running unopposed for this in an open seat. Value your willingness to serve and other people supporting you from that standpoint.

SENATOR PEELER: Mr. Chairman, I always look at these applicants and try to find an achilles heel or some kind of negative that I can find about them. About the only thing that I could find negative about him is the company he keeps. You know a fellow by the name of Ronnie Cromer. That doesn’t concern you in any way?

MR. MOBLEY: Yes, it does.

CHAIRMAN KNOTTS: With that said, we probably need to adjourn.

SENATOR PEELER: Mr. Chairman, if there are no other questions, I move a favorable report.

REPRESENTATIVE BRADY: Second.

CHAIRMAN KNOTTS: Okay. Would you hold that just a moment --

SENATOR PEELER: Certainly.

CHAIRMAN KNOTTS: -- and give him chance to introduce his wife and his people that have accompanied him today.

MR. MOBLEY: Yeah. This is my wife, Donna. As Senator Peeler said, she many times passes for my daughter. And I came out on the good end of that. We’ve been together for over 30 years and I’m very thankful for that. My house member, Debra Long, who came to support and acquaintance of mine.

CHAIRMAN KNOTTS: Thank you. Now we’ll entertain the motion from the Senator from Gaffney and seconded by the Senator from Richland. Any other questions or discussion from any other member? Anyone want to say anything? Okay. We’ll call for the vote. All in favor for -- in favor of appointment for this gentlemen to the election of the University of South Carolina Board of Trustees, raise your right hand. All opposed? Let the record reflect that it was unanimous.

Adjourned at 9:54 a.m.

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**Doctor of the Day**

Senator THOMAS introduced Dr. Roland Knight of Greenville, S.C., Doctor of the Day.

**Leave of Absence**

At 11:40 A.M., Senator GROOMS requested a leave of absence until 5:00 P.M. this evening.

**Leave of Absence**

At 11:40 A.M., Senator CAMPBELL requested a leave of absence until 5:00 P.M. this evening.

**Leave of Absence**

At 5:00 P.M., Senator LOURIE requested a leave of absence until 10:00 A.M. in the morning.

**Expression of Personal Interest**

Senator MALLOY rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator GROOMS rose for an Expression of Personal Interest.

**Remarks by Senator GROOMS**

Members of the Senate:

The House of Representatives, the General Assembly, and the State of South Carolina suffered a huge blow this weekend. Representative David Umphlett of Moncks Corner died early Sunday at age 69.

David was a longtime Vice President for Berkeley Electric Cooperative and had retired. He had served in the House since 2003. He was a dear friend.

David was the consummate Southern gentleman. Outgoing, easily approachable, he was quick with a smile, a handshake, or a peck on the cheek.

David was respectful of others’ opinions, and he was willing to compromise. He was responsive to his constituents, and he was hardworking.

David Umphlett was loyal to his State, but he always put his family first.

He is survived by his wife of 46 years, Carolyn, and their three children, Karen Umphlett, Janet U. Livingston, and William D. Umphlett.

David came by his willingness to serve the public honestly. His father, Clyde Umphlett, served as Berkeley County Supervisor. David’s wife Carolyn is Berkeley’s longest serving officeholder. She serves as Berkeley County Treasurer.

Always straightforward, he told the local newspaper that his job as a representative was simple: “To serve my constituents to the best of my ability and be open-minded to all of the questions and concerns that they have. I serve at the pleasure of my constituents… My greatest satisfaction is in knowing that I have heard from enough people back home to make informed and valid decisions…”

David Umphlett was the embodiment of the true public servant. He was a good and decent man. And he will be missed.

I ask that when we adjourn today, we adjourn in memory of Representative C. David Umphlett, Jr.

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

**Expression of Personal Interest**

Senator HUTTO rose for an Expression of Personal Interest.

**Remarks by Senator HUTTO**

Many of you know that I grew up on a dairy farm, but you might not know that my family also operated a livestock market.  On Tuesdays, farmers from the surrounding area brought their hogs, cows, occasionally goats, and on a rare occasion even a pony to be sold. Outside of the market, farmers brought peaches and produce to sell. Today is the first Tuesday after Memorial Day, and the one Tuesday of the year that my brother Bart looked forward to like a second Christmas.  This is the first Tuesday that school was out for the summer, and Bart would now be able to spend all day at the market.  As you know my brother passed away this past fall.  So it is on this special day, that I want to thank all of you for your thoughts and prayers.  When the Senate adjourns today, I ask that it do so in memory of my brother Bart.

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

**CO-SPONSORS ADDED**

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

S. 822 Sen. Rose

S. 833 Sen. Rose

S. 891 Sen. Rose

**RECALLED**

S. 929 -- Senator Peeler: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑18‑170 TO ENACT “BENJI’S LAW” SO AS TO SPECIFY PERMIT REQUIREMENTS FOR MINIATURE TRAINS OPERATED FOR THE USE OF THE PUBLIC AS AN AMUSEMENT DEVICE IN AN AMUSEMENT PARK.

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 and ordered placed on the Calendar for consideration tomorrow.

**RECALLED**

H. 3914 -- Rep. Herbkersman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 20 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN BEAUFORT COUNTY AS SCENIC HIGHWAYS AND SCENIC BYWAYS; AND TO REPEAL ACT 714 OF 1978 WHICH DESIGNATED CERTAIN PORTIONS OF HIGHWAYS IN BEAUFORT COUNTY AS SCENIC HIGHWAYS.

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

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

**RECALLED**

H. 4225 -- Reps. Ballentine, Cobb‑Hunter, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G.A. Brown, H.B. Brown, R.L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, 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.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis and Young: A CONCURRENT RESOLUTION TO SUPPORT ALL EFFORTS OF THE STEWARDS OF DECEASED AMERICAN INDIANS TO RETURN THE REMAINS OF THESE INDIVIDUALS TO THEIR DESCENDANTS AS QUICKLY AS POSSIBLE.

Senator ALEXANDER asked unanimous consent to make a motion to recall the Concurrent Resolution from the General Committee.

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 933 -- Senator Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 10-1-176 SO AS TO ESTABLISH THE SLAVERY POINT-OF-ENTRY HISTORICAL MONUMENT; AND BY ADDING SECTION 10-1-177 SO AS TO CREATE THE SLAVERY POINT-OF-ENTRY HISTORICAL MONUMENT COMMISSION, TO PROVIDE FOR THE MEMBERSHIP, DUTIES, POWERS, AND DURATION OF THE COMMISSION.

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

S. 934 -- Senators Knotts, Massey, Elliott and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 5-31-695 SO AS TO PROVIDE THAT A MUNICIPALITY UTILIZING THE DEFINITION OF “CONTIGUOUS” PURSUANT TO SECTION 5-3-305 TO ANNEX PROPERTY THAT IS ADJACENT TO A SPECIAL PURPOSE DISTRICT, BUT NOT THE SPECIAL PURPOSE DISTRICT ITSELF, SHALL PROVIDE MUNICIPAL SERVICES TO THE SPECIAL PURPOSE DISTRICT AT THE SAME RATE THAT ENTITIES WITHIN THE MUNICIPALITY ARE CHARGED.

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

S. 935 -- Senator Knotts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53‑5-40 SO AS TO PROVIDE THAT VETERAN’S DAY AND MEMORIAL DAY MUST BE RECOGNIZED AS A HOLIDAY FOR ALL LOCAL SCHOOL DISTRICTS OF THE STATE AND THAT THE SCHOOLS AND OFFICES OF THE DISTRICTS MUST BE CLOSED ON THOSE DATES.

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

S. 936 -- Senator L. Martin: A CONCURRENT RESOLUTION TO PROCLAIM OCTOBER 15, 2011, AS FEDERATION CENTER OF THE BLIND DAY IN SOUTH CAROLINA UPON ITS FIFTIETH ANNIVERSARY AND TO ENCOURAGE ALL SOUTH CAROLINIANS TO JOIN IN SUPPORT AND CELEBRATION OF THIS MILESTONE EVENT WHICH HAS BETTERED THE QUALITY OF LIFE DURING THE PAST FIVE DECADES FOR BLIND SOUTH CAROLINIANS.

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

S. 937 -- Senator S. Martin: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND KAREN KANES FLOYD, FORMER CHAIR OF THE SOUTH CAROLINA REPUBLICAN PARTY, FOR HER MANY YEARS OF DEDICATED SERVICE TO THE PEOPLE OF SOUTH CAROLINA.

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The Senate Resolution was adopted.

S. 938 -- Senator Cromer: A SENATE RESOLUTION TO RECOGNIZE AND HONOR DR. JOHN W. BROWN OF IRMO FOR HIS FIFTY YEARS OF OUTSTANDING COMMUNITY SERVICE TO THE PEOPLE OF SOUTH CAROLINA AND BEYOND.

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The Senate Resolution was adopted.

S. 939 -- Senator McConnell: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR TERESA KLECKLEY ROGERS, UPON THE OCCASION OF HER RETIREMENT, FOR YEARS OF DEVOTED SERVICE TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, AND TO WISH HER CONTINUED SUCCESS AND HAPPINESS IN THE YEARS AHEAD.

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

S. 940 -- Senators Scott, 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, McConnell, McGill, Nicholson, O’Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR PASTOR BOBBY L. SMITH, SR., FOR TWENTY YEARS OF DEDICATED MINISTRY TO THE MEMBERS OF ZION CANAAN BAPTIST CHURCH AND TO HIS COMMUNITY.

