**Wednesday, March 13, 2013**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 2:00 P.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:

The prophet Isaiah proclaims:

“See, a king will reign in righteousness, and princes will rule with justice. Each will be like a hiding place from the wind, a covert from the tempest, like streams of water in a dry place, like the shade of a great rock in a weary land.” (Isaiah 32:1-2)

Let us join our hearts and minds in prayer:

O God, Isaiah makes it crystal clear as he reminds us that what people seek are leaders who exercise decent, good and fair leadership. He calls for those in significant positions to bring about hope and opportunity, to be positive resources during difficult times, to labor unfailingly on behalf of those in their care. May that always be one of the hallmarks, dear God, of each Senator and every staff person serving the people of South Carolina in this Senate: that they unceasingly focus on achieving good, even in a weary land.

Moreover, O God, we ask that You will be with Governor Haley’s mother, Raj Randhawa, during her time of hospitalization, that she and her family may know the fullness of Your care and Your love. All this we pray in Your wondrous name, Lord.

Amen.

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

**MESSAGE FROM THE GOVERNOR**

The following appointment was transmitted by the Honorable Nikki Randhawa Haley:

**Local Appointment**

Initial Appointment, York County Natural Gas Authority, with the term to commence March 1, 2011, and to expire March 1, 2014

Fort Mill:

David T. Bowman, 572 Sweet Peach Lane, Fort Mill, SC 29715 *VICE* Alton L. Martin

**REGULATION WITHDRAWN**

The following was received:

Document No. 4264

Agency: Auctioneers’ Commission

Chapter: 14

Statutory Authority: 1976 Code Sections 40-1-70 and 40-6-60

SUBJECT: Duplicate Wall or Pocket Card License; Fees

Received by Lieutenant Governor January 17, 2013

Referred to Labor, Commerce and Industry Committee

Legislative Review Expiration: Permanently Withdrawn

120 Day Period Tolled

Withdrawn due to end of two-year session June 8, 2012

Resubmitted with no substantive changes January 17, 2013

Received by Lt. Gov. & Speaker May 17, 2013

Committee Requested Withdrawal February 13, 2013

120 Day Period Tolled

Permanently Withdrawn March 13, 2013

**Expression of Personal Interest**

Senator SETZLER rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator MALLOY rose for an Expression of Personal Interest.

**Remarks by Senator Malloy**

I rise today to speak briefly about a monumental date and time in the United States’ history. The history of the United States, obviously has an effect upon South Carolina history, and, an effect on me, for one. For more than half a century, everyone knows what it is that really means.

As my mom always says, “I know that I have great days ahead, but I have a lot of good days behind me.” Something happened back in 1963, about this time, which was critical. I give you the facts briefly. Between midnight and about 8 A.M. there was someone who was charged with a crime in Panama City, Florida. It was alleged someone broke a door, smashed a cigarette machine and record player and stole money from a cash register. Later the witness reported he had seen a fellow named Clarence Earl Gideon in a pool room about 5:30 that morning leaving with a bottle of wine and some money in his pocket. Based on just that statement alone, Mr. Gideon was arrested and charged with breaking and entering with attempt to commit petty larceny. A brave soul, Mr. Gideon appeared in court. He knew he was too poor to afford a lawyer. Here is the conversation that took place when they were in court: The court said to him, “Mr. Gideon, I’m sorry, I cannot appoint a lawyer to represent you in this case because under the laws of the State of Florida, the only time the court can appoint counsel to represent a defendant is when that person is charged with a capital offense. Sorry, but I have to deny your request to appoint counsel and defend you.” In his response Mr. Gideon said, “The United States Supreme Court says I’m entitled to be represented by counsel.” He was then forced to act as his own lawyer, conduct his defense -- emphasizing his innocence in the case. Nevertheless, the jury returned a verdict and found him guilty, sentencing him to five years in prison. He then went to his prison cell in Florida, using the library and a pencil with prison stationary appealed to the United States Supreme Court.

And, therefore, we have the case *Gideon v. Wainright* -- from the officer that took control from Cochran. Based upon that, we have the right to counsel. A young man during that time named Abe Fortas, who later became a Supreme Court Justice, took the case for Mr. Gideon before the Supreme Court and argued it. Then he came back and argued the case in the lower court with the counsel who did an investigation and talked to a cabdriver and, basically, Mr. Gideon was acquitted within one hour after the trial had occurred.

I want to take this moment to say coming up on March 18, 2013, marks the 50th year anniversary of *Gideon*.