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

S. 941 -- Senators Knotts, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Gregory, Grooms, Hayes, Hutto, Jackson, Land, Leatherman, Leventis, Lourie, Malloy, 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 SENATE RESOLUTION TO RECOGNIZE AND HONOR GARY R. BAKER, THE LEXINGTON COUNTY VETERANS AFFAIRS OFFICER, UPON THE OCCASION OF HIS RETIREMENT, AND TO WISH HIM CONTINUED SUCCESS AND HAPPINESS IN ALL HIS FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 942 -- Senator Campbell: A CONCURRENT RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA GENERAL ASSEMBLY UPON THE DEATH OF MR. JACK A. VILLEPONTEAUX, VICE PRESIDENT OF BERKELEY ELECTRIC COOPERATIVE, INC., AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

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

H. 3308 -- Reps. Forrester, Allison, Parker and Brady: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT “JAIDON’S LAW” BY AMENDING SECTION 63‑7-1680, AS AMENDED, RELATING TO THE CONTENTS, APPROVAL, AND AMENDMENT OF A PLACEMENT PLAN DEVELOPED BY THE DEPARTMENT OF SOCIAL SERVICES FOR A CHILD REMOVED FROM THE CUSTODY OF HIS OR HER PARENTS, SO AS TO FURTHER PROVIDE FOR THE VISITATION RIGHTS AND OBLIGATIONS OF THE PARENTS UNDER THE PLACEMENT PLAN; TO AMEND SECTION 63-7-1690, RELATING TO CONTENTS OF A PLACEMENT PLAN WHEN THE CONDITIONS FOR REMOVAL OF A CHILD FROM THE CUSTODY OF HIS OR HER PARENTS INCLUDE CONTROLLED SUBSTANCE ABUSE BY THE PARENTS, SO AS TO MAKE THE CONTENTS OF THE PLAN MANDATORY, RATHER THAN IN THE DISCRETION OF THE COURT; TO AMEND SECTION 63-7-1710, RELATING TO CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF SOCIAL SERVICES SHALL FILE A PETITION TO TERMINATE PARENTAL RIGHTS, SO AS TO PROVIDE THAT THE DEPARTMENT SHALL FILE THIS PETITION IF THE PARENT IS CONVICTED OF HOMICIDE BY CHILD ABUSE, OR AIDING OR ABETTING TO COMMIT HOMICIDE BY CHILD ABUSE, OF ANOTHER CHILD OF THE PARENT; TO PROVIDE THAT THE DEPARTMENT SHALL FILE THIS PETITION IF A PARENT FAILED THREE HAIR-STRAND DRUG TESTS OVER A NINE-MONTH PERIOD; AND TO PROVIDE THAT THE DEPARTMENT SHALL FILE SUCH A PETITION IF A PARENT FAILED TWICE IN A TWELVE-MONTH PERIOD TO COMPLY WITH THE TERMS OF A TREATMENT PLAN OR PLACEMENT PLAN; TO AMEND SECTION 63-7-1940, RELATING TO COURT-ORDERED PLACEMENT OF A PERSON IN THE CENTRAL REGISTRY FOR CHILD ABUSE AND NEGLECT, SO AS TO PROVIDE THAT THE COURT SHALL ORDER THAT A PERSON BE PLACED IN THE REGISTRY IF THE PERSON GAVE BIRTH TO THE CHILD AND THE CHILD TESTED POSITIVE FOR DRUGS; AND TO AMEND SECTION 63‑7-2570, AS AMENDED, RELATING TO GROUNDS FOR TERMINATING PARENTAL RIGHTS, SO AS TO PROVIDE THAT TERMINATING THESE RIGHTS ON THE GROUNDS OF SEVERE AND REPETITIVE ABUSE OR NEGLECT INCLUDES HOSPITALIZATION OF A CHILD FOR MORE THAN FOURTEEN DAYS DUE TO ABUSE OR NEGLECT; TO INCLUDE IN THE GROUNDS FOR TERMINATING THESE RIGHTS A PARENT’S ADDICTION TO ALCOHOL OR ILLEGAL DRUGS OR PRESCRIPTION MEDICATION ABUSE WHEN THE PARENT’S ADDICTION IS UNLIKELY TO CHANGE WITHIN A REASONABLE TIME; AND TO PROVIDE AS A GROUND FOR TERMINATING THESE RIGHTS A PARENT BEING CONVICTED OF MURDER, VOLUNTARY MANSLAUGHTER, OR HOMICIDE BY CHILD ABUSE OF ANOTHER CHILD OF THE PARENT.

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

H. 3400 -- Rep. Weeks: A BILL TO AMEND SECTION 63-3-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JURISDICTION OF THE FAMILY COURT IN CERTAIN MATTERS, SO AS TO PROVIDE THAT A CHILD SUPPORT OBLIGATION AUTOMATICALLY TERMINATES WHEN THE CHILD TURNS EIGHTEEN OR GRADUATES FROM HIGH SCHOOL, WHICHEVER IS SOONER.

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

H. 3474 -- Rep. Sandifer: A BILL TO AMEND SECTION 6-8-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO SEPARATE THE COUNCIL INTO THE SOUTH CAROLINA COMMERCIAL BUILDING CODES COUNCIL AND THE SOUTH CAROLINA RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6-9-5, AS AMENDED, RELATING TO THE PUBLIC POLICY FOR BUILDING CODES, SO AS TO MAKE SPECIFIC REFERENCE TO BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6-9-20, AS AMENDED, RELATING TO AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES, SO AS TO MAKE SPECIFIC REFERENCE TO BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6-9-40, AS AMENDED, RELATING TO BUILDING CODE ADOPTION PROCEDURE, SO AS TO CLARIFY THE AUTHORITY OF BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; TO AMEND SECTION 6-9-63, RELATING TO THE COMPOSITION AND FUNCTIONS OF THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO DEFINE THE COMPOSITION OF BOTH THE COMMERCIAL BUILDING CODES COUNCIL AND THE RESIDENTIAL BUILDING CODES COUNCIL; AND TO AMEND SECTION 6-9-105, RELATING TO CODE VARIATIONS BASED ON PHYSICAL OR CLIMATOLOGICAL CONDITIONS, SO AS TO INCLUDE GEOLOGICAL CONDITIONS AS A CONSIDERATION FOR A VARIANCE, AND TO MAKE SPECIFIC REFERENCE TO THE APPROPRIATE COUNCIL FOR THE SUBMISSION OF PROPOSED VARIANCES.

Read the first time and referred to the Committee on Labor, Commerce and Industry.

H. 3676 -- Reps. J. E. Smith, Clemmons, Dillard, Herbkersman, Limehouse, Mitchell and Whipper: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 23 TO TITLE 31 SO AS TO ENACT THE “SOUTH CAROLINA COMMUNITY LAND TRUST ACT OF 2011”, TO DEFINE TERMS, MAKE FINDINGS, TO PROVIDE THAT THE PURPOSE OF A COMMUNITY LAND TRUST IS TO HOLD LEGAL AND EQUITABLE TITLE TO LAND TO THEN LEASE THE LAND TO PROMOTE AFFORDABILITY, TO PROVIDE THE MANNER IN WHICH COMMUNITY LAND TRUSTS ARE FUNDED, AND TO PROVIDE THE PROCESS BY WHICH COMMUNITY LAND TRUSTS OPERATE.

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

H. 4005 -- Reps. Corbin, Hardwick, Stringer, Loftis, Ryan, Bannister, Agnew, Barfield, V. S. Moss, Thayer, Murphy, Hearn, Norman, Gambrell, Sottile, Limehouse, Chumley, Bikas, Crawford, Clemmons, Crosby, Daning, Delleney, Hamilton, Hayes, Hixon, Hodges, D. C. Moss, Nanney, Owens, Patrick, Pinson, Pitts, Pope, Simrill, G. R. Smith, J. R. Smith, Tallon, Taylor, White and Young: A BILL TO AMEND SECTION 39-25-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TERMS AND THEIR DEFINITIONS REGARDING ADULTERATED OR MISBRANDED FOOD AND COSMETICS, SO AS TO PROVIDE A DEFINITION FOR THE TERM “HONEY” AND TO PROVIDE LABELING REQUIREMENTS FOR HONEY.

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

H. 4088 -- Reps. Ott, Brantley, Hardwick, Cobb-Hunter, Crawford, Spires, Frye, Gilliard, Battle, Bales, J. H. Neal, Jefferson, Atwater, Brannon, Patrick, Anthony, Bowers, Branham, Clyburn, Hayes, Huggins, Long, Lowe, J. M. Neal and Toole: A BILL TO AMEND SECTION 14-1-207, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ADDITIONAL ASSESSMENT FOR OFFENSES TRIED IN MAGISTRATES COURT, SO AS TO ADD VIOLATIONS OF TITLE 50 TO THE OFFENSES EXEMPT FROM THE ADDITIONAL ASSESSMENT.

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

H. 4236 -- Reps. Mitchell, Loftis and Dillard: A JOINT RESOLUTION TO ESTABLISH THE SOUTH CAROLINA EQUITABLE REDEVELOPMENT COMMISSION AND TO PROVIDE FOR THE MEMBERSHIP OF THE COMMISSION AND ITS DUTIES AND FUNCTIONS.

Read the first time and referred to the Committee on Labor, Commerce and Industry.

H. 4258 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO ELECTRONIC EQUIPMENT COLLECTION AND RECOVERY, DESIGNATED AS REGULATION DOCUMENT NUMBER 4179, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

H. 4275 -- Rep. G. A. Brown: A BILL TO AMEND ACT 426 OF 2006, THE “SCHOOL DISTRICT OF LEE COUNTY SCHOOL BOND PROPERTY TAX RELIEF ACT”, RELATING TO AUTHORIZATION FOR THE IMPOSITION OF A ONE CENT SALES AND USE TAX IN LEE COUNTY, THE REVENUES OF WHICH MUST BE USED FOR SCHOOL CONSTRUCTION AND RENOVATION, SO AS TO EXTEND FROM FIVE TO EIGHT YEARS THE TIME THE TAX MAY BE IMPOSED.

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

**REPORT OF STANDING COMMITTEE**

Senator McCONNELL from the Committee on Judiciary polled out H. 3095 favorable with amendment:

H. 3095 -- Reps. Clemmons, Erickson, Stavrinakis, McCoy, Bowen, Sandifer, Whitmire, Hixon, J.R. Smith, Allison, Long, Toole, Weeks, Atwater, Hardwick, Agnew, Govan and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27‑1‑70 SO AS TO PROVIDE CERTAIN DEFINITIONS RELATED TO TRANSFER FEE COVENANTS, TO STATE CERTAIN FINDINGS RELATED TO TRANSFER FEE COVENANTS, TO PROVIDE A TRANSFER FEE COVENANT RECORDED AFTER THE EFFECTIVE DATE OF THIS SECTION, OR ANY LIEN TO THE EXTENT THAT IT PURPORTS TO SECURE THE PAYMENT OF A TRANSFER FEE, IS NOT BINDING ON OR ENFORCEABLE AGAINST THE AFFECTED REAL PROPERTY OR ANY SUBSEQUENT OWNER, PURCHASER, OR MORTGAGEE OF ANY INTEREST IN THE PROPERTY, AND TO PROVIDE THE SECTION DOES NOT IMPLY THAT A TRANSFER FEE COVENANT RECORDED BEFORE THE EFFECTIVE DATE OF THIS SECTION IS VALID OR ENFORCEABLE.

**Poll of the Judiciary Committee**

**Polled 23; Ayes 19; Nays 1; Abstain 1; Not Voting 2**

**AYES**

McConnell Ford *Martin, Larry*

Rankin Hutto Knotts

Malloy Campsen Williams

Campbell Massey Coleman

Davis *Martin, Shane* Nicholson

Rose Scott Shoopman

Gregory

**Total--19**

**NAYS**

Bright

**Total--1**

**ABSTAIN--1**

Sheheen

**Total--1**

**NOT VOTING**

Cleary Lourie

**Total--2**

Ordered for consideration tomorrow.

**Message from the House**

Columbia, S.C., May 31, 2011

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has returned the following Bill to the Senate with amendments:

S. 594 -- Senators Grooms and Verdin: A BILL TO AMEND SECTION 56-5-1535 OF THE 1976 CODE, RELATING TO DRIVING IN A TEMPORARY WORKZONE, TO EXPAND THE SIZE OF TEMPORARY WORKZONES.

Respectfully submitted,

Speaker of the House

Received as information.

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

**Message from the House**

Columbia, S.C., May 31, 2011

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has returned the following Bill to the Senate with amendments:

H. 3295 -- Rep. Herbkersman: A BILL TO AMEND SECTION 61‑6‑1820, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CRITERIA FOR A NONPROFIT ORGANIZATION TO OBTAIN A LICENSE TO SELL ALCOHOLIC LIQUORS BY THE DRINK, SO AS TO PROVIDE THAT UNDER CERTAIN CONDITIONS A HOMEOWNERS ASSOCIATION, CHARTERED AS A NONPROFIT ORGANIZATION BY THE SECRETARY OF STATE, WHOSE MEMBERSHIP IS LIMITED TO INDIVIDUALS WHO OWN PROPERTY IN THE RESIDENTIAL COMMUNITY AND WHOSE AFFAIRS ARE GOVERNED BY A BOARD OF DIRECTORS ELECTED BY THE MEMBERSHIP, IS ALSO ELIGIBLE FOR SUCH A LICENSE.

Respectfully submitted,

Speaker of the House

Received as information.

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

**Message from the House**

Columbia, S.C., May 26, 2011

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.50, S. 586 by a vote of 96 to 12:

(R50, S586) -- Senators Hayes, O’Dell, Verdin, Shoopman, Nicholson, Elliott, L. Martin, Coleman, Ford, Cromer, Alexander and Knotts: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑11‑715 SO AS TO PROVIDE THAT THE EMPLOYEE INSURANCE PROGRAM OF THE BUDGET AND CONTROL BOARD IS DIRECTED TO DEVELOP AND IMPLEMENT, FOR EMPLOYEES AND THEIR SPOUSES WHO PARTICIPATE IN THE HEALTH PLANS OFFERED BY THE EMPLOYEE INSURANCE PROGRAM, AN INCENTIVE PLAN TO ENCOURAGE PARTICIPATION IN PROGRAMS OFFERED BY THE EMPLOYEE INSURANCE PROGRAM THAT PROMOTE HEALTH AND THE PREVENTION OF DISEASE, AND TO PROVIDE THAT THE EMPLOYEE INSURANCE PROGRAM IS FURTHER DIRECTED TO IMPLEMENT A PREMIUM REDUCTION OR OTHER FINANCIAL INCENTIVE, BEGINNING ON JANUARY 1, 2012, FOR THOSE EMPLOYEES AND THEIR SPOUSES WHO PARTICIPATE IN THESE PROGRAMS; AND TO AMEND SECTION 1‑11‑720, AS AMENDED, RELATING TO ENTITIES WHOSE EMPLOYEES, RETIREES, AND THEIR DEPENDENTS ARE ELIGIBLE TO PARTICIPATE IN THE STATE HEALTH AND DENTAL INSURANCE PLANS, SO AS TO REVISE THE ELIGIBILITY PROVISIONS APPLICABLE TO SPECIAL PURPOSE DISTRICTS BY INCLUDING DISTRICTS WHICH PROVIDE SANITATION SERVICES AND TO EXTEND THIS ELIGIBILITY TO JOINT AGENCIES ESTABLISHED PURSUANT TO CHAPTER 23, TITLE 6.

Very respectfully,

Speaker of the House

Received as information.

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

**PRESIDENT Pro Tempore PRESIDES**

At 11:00 A.M., Senator McCONNELL assumed the Chair.

**RECOMMITTED**

H. 3488 -- Reps. Bingham, Harrell and Toole: A BILL TO AMEND ACT 99 OF 2007, RELATING TO THE ADDITION OF A SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND THE PHASE IN OF THAT EXEMPTION, SO AS TO DELETE THE PHASE IN REQUIREMENTS; AND TO AMEND SECTIONS 12‑36‑90, 12‑36‑910, 12‑36‑1310, AND 12‑36‑2120, ALL AS AMENDED, RELATING TO THE IMPOSITION OF AND EXEMPTIONS FROM THE SALES AND USE TAX, SO AS TO PROVIDE FURTHER FOR THOSE INSTANCES WHERE SALES AND USE TAX APPLIES IN CONNECTION WITH WARRANTIES AND SERVICE MAINTENANCE CONTRACTS SOLD IN CONNECTION WITH THE SALE OF TANGIBLE PERSONAL PROPERTY.

Senator LEATHERMAN asked unanimous consent to recommit the Bill to the Committee on Finance.

There was no objection and the Bill was recommitted to the Committee on Finance.

**AMENDMENT TABLED**

**OBJECTION TO FURTHER CONSIDERATION**

H. 3701 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2010‑2011.

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

Senator BRIGHT proposed the following amendment (3701R003.LB), which was tabled:

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

/ SECTION 1. In accordance with the provisions of Article III, Section 36(B)(2) and (3), Constitution of South Carolina, 1895, and Section 11‑11‑320(C) and (D) of the 1976 Code, there is appropriated from the monies available in the Capital Reserve Fund for Fiscal Year 2010‑2011, $110,883,455 to the Department of Employment and Workforce to make payments on outstanding loans from the Unemployment Insurance Trust Fund. /

Renumber sections to conform.

Amend title to conform.

Senator BRIGHT explained the amendment.

Senator LEATHERMAN spoke on the amendment.

Senator LEATHERMAN moved to lay the amendment on the table.

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

**Ayes 35; Nays 2**

**AYES**

Alexander Anderson Campsen

Coleman Courson Cromer

Davis Fair Ford

Gregory Hayes Hutto

Jackson Land Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

O’Dell Peeler Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--35**

**NAYS**

Bright Bryant

**Total--2**

The amendment was laid on the table.

Senator THOMAS objected to further consideration of the Joint Resolution.

**OBJECTION**

H. 3660 -- Reps. Ott, Bales, McLeod, Brantley, Battle, Whipper, G.A. Brown, Parker, Anderson, J.M. Neal, Hodges, Bowers, Hosey, Alexander, Branham, Funderburk, Harrison, King, Dillard, Butler Garrick and Jefferson: 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.

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

Senator SHANE MARTIN objected.

**PRESIDENT PRESIDES**

At 11:17 A.M., the PRESIDENT assumed the Chair.

**RECESS**

At 12:18 P.M., on motion of Senator McCONNELL, the Senate receded from business until 1:15 P.M.

**AFTERNOON SESSION**

The Senate reassembled at 1:29 P.M. and was called to order by the PRESIDENT.

**Point of Quorum**

At 1:29 P.M., Senator LARRY MARTIN made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Anderson Bright

Bryant Campsen Coleman

Courson Cromer Davis

Elliott Fair Ford

Gregory Hayes Hutto

Jackson Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

A quorum being present, the Senate resumed.

**Recorded Presence**

Senator CLEARY recorded his presence subsequent to the Call of the Senate.

**OBJECTION**

Senator THOMAS objected to the uncontested Bills and Joint Resolutions on the Statewide Calendar.

**THE SENATE PROCEEDED TO THE SINE DIE RESOLUTION.**

**AMENDED AND ADOPTED**

H. 4195 -- Rep. Harrell: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO SECTION 9, ARTICLE III, OF THE CONSTITUTION OF THIS STATE, 1895, AND SECTION 2‑1‑180 OF THE 1976 CODE, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, JUNE 2, 2011, NOT LATER THAN 5:00 P.M., OR ANYTIME EARLIER, EACH HOUSE SHALL STAND ADJOURNED TO MEET IN STATEWIDE SESSION AT NOON ON TUESDAY, JUNE 14, 2011, AND CONTINUE IN STATEWIDE SESSION, IF NECESSARY, UNTIL NOT LATER THAN 5:00 P.M. ON FRIDAY, JULY 1, 2011, FOR THE CONSIDERATION OF CERTAIN MATTERS, AND TO PROVIDE THAT WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN NOT LATER THAN 5:00 P.M. ON FRIDAY, JULY 1, 2011, THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the Resolution.

Senator McCONNELL explained the Resolution

**Amendment No. 1**

Senator McCONNELL proposed the following amendment (4195R001.GFM), which was adopted:

Amend the concurrent resolution, as and if amended, by striking all after the resolving words and inserting:

/ (A) Pursuant to the provisions of Section 9, Article III, of the South Carolina Constitution, 1895, and by the two‑thirds vote required by that section in order to recede for more than thirty consecutive calendar days, each house agrees, in this resolution, to recede from the other body either for a period less than thirty days or for more than thirty days as the case may be.