**CO-SPONSORS ADDED**

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

S. 214 Sen. Ford

S. 382 Sens. Young, Hayes, Malloy

S. 457 Sen. O’Dell

**RECALLED**

H. 3724 -- Rep. Ballentine: A BILL TO AMEND SECTION 7‑7‑465, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN RICHLAND COUNTY, SO AS TO REDESIGNATE CERTAIN PRECINCTS, TO DESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

Senator LARRY MARTIN asked unanimous consent to make a motion to recall the Bill from the Committee on Judiciary.

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 522 -- Senators Campbell and Grooms: A CONCURRENT RESOLUTION TO RECOGNIZE THE SIGNIFICANT CONTRIBUTIONS AND ACCOMPLISHMENTS OF THE ALCOA MT. HOLLY PLANT IN GOOSE CREEK, SOUTH CAROLINA, UPON THEIR ONE HUNDRED TWENTY-FIFTH ANNIVERSARY AND TO DECLARE MARCH 20, 2013, AS “ALCOA APPRECIATION DAY” IN SOUTH CAROLINA.

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

S. 523 -- Senators Sheheen, L. Martin and Ford: A BILL TO AMEND SECTION 59-154-10 OF THE 1976 CODE, RELATING TO COOPERATION BETWEEN CAMPUS POLICE AND THE STATE LAW ENFORCEMENT DIVISION IN CAMPUS DEATH AND CRIMINAL SEXUAL ASSAULT CASES, TO CLARIFY THAT CAMPUS POLICE MAY ALSO COOPERATE WITH LOCAL LAW ENFORCEMENT OFFICIALS.

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

S. 524 -- Senators Massey, Setzler, Cromer and Nicholson: A BILL TO AMEND SECTION 12-10-85 OF THE 1976 CODE, RELATING TO RURAL INFRASTRUCTURE FUND GRANTS, TO PROVIDE THAT GRANTS MAY ALSO BE AWARDED TO COUNTIES WITH A POPULATION OF LESS THAN FORTY THOUSAND RESIDENTS AND MUNICIPALITIES LOCATED IN COUNTIES WITH A POPULATION OF LESS THAN FORTY THOUSAND RESIDENTS.

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

S. 525 -- Senators Campbell, O'Dell, McGill, Coleman, Scott, Cleary, Matthews and Setzler: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13-1-390 SO AS TO ESTABLISH WITHIN THE DIVISION OF STATE DEVELOPMENT OF THE DEPARTMENT OF COMMERCE THE CLEAN ENERGY INDUSTRY MANUFACTURING MARKET DEVELOPMENT ADVISORY COUNCIL AND PROVIDE FOR ITS MEMBERSHIP AND FUNCTIONS; TO AMEND SECTION 12-6-3588, RELATING TO THE RENEWABLE ENERGY TAX CREDIT INCENTIVE PROGRAM, SO AS TO REDESIGNATE THE PROGRAM THE “SOUTH CAROLINA CLEAN ENERGY TAX INCENTIVE PROGRAM”, TO REVISE DEFINITIONS TO EXTEND THE CREDIT TO ADDITIONAL FORMS OF ENERGY PRODUCTION AND OPERATIONS, TO DECREASE INVESTMENT THRESHOLDS AND DECREASE JOB CREATION THRESHOLDS FOR QUALIFYING FOR THE CREDIT AND MAKE THE CREDIT, PREVIOUSLY DUE TO EXPIRE DECEMBER 31, 2015, AVAILABLE THROUGH 2019 AND TO REVISE CREDIT ADMINISTRATION PROCEDURES; AND TO AMEND SECTION 12-6-3600, AS AMENDED, RELATING TO THE INCOME TAX CREDIT FOR CORN-BASED ETHANOL OR SOY-BASED BIODIESEL PRODUCTION IN THIS STATE, SO AS TO EXTEND THE CREDIT TO ALL LIQUID FUELS DERIVED FROM RENEWABLE SOURCES, MAKE CONFORMING DEFINITIONS, REDUCE THE AMOUNT OF LIQUID FUEL ELIGIBLE FOR THE CREDIT, AND TO EXTEND THE PERIOD DURING WHICH THE CREDIT MAY BE CLAIMED THROUGH 2019.

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

S. 526 -- Senator Campbell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3770 SO AS TO ALLOW A REFUNDABLE INCOME TAX CREDIT TO A DIGITAL MEDIA COMPANY PRODUCING A STATE-CERTIFIED PRODUCTION EQUAL TO TWENTY-FIVE PERCENT OF THE BASE INVESTMENT MADE BY THE DIGITAL MEDIA PRODUCTION COMPANY IN THE TAXABLE YEAR, TO DEFINE TERMS, AND TO SET FORTH THE PROCESS BY WHICH THE CREDIT MAY BE CLAIMED.