(B) Further, the General Assembly by this resolution agrees to bind itself subject to the provisions of this resolution. The Sine Die adjournment date for the General Assembly for the 2011 Session is recognized and extended to permit the General Assembly to continue in session after Thursday, June 2, 2011, under the terms and conditions stipulated in this resolution and for this purpose each house agrees that when the Senate and the House of Representatives adjourn on Thursday, June 2, 2011, not later than 5:00 p.m. or at any time prior, each house shall stand adjourned to meet in statewide session on Tuesday, June 14, 2011, at 12:00 noon and to continue in statewide session, if necessary, until not later than 5:00 p.m. on Friday, July 1, 2011. Each house agrees to limit itself to consideration of the following matters and subject to the following conditions, as applicable:

(1) receipt and consideration of gubernatorial vetoes;

(2) receipt and consideration of the General Appropriations Bill, the Capital Reserve Fund Bill, and introduction, receipt, and consideration of a Continuing Resolution to fund the ordinary expenses of state government until the passage of the General Appropriations Bill;

(3) introduction, receipt, and consideration of resolutions affecting Sine Die adjournment;

(4) receipt, consideration, and confirmation of appointments; (5) introduction, receipt, and consideration of resolutions expressing sympathy or congratulations;

(6) receipt and consideration of local legislation which has the unanimous consent of the affected delegation;

(7) concurrence and nonconcurrence in amendments to bills returned from the other house;

(8) appointment of members to conference and free conference committees and receipt, consideration, and disposition of conference and free conference reports; and

(9) introduction, receipt, and consideration of redistricting legislation, including, but not limited to, receipt, consideration, and disposition of conference or free conference reports, appointment of conference and free conference committees, messages pertaining to such reports and appointments, and amendments to redistricting legislation enacted by the General Assembly concerning the South Carolina House of Representatives, the South Carolina State Senate, and the seven United States Congressional Seats allocated to South Carolina.

(C) When each house recedes subject to Section (A) and not later than 5:00 p.m. on Friday, July 1, 2011, the General Assembly shall stand in recess subject to the call of the of the Speaker of the House for the House of Representatives and the President Pro Tempore of the Senate for the Senate at times they consider appropriate for their respective bodies to meet for the consideration of the following matters and subject to the following conditions, as applicable:

(1) introduction, receipt, and consideration of resolutions affecting Sine Die adjournment;

(2) receipt and consideration of gubernatorial vetoes;

(3) receipt and consideration of the General Appropriations Bill, the Capital Reserve Fund Bill, and introduction, receipt, and consideration of a Continuing Resolution to fund the ordinary expenses of state government until the passage of the General Appropriations Bill, concurrence and nonconcurrence in amendments to these bills returned from the other house, and the appointment of members to conference and free conference committees and receipt, consideration, and disposition of conference and free conference reports on these matters;

(4) introduction, receipt, and consideration of resolutions expressing sympathy or congratulations; and

(5) introduction, receipt, and consideration of redistricting legislation, including, but not limited to, concurrence and nonconcurrence in amendments to these bills returned from the other house, receipt, consideration, and disposition of conference or free conference reports, appointment of conference and free conference committees, messages pertaining to such reports and appointments, and amendments to redistricting legislation enacted by the General Assembly concerning the South Carolina House of Representatives, the South Carolina State Senate, and the seven United States Congressional Seats allocated to South Carolina.

(D) The President Pro Tempore of the Senate and the Speaker of the House of Representatives may set a mutually agreed upon time or times prior to Sine Die adjournment for officers of the Senate and House to ratify acts.

(E) Unless the session is otherwise adjourned Sine Die at an earlier date, the session of the General Assembly shall stand adjourned Sine Die on December 1, 2011.

(F) For purposes of Section 1‑3‑210 and after July 1, 2011, when neither the House of Representatives or the Senate have been called into session pursuant to the provisions of this resolution, the General Assembly intends that the legislature be considered in recess for purposes of the Governor being allowed to fill vacancies by interim appointments. /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

**Expression of Personal Interest**

Senator KNOTTS rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator RYBERG rose for an Expression of Personal Interest.

**RECESS**

At 2:12 P.M., with Senator McCONNELL retaining the floor, on motion of Senator LEATHERMAN, with unanimous consent, the Senate receded from business subject to the call of the Chair.

At 2:32 P.M., the Senate resumed.

**RECESS**

At 2:32 P.M., with Senator McCONNELL retaining the floor, on motion of Senator LEATHERMAN, with unanimous consent, the Senate receded from business not to exceed fifteen minutes.

At 3:24 P.M., the Senate resumed.

**Point of Personal Privilege**

Senator KNOTTS was recognized for a Point of Personal Privilege.

**Expression of Personal Interest**

Senator RYBERG rose for an Expression of Personal Interest.

Senator McCONNELL resumed explaining the amendment.

The amendment was adopted.

**Amendment No. 3**

Senator KNOTTS proposed the following amendment (4195R004.JLK), which was adopted:

Amend the concurrent resolution, as and if amended, by adding an appropriately numbered new item in subsection (B):

/ ( ) convening of a joint assembly to elect a member to the University of South Carolina Board of Trustees; /

Renumber sections to conform.

Amend title to conform.

Senator KNOTTS explained the amendment.

The amendment was adopted.

**Amendment No. 4**

Senator McCONNELL proposed the following amendment (4195R003.NGS), which was adopted:

Amend the concurrent resolution, as and if amended, by adding an appropriately numbered new item to subsection (B) to read:

/ ( ) convening of joint assemblies to fill vacancies in the executive department as provided by Section 1-1-120. /

Amend the bill further, as and if amended, by adding an appropriately numbered new item to subsection (C) to read:

/ ( ) convening of joint assemblies to fill vacancies in the executive department as provided by Section 1-1-120. /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

The amendment was adopted.

**Amendment No. 5**

Senator McCONNELL proposed the following amendment (4195R005.NGS), which was adopted:

Amend the concurrent resolution, as and if amended, by striking subsection (F) and inserting:

/ (F) For purposes of Section 1‑3‑210 and after July 1, 2011, when neither the House of Representatives or the Senate have been called into session pursuant to the provisions of this resolution, the General Assembly intends that the legislature be considered in recess for purposes of the Governor being allowed to fill vacancies by interim appointments except for the office of magistrate. /

Renumber sections to conform.

Amend title to conform.

The amendment was adopted.

The question then was the adoption of the Concurrent Resolution.

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

**Ayes 41; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Gregory Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Nicholson O’Dell

Peeler Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--41**

**NAYS**

**Total--0**

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

**THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MOTION ADOPTED**

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

**THE SENATE PROCEEDED TO A CONSIDERATION OF THE VETOES.**

**CARRIED OVER**

(R47, S232) -- Senators Cleary and Ford: AN ACT TO AMEND SECTION 44‑7‑130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF THE STATE CERTIFICATION OF NEED AND HEALTH CARE FACILITY ACT, SO AS TO REVISE THE DEFINITION OF HEALTH CARE FACILITY.

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

**MOTION ADOPTED**

On motion of Senator McCONNELL, with unanimous consent, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet tomorrow at 10:00 A.M.

**THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

**CARRIED OVER**

**BILLS RETURNED FROM THE HOUSE**

S. 20 -- Senators Grooms, McConnell, Thomas, Alexander, Leatherman, Knotts, Bryant, Hayes, Rose, Verdin, S. Martin, Peeler, L. Martin, Fair, Ryberg, Cromer, Campsen, Davis, Shoopman, Rankin and Bright: A BILL TO AMEND CHAPTER 1, TITLE 23 OF THE 1976 CODE, BY ADDING SECTION 23‑1‑250 TO PROVIDE THAT WHERE A LAW ENFORCEMENT OFFICER HAS REASONABLE SUSPICION THAT A PERSON STOPPED, DETAINED, OR ARRESTED BY LAW ENFORCEMENT IS AN ALIEN UNLAWFULLY IN THE UNITED STATES, THE OFFICER OR HIS AGENCY MUST FOLLOW CERTAIN PROCEDURES TO VERIFY HIS IMMIGRATION STATUS; AND TO AMEND ARTICLE 5, CHAPTER 9, TITLE 16, BY ADDING SECTION 16‑9‑480 TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON UNLAWFULLY IN THE UNITED STATES TO SOLICIT OR ATTEMPT TO SOLICIT WORK, AND TO PROVIDE PROCEDURES FOR VERIFYING IMMIGRATION STATUS.

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

S. 30 -- Senators McConnell, Leventis and Ford: A BILL TO AMEND SECTION 22‑5‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO MAGISTRATES’ POWERS AND DUTIES REGARDING THE ISSUANCE OF ARREST WARRANTS AND COURTESY SUMMONS, SO AS TO PROVIDE THAT NO ARREST WARRANT SHALL BE ISSUED FOR THE ARREST OF A PERSON UNLESS SOUGHT BY A MEMBER OF A LAW ENFORCEMENT AGENCY ACTING IN THEIR OFFICIAL CAPACITY; AND TO PROVIDE THAT IF AN ARREST WARRANT IS SOUGHT BY SOMEONE OTHER THAN A LAW ENFORCEMENT OFFICER, THE COURT MUST ISSUE A COURTESY SUMMONS, EXCEPT WHEN A BUSINESS IS SEEKING AN ARREST WARRANT FOR ANY OFFENSE AGAINST THE BUSINESS OR A PERSON IS SEEKING AN ARREST WARRANT FOR A FRAUDULENT CHECK, IF THE FRAUDULENT CHECK IS PRESENTED TO THE MAGISTRATE AT THE TIME THE WARRANT IS SOUGHT.

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

S. 172 -- Senators Rose, Fair, Leatherman, Bright, Bryant, Campsen, Knotts, O’Dell, S. Martin, Ford and McGill: A BILL TO AMEND ARTICLE 2, CHAPTER 101, TITLE 59 OF THE 1976 CODE, RELATING TO PUBLIC INSTITUTIONS OF HIGHER LEARNING, BY ADDING SECTION 59‑101‑670 TO PROVIDE THAT EACH PUBLIC INSTITUTION OF HIGHER LEARNING MUST MAINTAIN A DETAILED TRANSACTION REGISTER OF ALL FUNDS EXPENDED EACH MONTH AND POST THAT REGISTER ONLINE, AND TO PROVIDE THAT EACH PUBLIC INSTITUTION OF HIGHER LEARNING MUST POST ONLINE ALL OF ITS CREDIT CARD STATEMENTS AND THE CREDIT CARD STATEMENTS FOR CREDIT CARDS ISSUED TO PUBLIC OFFICIALS AND EMPLOYEES FOR PUBLIC USE; AND TO AMEND ARTICLE 15, CHAPTER 1, TITLE 1, RELATING TO REPORTING OF EXPENDITURES OF STATE APPROPRIATED FUNDS BY STATE AGENCIES, PERSONAL DATA AND THE LIKE, BY ADDING SECTION 1‑1‑1040 TO PROVIDE THAT ALL STATE AGENCIES MUST HAVE A LINK ON THEIR INTERNET WEBSITE TO THE STATE AGENCY RESPONSIBLE FOR POSTING ON ITS INTERNET WEBSITE THE AGENCY’S, DEPARTMENT’S, OR INSTITUTION’S MONTHLY STATE PROCUREMENT CARD STATEMENTS OR MONTHLY REPORTS CONTAINING ALL OR SUBSTANTIALLY ALL THE SAME INFORMATION CONTAINED IN THE MONTHLY STATE PROCUREMENT CARD STATEMENTS.

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

S. 241 -- Senators Rose and Leventis: A JOINT RESOLUTION TO CREATE THE SOUTH CAROLINA DYSLEXIA TASK FORCE, TO PROVIDE FOR THE COMPOSITION OF THE TASK FORCE, AND TO PROVIDE THAT THE TASK FORCE SHALL REPORT ITS FINDINGS TO THE GENERAL ASSEMBLY.

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

S. 694 -- Senator Bryant: A BILL TO AMEND SECTION 41‑15‑520 OF THE 1976 CODE, RELATING TO REMEDIES FOR EMPLOYEES CHARGING DISCRIMINATION, TO PROVIDE FOR REFERRAL TO THE UNITED STATES DEPARTMENT OF LABOR ALLEGATIONS MADE BY A PRIVATE SECTOR EMPLOYEE OF A VIOLATION OF SECTION 41‑15‑510 AND TO PROVIDE FOR CIVIL REMEDIES.

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

**CARRIED OVER**

**BILL RETURNED FROM HOUSE**

S. 391 -- Senators Campsen, Scott and Rose: A BILL TO AMEND SECTION 7‑13‑35, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NOTICE OF GENERAL, MUNICIPAL, SPECIAL, AND PRIMARY ELECTIONS, SO AS TO CHANGE THE TIME IN WHICH ABSENTEE BALLOTS MAY BE OPENED FROM 2:00 P.M. TO 9:00 A.M., AND TO PROVIDE FOR A DATE ON WHICH AN ELECTION WILL BE HELD IN THE EVENT THAT IT IS POSTPONED; TO AMEND SECTION 7‑13‑40, RELATING TO THE TIME OF PARTY PRIMARY, CERTIFICATION OF NAMES, VERIFICATION OF CANDIDATES’ QUALIFICATIONS, AND THE FILING FEE, SO AS TO CHANGE THE DATE FROM APRIL NINTH TO APRIL FIFTH; TO AMEND SECTION 7‑13‑190, RELATING TO SPECIAL ELECTIONS TO FILL VACANCIES IN OFFICE, SO AS TO ADD A SUBSECTION THAT PROVIDES FOR THE DATE OF AN ELECTION WHEN THE GOVERNOR DECLARES A STATE OF EMERGENCY FOR A JURISDICTION; AND TO AMEND SECTION 7‑13‑350, RELATING TO THE CERTIFICATION OF CANDIDATES AND VERIFICATION OF QUALIFICATIONS, SO AS TO CHANGE THE CERTIFICATION DATE FOR CANDIDATES FOR PRESIDENT AND VICE PRESIDENT FROM SEPTEMBER TENTH TO THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY OF SEPTEMBER.

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

Senator LARRY MARTIN made the motion to carry over the Bill.

Senator MALLOY made the motion to table the motion whereby the Bill would be carried over.

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

**Ayes 16; Nays 24**

**AYES**

Anderson Coleman Elliott

Ford Hutto Jackson

Land Lourie Malloy

McGill Nicholson Pinckney

Reese Scott Setzler

Williams

**Total--16**

**NAYS**

Alexander Bright Bryant

Campsen Cleary Courson

Cromer Davis Fair

Gregory Hayes Leatherman

*Martin, Larry Martin, Shane* Massey

McConnell O’Dell Peeler

Rose Ryberg Sheheen

Shoopman Thomas Verdin

**Total--24**

The Senate refused to table the motion whereby the Bill would be carried over.

The question then was the motion to carry over the Bill.

**Expression of Personal Interest**

Senator MALLOY rose for an Expression of Personal Interest.

Having voted on the prevailing side, Senator SHEHEEN moved to reconsider the vote whereby the motion to table the motion to carry over the Bill failed.

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

**Ayes 16; Nays 24**

**AYES**

Coleman Elliott Ford

Hutto Jackson Land

Lourie Malloy McGill

Nicholson Pinckney Reese

Scott Setzler Sheheen

Williams

**Total--16**

**NAYS**

Alexander Bright Bryant

Campsen Cleary Courson

Cromer Davis Fair

Gregory Hayes Knotts

Leatherman *Martin, Larry Martin, Shane*

Massey McConnell O’Dell

Peeler Rose Ryberg

Shoopman Thomas Verdin

**Total--24**

The Senate refused to reconsider the motion to table the motion to carry over.

The question then was the motion to carry over the Bill.

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

**Ayes 24; Nays 14**

**AYES**

Alexander Bright Bryant

Campsen Cleary Courson

Cromer Davis Fair

Gregory Hayes Knotts

Leatherman *Martin, Larry Martin, Shane*

Massey McConnell O’Dell

Peeler Rose Ryberg

Shoopman Thomas Verdin

**Total--24**

**NAYS**

Elliott Ford Hutto

Land Lourie Malloy

McGill Nicholson Pinckney

Reese Scott Setzler

Sheheen Williams

**Total--14**

The Bill was carried over.

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

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

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.

The Senate proceeded to a consideration of the Bill, the question being the adoption of Amendment P1A (JUD3375.048) proposed by Senators LARRY MARTIN and PEELER and previously printed in the Journal of April 6, 2011.

Senators LARRY MARTIN and PEELER proposed the following amendment (JUD3375.048), which was withdrawn:

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

// Amend the bill, as and if amended, page 2, SECTION 2, by striking line 36 in its entirety and inserting:

/ result of the defendant’s grossly negligent, wilful, wanton, or reckless conduct. / //

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the amendment.

**RECESS**

At 5:06 P.M., with Senator LARRY MARTIN retaining the floor, on motion of Senator PEELER, with unanimous consent, the Senate receded from business subject to the call of the Chair.

At 8:27 P.M., the Senate resumed.

Senator LARRY MARTIN resumed explaining the amendment.

On motion of Senator HUTTO, with unanimous consent, Amendment No. P1A was withdrawn as well as any remaining amendments on the Desk.

**Amendment No. P9**

Senators LARRY MARTIN, HUTTO, MALLOY and KNOTTS proposed the following amendment (JUD3375.071), which was adopted:

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

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

/ SECTION 1. This act may be cited as the “South Carolina Fairness in Civil Justice Act of 2011”.

SECTION 2. Chapter 32, Title 15 of the 1976 Code is amended by adding:

“Article 5

Punitive Damages

Section 15-32-510. (A) A claim for punitive damages must be specifically prayed for in the complaint.

(B) The plaintiff shall not specifically plead an amount of punitive damages, only that punitive damages are sought in the action.

Section 15-32-520. (A) All actions tried before a jury involving punitive damages, if requested by any defendant against whom punitive damages are sought, must be conducted in a bifurcated manner before the same jury.

(B) In the first stage of a bifurcated trial, the jury shall determine liability for compensatory damages and the amount of compensatory or nominal damages. Evidence relevant only to the issues of punitive damages is not admissible at this stage.

(C) Punitive damages may be considered if compensatory or nominal damages have been awarded in the first stage of the trial.

(D) Punitive damages may be awarded only if the plaintiff proves by clear and convincing evidence that his harm was the result of the defendant’s willful, wanton, or reckless conduct.

(E) In the second stage of a bifurcated trial, the jury shall determine if a defendant is liable for punitive damages and, if determined to be liable, the amount of punitive damages. In determining the amount of punitive damages, the jury may consider all relevant evidence, including, but not limited to:

(1) the defendant’s degree of culpability;

(2) the severity of the harm caused by the defendant;

(3) the extent to which the plaintiff’s own conduct contributed to the harm;

(4) the duration of the conduct, the defendant’s awareness, and any concealment by the defendant;

(5) the existence of similar past conduct;

(6) the profitability of the conduct to the defendant;

(7) the defendant’s ability to pay;

(8) the likelihood the award will deter the defendant or others from like conduct;

(9) the awards of punitive damages against the defendant in any state or federal court action alleging harm from the same act or course of conduct complained of by the plaintiff;

(10) any criminal penalties imposed on the defendant as a result of the same act or course of conduct complained of by the plaintiff; and

(11) the amount of any civil fines assessed against the defendant as a result of the same act or course of conduct complained of by the plaintiff.

(F) If punitive damages are awarded, the trial court shall review the jury’s decision, considering all relevant evidence, including the factors identified in subsection (E), to ensure that the award is not excessive or the result of passion or prejudice.

(G) In an action with multiple defendants, a punitive damages award must be specific to each defendant, and each defendant is liable only for the amount of the award made against that defendant.

Section 15-32-530 (A). Except as provided in subsections (B) and (C), an award of punitive damages may not exceed the greater of three times the amount of compensatory damages awarded to each claimant entitled thereto or the sum of five hundred thousand dollars.

(B) The limitation provided in subsection (A) may not be disclosed to the jury. If the jury returns a verdict for punitive damages in excess of the maximum amount specified in subsection (A), the trial court should first determine whether:

(1) the wrongful conduct proven under this section was motivated primarily by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was known or approved by the managing agent, director, officer, or the person responsible for making policy decisions on behalf of the defendant; or

(2) the defendant’s actions could subject the defendant to conviction of a felony and that act or course of conduct is a proximate cause of the plaintiff’s damages;

If the trial court determines that either item (1) or (2) apply, then punitive damages must not exceed the greater of four times the amount of compensatory damages awarded to each claimant entitled thereto or the sum of two million dollars and, if necessary, the trial court shall reduce the award and enter judgement for punitive damages in the maximum amount allowed by this subsection. If the trial court determines that neither item (1) or (2) apply, then the award of punitive damages shall be subject to the maximum amount provided by subsection (A) and the trial court shall reduce the award and enter judgement for punitive damages in the maximum amount allowed by subsection (A).

(C) However, when the trial court determines one of the following apply, there shall be no cap on punitive damages:

(1) at the time of injury the defendant had an intent to harm and determines that the defendant’s conduct did in fact harm the claimant; or

(2) the defendant has pled guilty to or been convicted of a felony arising out of the same act or course of conduct complained of by the plaintiff and that act or course of conduct is a proximate cause of the plaintiff’s damages; or

(3) the defendant acted or failed to act while under the influence of alcohol, drugs, other than lawfully prescribed drugs administered in accordance with a prescription, or any intentionally consumed glue, aerosol, or other toxic vapor to the degree that the defendant’s judgment is substantially impaired.

(D) At the end of each calendar year, the State Budget and Control Board, Board of Economic Advisors must determine the increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the previous year, and the maximum amount recoverable for punitive damages pursuant to subsection (A) must be increased or decreased accordingly. As soon as practicable after this adjustment is calculated, the Director of the State Budget and Control Board shall submit the revised maximum amount recoverable for punitive damages to the State Register for publication, pursuant to Section 1-23-40(2), and the revised maximum amount recoverable for punitive damages becomes effective upon publication in the State Register. For purposes of this subsection, ‘Consumer Price Index’ means the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, Bureau of Labor Statistics.

Section 15-32-540. The provisions of this article do not affect any right, privilege, or provision of the South Carolina Tort Claims Act pursuant to Chapter 78, Title 15 or the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33.”

SECTION 3. Article 5, Chapter 7, Title 1 of the 1976 Code is amended by adding:

“Section 1-7-750. A circuit solicitor may employ outside counsel, in his discretion, without approval of the Attorney General, for civil forfeiture proceedings arising from criminal activity or from estreatment of bail bonds. In any other matter, the circuit solicitor must obtain written approval of the Attorney General prior to retaining counsel to or filing a civil cause of action.”

SECTION 4. Article 1, Chapter 77, Title 38 of the 1976 Code is amended by adding:

“Section 38-77-250. (A) Every insurer providing automobile insurance coverage in this State and which is or may be liable to pay all or a part of any claim shall provide, within thirty days of receiving a written request from the claimant’s attorney, a statement, under oath, of a corporate officer or the insurer’s claims manager stating with regard to each known policy of nonfleet private passenger insurance issued by it, the name of the insurer, the name of each insured, and the limits of coverage. The insurer may provide a copy of the declaration page of each such policy in lieu of providing such information. The request shall set forth under oath the specific nature of the claim asserted and shall be mailed to the insurer by certified mail or statutory overnight delivery. The request must also state that the attorney is authorized to make such a request and must be accompanied by a copy of the incident report from which the claim is derived.

(B) If the request provided in subsection (A) contains information insufficient to allow compliance, the insurer upon whom the request was made may so state in writing, stating specifically what additional information is needed and such compliance shall constitute compliance with this section.

(C) The information provided to a claimant or his attorney as required by subsection (A) of this section shall not create a waiver of any defenses to coverage available to the insurer and shall not be admissible in evidence.

(D) The information provided to a claimant or his attorney as required by subsection (A) shall be amended upon the discovery of facts inconsistent with or in addition to the information provided.

(E) The provisions of this section do not require disclosure of limits for fleet policy limits, umbrella coverages, or excess coverages.

(F) The information received pursuant to this section is confidential and must not be disclosed to any outside party. Upon final disposition of the case, the claimant’s attorney must destroy all information received pursuant to this section. The court must impose sanctions for a violation of this subsection.”

SECTION 5. Section 15-3-670 of the 1976 Code is amended to read:

“Section 15-3-670. (A) The limitation provided by Sections 15-3-640 through 15-3-660 may not be asserted as a defense by ~~any~~ a person in actual possession or control, as owner, tenant, or otherwise, of the improvement at the time the defective or unsafe condition constitutes the proximate cause of the injury or death for which it is proposed to bring an action, in the event ~~such~~ the person in actual possession or control knows, or reasonably should have known, of the defective or unsafe condition. The limitations provided by Sections 15-3-640 through 15-3-660 are not available as a defense to ~~any~~ a person guilty of fraud, gross negligence, or recklessness in providing components in furnishing materials, in developing real property, in performing or furnishing the design, plans, specifications, surveying, planning, supervision, testing or observation of construction, construction of, or land surveying, in connection with such an improvement, or to ~~any~~ a person who conceals any such cause of action.

(B) For the purposes of subsection (A), the violation of a building code of a jurisdiction or political subdivision does not constitute per se fraud, gross negligence, or recklessness, but this type of violation may be admissible as evidence of fraud, negligence, gross negligence, or recklessness.

(C) The limitation provided by Section 15-3-640 may not be asserted as a defense to ~~any~~ an action for personal injury, including a personal injury resulting in death, or property damage which is:

~~(i)~~(1) by its nature not discoverable in the exercise of reasonable diligence at the time of its occurrence; and

~~(ii)~~(2) the result of ingestion of or exposure to some toxic or harmful or injury producing substance, element, or particle, including radiation, over a period of time as opposed to resulting from a sudden and fortuitous trauma.”

SECTION 6. Section 18-9-130(A)(1) of the 1976 Code, as last amended by Act 216 of 2004, is further amended to read:

“(1) A notice of appeal from a judgment directing the payment of money does not stay the execution of the judgment unless the presiding judge before whom the judgment was obtained grants a stay of execution. ~~(2) A plaintiff may not enforce a sale of property after a notice of appeal is filed without giving an undertaking or bond to the defendant, with two good sureties, in double the appraised value of the property or double the amount of the judgment, conditioned to pay all damages the defendant may sustain by reason of the sale in case the judgment is reversed. The plaintiff in such a case may not proceed with a sale of defendant’s property if the defendant enters into an undertaking, with good sureties, in double the appraised value of the property or the amount of the judgment, to pay the judgment with legal interest and all costs and damages the plaintiff may sustain by reason of the appeal or to produce the property levied on and submit to the sale if the judgment is confirmed.~~ If the presiding judge grants a stay of execution and requires a bond or other surety to guarantee the payment of the judgment pending the appeal, the amount of the bond or other surety may not exceed the amount of the judgment or:

(a) twenty-five million dollars, whichever is less, for a business entity that employs more than fifty persons and has gross revenues exceeding five million dollars for the previous tax year; or

(b) one million dollars, whichever is less, for all other entities or individuals.”

SECTION 7. This act takes effect January 1, 2012, and applies to all actions that accrue on or after the effective date except the provisions of SECTION 3 do not apply to any matter pending on the effective date of this act. / //

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the amendment.

The amendment was adopted.

The Committee on Judiciary proposed the following amendment (JUD3375.034), which was adopted:

Amend the bill, as and if amended, page [3375‑3], beginning on line 28, in SECTION 2, by striking Section 15‑32‑530 in its entirety and inserting:

/ Section 15‑32‑530(A). An award of punitive damages may not exceed three times the amount of the plaintiff’s compensatory damages award or three hundred fifty thousand dollars, whichever is greater.

(B) The limitations in subsection (A) do not apply when the:

(1) trial court determines that the plaintiff’s injury was proximately caused by the defendant’s conscious pursuit of a course of conduct that the defendant knew would likely cause injury or damage or was motivated by the pursuit of unreasonable financial gain;

(2) defendant pleads guilty to or is convicted of a felony arising out of the same act or course of conduct complained of by the plaintiff, and that act or course of conduct is a proximate cause of the plaintiff’s damages; or

(3) trial court determines that at the time of the plaintiff’s injury the defendant acted or failed to act while under the influence of alcohol, drugs, other than lawfully prescribed drugs administered in accordance with a prescription, or any intentionally consumed glue, aerosol, or other toxic vapor to the degree that defendant’s judgment is substantially impaired.

(C) The limitation provided in subsection (A) may not be disclosed to the jury. If the jury returns a verdict for punitive damages in excess of the maximum amount specified in subsection (A), and the exemptions in subsection (B) do not apply, the court shall reduce the award and enter judgment for punitive damages in the maximum amount allowed in subsection (A).

(D) At the end of each calendar year, the State Budget and Control Board, Board of Economic Advisors must determine the increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the previous year, and the maximum amount recoverable for punitive damages pursuant to subsection (A) must be increased or decreased accordingly. As soon as practicable after this adjustment is calculated, the Director of the State Budget and Control Board shall submit the revised maximum amount recoverable for punitive damages to the State Register for publication, pursuant to Section 1‑23‑40(2), and the revised maximum amount recoverable for punitive damages becomes effective upon publication in the State Register. For purposes of this subsection, ‘Consumer Price Index’ means the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, Bureau of Labor Statistics.

Section 15-32-540. The provisions of this article do not affect any right, privilege, or provision of the South Carolina Tort Claims Act pursuant to Chapter 78, Title 15 or the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33.” /

Amend the bill further, as and if amended, beginning on page [3375-4], line 11, by striking SECTION 3 in its entirety and inserting:

/ SECTION 3. Article 5, Chapter 7, Title 1 of the 1976 Code is amended by adding:

“Section 1-7-750.(A) This section may be cited as the ‘Private Attorney Retention Sunshine Act’.

(B) Except as provided in Section 1‑7‑760 and in actions for civil forfeiture proceedings arising from criminal activity or from estreatment of bail bonds, when the Attorney General or a circuit solicitor retains, engages, associates, hires, or otherwise obtains a private attorney, attorneys, or law firm as outside counsel to represent the State or any political subdivision, the outside counsel is required to enter into a contract that is governed by the following terms, provisions, or conditions:

(1) the Attorney General or circuit solicitor, in his sole discretion, has the right to appoint a designated assistant, who must be an assistant attorney general or assistant solicitor, to oversee the litigation or other matter for which outside counsel has been retained, which appointment the Attorney General or circuit solicitor may modify at will;

(2) the Attorney General or circuit solicitor may provide attorneys and other staff members to assist outside counsel with the litigation. The identity and responsibilities of personnel assigned to assist must be determined solely by the Attorney General or circuit solicitor. All pleadings, motions, briefs, formal documents, and agreements must bear the signature of the Attorney General or circuit solicitor or his designated assistant;

(3) outside counsel shall coordinate the provision of legal services with the Attorney General, or circuit solicitor, or his designated assistant, other personnel of the Office of the Attorney General or circuit solicitor, and other persons the Attorney General or circuit solicitor may appoint as outside counsel. All pleadings, motions, briefs, and other material which may be filed with the court must first be approved by the Attorney General or circuit solicitor and provided to his office in draft form in a reasonable and timely manner for review;

(4) outside counsel will render services as an independent contractor. Neither outside counsel nor an employee of outside counsel is regarded as employed by, or as an employee of, the Attorney General, a circuit solicitor, or the State;

(5) detailed time and cost records reflecting all work must be maintained by outside counsel and presented monthly to the Attorney General or circuit solicitor;

(6) the Attorney General, or circuit solicitor, or a designated assistant shall approve in advance all aspects of the litigation or other matter for which outside counsel is retained and must be included in settlement discussions. Outside counsel agrees that all settlements must receive the Attorney General’s or circuit solicitor’s express prior approval in writing;

(7) any material, data, files, discs, or documents created, produced, or gathered by outside counsel, or in outside counsel’s possession in furtherance of the litigation or other matter for which outside counsel has been retained, or which fulfills an obligation of the appointment, is considered the exclusive property of the State. Outside counsel agrees to adhere to the South Carolina Freedom of Information Act, pursuant to Chapter 4, Title 30, and maintain all public records concerning the matter in accordance with state law; however, outside counsel shall consult with, and obtain the approval of, the Attorney General or circuit solicitor before responding to a public records request. The contract of retention that satisfies this section is considered a public document. At the conclusion of the litigation or other matter for which outside counsel has been retained, all time records and monthly statements maintained or presented by outside counsel are public documents, subject to all exemptions from disclosure provided in the South Carolina Freedom of Information Act, Chapter 4, Title 30, and subject to exemption from disclosure or redaction as necessary to preserve the attorney client privilege, attorney work product protection, and all other applicable privileges and protections. At any point after the summons and complaint are filed, either party may move for a protective order to address disposal or disclosure of documents produced in discovery;

(8) in contingent fee cases, outside counsel may not receive compensation for services rendered unless the State receives a settlement or award in connection with the litigation. If the State receives an award, outside counsel will be compensated as follows:

(a) outside counsel may not be paid, not including punitive or exemplary damages, more than the following percentages corresponding to the amount of the judgment or settlement including civil penalties:

(i) twenty-five percent of the judgment or settlement up to and including the first $5,000,000;

(ii) twenty-two percent of that portion of the judgment or settlement in excess of $5,000,000 up to $10,000,000;

(iii) eighteen percent of that portion of the judgment or settlement in excess of $10,000,000 up to $25,000,000;

(iv) fifteen percent of that portion of the judgment or settlement in excess of $25,000,000 up to $50,000,000;

(v) twelve percent of that portion of the judgment or settlement in excess of $50,000,000, but less than $100,000,000; and

(vi) ten percent of that portion of the judgment or settlement in excess of $100,000,000.

However, civil penalties are not considered punitive or exemplary damages.

The structured contingent fee schedule set forth herein shall operate cumulatively so that, in relation to each successive category or level of recovery, outside counsel shall be paid an aggregate sum or value equivalent computed by multiplying the percentage applicable to each successive category or level of recovery by the incremental dollar amount falling within each such category, and the separate products so derived shall be added together to compute the aggregate fee to be paid to outside counsel.

(b) following reimbursement of outside counsel’s reasonable and approved expenses and costs, the remaining settlement or judgment, but not including punitive or exemplary damages, must be paid or applied on behalf of the State, or the people of South Carolina, or the victims in a manner to be determined by the Attorney General or circuit solicitor, in his sole discretion; and

(c) outside counsel may not be paid more than the following percentages corresponding to the amount of punitive or exemplary damages:

(i) twenty percent of the damages up to and including the first $10,000,000;

(ii) fifteen percent of that portion of the damages in excess of $10,000,000 up to $100,000,000; and

(iii) ten percent of that portion of the damages in excess of $100,000,000.

The structured contingent fee schedule set forth herein shall operate cumulatively so that, in relation to each successive category or level of recovery, outside counsel shall be paid an aggregate sum or value equivalent computed by multiplying the percentage applicable to each successive category or level of recovery by the incremental dollar amount falling within each such category, and the separate products so derived shall be added together to compute the aggregate fee to be paid to outside counsel.

(d) following reimbursement of outside counsel’s reasonable and approved expenses and costs, the remaining amount of punitive and exemplary damages must be paid or applied on behalf of the State to the General Fund, or the people of South Carolina, or the victims in a manner to be determined by the Attorney General or circuit solicitor in his sole discretion;

(e) all settlement or judgment proceeds shall be paid by, or on behalf of, any defendant to the Attorney General or circuit solicitor’s office for distribution; and

(f) the fee schedule required by this section applies to all settlements or judgments, whether the settlement or judgment is entirely monetary in nature or is combined with nonmonetary relief. In the event the litigation is resolved by settlement or judgment involving a combination of monetary and nonmonetary relief, such as injunctive relief, nonmonetary payment, the provision of goods or services or other in-kind terms, or a combination of these, the Attorney General or circuit solicitor shall determine the monetary value to the State;

(9) outside counsel must be reimbursed for reasonable and approved expenses and costs prior to the payment of fees calculated on the amount of the judgment or settlement. Proper documentation by receipts or otherwise must be submitted with all invoices, and all documentation must be retained by outside counsel for at least one year following the agreement’s termination. All expenses must be itemized, and no reimbursement may be applied for or requested for miscellaneous listings. The Attorney General or circuit solicitor, in his sole discretion, may decline to reimburse outside counsel for improperly documented, unnecessary, or unreasonable costs or expenses. In addition:

(a) outside counsel must be reimbursed for the retention of experts, including fees and other reasonable costs, only when expressly authorized by the Attorney General or circuit solicitor; and

(b) for reimbursements of expenses for lodging, travel, or mileage, receipts are required, and these expenses must be reasonable;

(10) outside counsel may not speak to any representative of a television station, radio station, newspaper, magazine, or other media outlet concerning the work outlined or contemplated in the contract of retention without first obtaining approval of the Attorney General or circuit solicitor. Outside counsel is specifically prohibited from speaking on behalf of the Attorney General, or circuit solicitor, or the State of South Carolina to any representative of the news media.

(C) A circuit solicitor may employ outside counsel, in his discretion, without approval of the Attorney General, for civil forfeiture proceedings arising from criminal activity or from estreatment of bail bonds. In any other matter, the circuit solicitor must obtain written approval of the Attorney General prior to retaining counsel to or filing a civil cause of action including any or all cases seeking civil penalties.

Section 1-7-760. The provisions of Section 1-7-750(B) may be suspended only under certain conditions when the Attorney General, in his discretion, or the circuit solicitor, upon the written approval of the Attorney General, decides that exceptional circumstances exist which warrant departure from the requirements of Section 1-7-750(B), and, in his judgment, that departure is absolutely necessary and in the best interests of the State. If the Attorney General or the circuit solicitor decides to invoke the provisions of this section, he must specifically state in writing those provisions of Section 1-7-750(B) that he intends to depart from and must delineate the exceptional circumstances that he finds exists as they relate to each provision. This information is considered public information and is subject to disclosure pursuant to the Freedom of Information Act as provided in Chapter 4, Title 30, subject to all exemptions from disclosure provided in the South Carolina Freedom of Information Act and subject to exemption from disclosure or redaction as necessary to preserve the attorney client privilege, attorney work product protection, and all other applicable privileges and protections. Section 1-7-770. Nothing in this Act shall supersede Section 1-7-85. The Attorney General’s office shall retain special counsel’s fees and costs awarded under its contract with outside counsel.” /

Amend the bill further, as and if amended, beginning on page [3375-10], by striking lines 1 through 24 in their entirety and inserting:

/ (C) A violation of this article is not negligence per se, contributory negligence, or comparative negligence~~, and is not admissible as evidence in a civil action~~. Evidence may be admitted in a civil action to show that an injured person failed to wear a safety belt during an incident giving rise to the civil action, and that the person’s injuries would have been reduced by wearing a safety belt. The evidence, if relevant, may be admitted only if:

(1) the proponent of the evidence presents qualified, reliable, and competent expert testimony that the injured person failed to wear a safety belt and that the compensable injuries received would have been reduced had the injured person been wearing a safety belt;

(2) a court of competent jurisdiction admits the evidence, pursuant to the South Carolina Rules of Evidence; and

(3) the proponent of the evidence has not been convicted of or pled guilty or nolo contendere to a moving vehicle violation, pursuant to this subsection, which was a proximate cause of the incident giving rise to the civil action. The moving vehicle violations are defined as:

(a) driving under the influence;

(b) reckless driving;

(c) any four to six-point offense, under Section 56-1-720;

(d) a ‘serious traffic violation’, pursuant to 56-1-2030(22).

(4) the opposing party may introduce rebuttal evidence regarding the use of seatbelts introduced pursuant to this section.

(D) Notwithstanding the admissibility of the evidence, pursuant to subsection (C), the evidence shall not be admissible if the plaintiff’s attorney stipulates the amount in controversy is less than $200,000.

~~(D)~~(E) A vehicle, driver, or occupant in a vehicle must not be searched, nor may consent to search be requested by a law enforcement officer, solely because of a violation of this article.

~~(E)~~(F) A law enforcement officer must not stop a driver for a violation of this article except when the officer has probable cause that a violation has occurred based on his clear and unobstructed view of a driver or an occupant of the motor vehicle who is not wearing a safety belt or is not secured in a child restraint system as required by Article 47 ~~of this chapter~~.

~~(F)~~(G) A person charged with a violation of this article may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person was not wearing a safety belt at the time of the incident, the penalty is a civil fine pursuant to the provisions of Section 56‑5‑6540. If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person was not wearing a safety belt, no penalty shall be assessed.

~~(G)~~(H) A person found to be in violation of this article may bring an appeal to the court of common pleas pursuant to Section 18‑3‑10 or Section 14‑25‑95.” /

Amend the bill further, as and if amended, page [3375-10], after line 25, by adding the following appropriately numbered SECTION to read:

/ SECTION \_\_. Article 1, Chapter 77, Title 38 of the 1976 Code is amended by adding:

“Section 38‑77‑250. (A) Every insurer providing automobile insurance coverage in this State and which is or may be applicable to pay all or a part of any claim shall provide, within thirty days of receiving a written request from the claimant’s attorney, a statement, under oath, of a corporate officer or the insurer’s claims manager stating with regard to each known policy of nonfleet private passenger insurance issued by it, the name of the insurer, the name of each insured, and the limits of coverage. The insurer may provide a copy of the declaration page of each such policy in lieu of providing such information. The request shall set forth under oath the specific nature of the claim asserted and shall be mailed to the insurer by certified mail or overnight delivery. The request must also state that the attorney is authorized to make such a request and must be accompanied by a copy of the incident report from which the claim is derived.

(B) If the request provided in subsection (A) contains information insufficient to allow compliance, the insurer upon whom the request was made may so state in writing, stating specifically what additional information is needed, and such compliance shall constitute compliance with this section.

(C) The information provided to a claimant or his attorney, as required by subsection (A) of this section, shall not create a waiver of any defenses to coverage available to the insurer and shall not be admissible in evidence.

(D) The information provided to a claimant or his attorney, as required by subsection (A), shall be amended upon the discovery of facts inconsistent with or in addition to the information provided.

(E) The information received pursuant to this section is confidential and must not be disclosed to any outside party except as required to pursue the claim. The court may impose sanctions for a violation of this subsection.” /

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

/ SECTION \_\_. Chapter 78, Title 15 of the 1976 Code is amended by adding:

“Section 15-78-125. The provisions of Article 5, Chapter 32, Title 15 do not affect any right, privilege, or provision of the South Carolina Tort Claims Act pursuant to this chapter or the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33.” /

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

/ SECTION \_\_. Section 15-78-120 of the 1976 Code is amended by adding a subitem to read:

“(d) At the end of each calendar year, the State Budget and Control Board, Board of Economic Advisors must determine the increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the previous year, and the maximum amount recoverable under the State Tort Claims Act pursuant to subsection (a) must be increased or decreased accordingly. As soon as practicable after this adjustment is calculated, the Director of the State Budget and Control Board shall submit the revised maximum amount recoverable for damages under the State Tort Claims Act for publication, to the State Register pursuant to Section 1-23-40(2), and the revised maximum amount recoverable for damages under the State Tort Claims Act becomes effective upon publication in the State Register. For purposes of this subsection, ‘Consumer Price Index’ means the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, Bureau of Labor Statistics.” /

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

/ SECTION \_\_. Chapter 73, Title 15 of the 1976 Code is amended by adding:

“Section 15-73-11. (1) One who sells any product in a defective condition unreasonably dangerous to the user or consumer or to his property is subject to liability for physical harm caused to the ultimate user or consumer, or to his property, if:

(a) the seller is engaged in the business of selling such a product; and

(b) it is expected to and does reach the user or consumer without substantial change in the condition in which it is sold.

(2) The rule stated in subsection (1) shall apply although:

(a) the seller has exercised all possible care in the preparation and sale of his product; and

(b) the user or consumer has not bought the product from or entered into any contractual relation with the seller.

Section 15-73-21. If the user or consumer discovers the defect and is aware of the danger, and nevertheless proceeds unreasonably to make use of the product and is injured by it, he is barred from recovery.

Section 15-73-31. Comments to Section 402A of the Restatement of Torts, Second, are incorporated herein by reference thereto as the legislative intent of this chapter.”

SECTION \_\_. Sections 15-73-10; 15-73-20; 15-73-30; and 15-33-135 of the 1976 Code are repealed. /

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

/ SECTION \_\_. Section 15-36-10(C) of the 1976 Code is amended to read:

“Section 15-36-10. (C)(1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered ~~or a case has been dismissed by a directed verdict, summary judgment,~~ or after entering a judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

(2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

(3) A case dismissed by a directed verdict or summary judgment is presumed to be frivolous per se, and sanctions described in subsection (G) must be ordered by the court, unless the court finds for good cause shown it was not frivolous or sanctions should not be imposed.” /

Amend the bill further, as and if amended, page [3375-11], lines 20-21, by striking SECTION 10 in its entirety and inserting the following:

/ SECTION 10. This act takes effect January 1, 2012, and applies to all actions that accrue on or after the effective date except the provisions of SECTION 3 do not apply to any matter pending on the effective date of this act. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

The question then was the second reading of the Bill.

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

**Ayes 39; Nays 0**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Gregory Grooms Hayes

Hutto Knotts Land

Leatherman Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

O’Dell Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Shoopman

Thomas Verdin Williams

**Total--39**

**NAYS**

**Total--0**

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

On motion of Senator McCONNELL, with unanimous consent, H. 3375 was returned to the status of Interrupted Debate.

**MADE ADJOURNED DEBATE**

H. 3701 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2010‑2011.

Senator McCONNELL moved that the Joint Resolution be made Adjourned Debate.

The Joint Resolution was made Adjourned Debate.

**RECALLED**

H. 4258 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO ELECTRONIC EQUIPMENT COLLECTION AND RECOVERY, DESIGNATED AS REGULATION DOCUMENT NUMBER 4179, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Senator PEELER asked unanimous consent to make a motion to recall the Joint Resolution from the Committee on Medical Affairs.

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

**READ THE SECOND TIME**

**CARRYING OVER ALL AMENDMENTS TO THIRD READING**

H. 3660 -- Reps. Ott, Bales, McLeod, Brantley, Battle, Whipper, G.A. Brown, Parker, Anderson, J.M. Neal, Hodges, Bowers, Hosey, Alexander, Branham, Funderburk, Harrison, King, Dillard, Butler Garrick and Jefferson: 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.

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

There was no objection.

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

Senator PINCKNEY asked unanimous consent to give the Bill a second reading, carrying over all amendments to third.

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

**Ayes 36; Nays 3**

**AYES**

Alexander Bright Campbell

Cleary Coleman Courson

Cromer Davis Elliott

Fair Gregory Grooms

Hayes Hutto Knotts

Land Leatherman Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McConnell McGill

Nicholson O’Dell Peeler

Pinckney Reese Rose

Scott Setzler Shoopman

Thomas Verdin Williams

**Total--36**

**NAYS**

Bryant Campsen Ryberg

**Total--3**

The Bill was read the second time and ordered placed on the Third Reading Calendar, carrying over all amendments to third reading.

**ADOPTED**

S. 689 -- Senator Courson: A CONCURRENT RESOLUTION TO AUTHORIZE PALMETTO GIRLS STATE TO USE THE CHAMBERS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON FRIDAY, JUNE 17, 2011.

Senator COURSON asked unanimous consent to take the Concurrent Resolution up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the Resolution.

On motion of Senator COURSON, the Concurrent Resolution was adopted, ordered sent to the House.

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

**CARRIED OVER**

S. 630 -- Senators Knotts, Massey, Peeler, Reese, Davis, Hutto, Fair, Hayes, Sheheen, Leventis, Malloy, Rose, McConnell, L. Martin, Rankin, Scott, Setzler, Coleman, Ford, Campbell, Land, Courson, McGill, Jackson, Williams, Matthews, Lourie, O’Dell, Cleary, Nicholson, Alexander, Anderson, Leatherman, Pinckney, Thomas, Campsen, Shoopman and Elliott: A SENATE RESOLUTION TO AMEND THE RULES OF THE SENATE BY ADDING RULE 54, THE “PROHIBITION ON NONCANDIDATE COMMITTEES”, SO AS TO PROHIBIT A MEMBER OF THE SENATE FROM, DIRECTLY OR INDIRECTLY, ESTABLISHING, FINANCING, MAINTAINING, OR CONTROLLING A NONCANDIDATE COMMITTEE.

The Senate proceeded to a consideration of the Senate Resolution, the question being the adoption of the Senate Resolution.

Senator RYBERG moved to carry over the Senate Resolution.

The Senate Resolution was carried over.

**Recorded Vote**

Senators McCONNELL, KNOTTS, MATTHEWS, MALLOY, SHOOPMAN and ROSE desired to be recorded as voting against the motion to carry over the Senate Resolution.

Senator McCONNELL moved that the Senate stand adjourned.

The Senate stood adjourned.

**MOTION ADOPTED**

On motion of Senator HUTTO, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Bartley Lancaster “Bart” Hutto of the Providence Community, Holly Hill, S.C., beloved brother of Senator Brad Hutto, who passed away November 8, 2010. Mr. Bart Hutto was born January 17, 1959, in Orangeburg. He was the son of Charles L. and Harriet L. Hutto of the Providence Community, Holly Hill. He attended Abraham Baldwin Agricultural College and Clemson University. At Clemson, he received a scholarship award from the American Society of Animal Science. In 1980, he returned to the Providence Community and began working with the family businesses, Hutto Brothers & Sons and Hutto Stock Yards. Later, he became the owner of Hutto Farms, farming a portion of the land that has been in the Hutto family for seven generations. He was the owner of Hutto Livestock company, which operated out of Manning. He was also employed by Orangeburg Stock Yards. In addition, he was an electrician, working with contractors of the area. Because he was extremely observant as he traveled the roads of the community and checked out anything which didn’t “look right,” he was affectionately given the titles of “Sheriff of Providence” and “Mayor of Providence.” Often neighbors called him to watch their homes while they were away. He will be missed by all those in Orangeburg County who had the privilege of knowing him.

and

**MOTION ADOPTED**

On motion of Senators GROOMS, CAMPBELL and McGILL, with unanimous consent, the Senate stood adjourned out of respect to the memory of Representative C. David Umphlett, Jr. of Moncks Corner, S.C., our colleague and friend. He was a devoted family man. He was first elected to the House of Representatives in 2002 and was avidly interested in outdoor issues.

**ADJOURNMENT**

At 8:47 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 10:00 A.M.

**Recorded Vote**

Senators BRIGHT, BRYANT, VERDIN, SHOOPMAN and SHANE MARTIN desired to be recorded as voting against the motion to adjourn.

\* \* \*