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

S. 527 -- Senators Shealy, Bryant, Hembree, Massey, Thurmond, Turner, Young, Davis and Bright: A BILL TO AMEND ARTICLE 6, CHAPTER 11, TITLE 16 OF THE 1976 CODE, RELATING TO PROTECTION OF PERSONS AND PROPERTY, TO ENACT THE “PREGNANT WOMEN’S PROTECTION ACT”, BY ADDING SECTION 16-11-441, TO DEFINE NECESSARY TERMS, AND TO PROVIDE THAT A PREGNANT WOMAN IS JUSTIFIED IN USING PHYSICAL FORCE OR DEADLY PHYSICAL FORCE AGAINST ANOTHER PERSON TO PROTECT HER UNBORN CHILD IF, UNDER THE CIRCUMSTANCES, SHE HAS A REASONABLE FEAR OF IMMINENT PERIL OF DEATH OR GREAT BODILY INJURY TO HERSELF OR HER UNBORN CHILD.

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

S. 528 -- Senators Shealy, Corbin, Hembree, Thurmond, Davis and Bright: A BILL TO AMEND CHAPTER 9, TITLE 15 OF THE 1976 CODE, RELATING TO SUMMONSES, ORDERS OF PUBLICATION, AND SERVICE OF PAPERS, BY ADDING SECTION 15-9-18, TO PROVIDE THAT A PROCESS SERVER, WHO IS NOT AN ACTIVE LAW ENFORCEMENT OFFICER, MAY NOT SERVE A SUMMONS, COMPLAINT, OR OTHER JUDICIAL DOCUMENTS BY ENTERING THE PRIVATE PROPERTY OF A LANDOWNER IF THE LANDOWNER POSTS “NO TRESPASSING” SIGNS AT CONSPICUOUS PLACES.

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

S. 529 -- Senators Shealy, Hembree and Thurmond: A BILL TO AMEND SECTION 16-17-650 OF THE 1976 CODE, RELATING TO COCKFIGHTING, TO INCREASE THE FINES AND PENALTIES FOR THE OFFENSE, CREATE A NEW OFFENSE OF BEING PRESENT AT A STRUCTURE, FACILITY, OR LOCATION WHERE COCKFIGHTING IS TAKING PLACE, AND TO PROVIDE AN EXCEPTION FOR MINORS PRESENT WHEN COCKFIGHTING IS TAKING PLACE UNDER CERTAIN CIRCUMSTANCES.

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

H. 3710 -- Ways and Means Committee: A BILL TO MAKE APPROPRIATIONS AND TO PROVIDE REVENUES TO MEET THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, TO REGULATE THE EXPENDITURE OF SUCH FUNDS, AND TO FURTHER PROVIDE FOR THE OPERATION OF STATE GOVERNMENT DURING THIS FISCAL YEAR AND FOR OTHER PURPOSES.

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

H. 3711 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2012-2013, AND TO ALLOW UNEXPENDED FUNDS APPROPRIATED TO BE CARRIED FORWARD TO SUCCEEDING FISCAL YEARS AND EXPENDED FOR THE SAME PURPOSES.

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

H. 3786 -- Reps. Erickson, M. S. McLeod, Spires, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Bedingfield, Bernstein, Bingham, Bowen, Bowers, Branham, Brannon, G. A. Brown, R. L. Brown, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, H. A. Crawford, K. R. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Edge, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Harrell, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Kennedy, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, Neal, Newton, Norman, Ott, Owens, Parks, Patrick, Pitts, Pope, Powers Norrell, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Southard, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Vick, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Wood: A CONCURRENT RESOLUTION TO RECOGNIZE THAT ABUSE AND NEGLECT OF CHILDREN IS A SIGNIFICANT PROBLEM AND TO DECLARE TUESDAY, APRIL 9, 2013, AS “CHILDREN’S ADVOCACY DAY” IN SOUTH CAROLINA.

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

H. 3800 -- Reps. Huggins and Ballentine: A CONCURRENT RESOLUTION TO RECOGNIZE AND CONGRATULATE COLUMBIA RADIO PERSONALITY JONATHON RUSH ON THE TWENTY-FIFTH ANNIVERSARY OF HIS RADIO PROGRAM, THE MORNING RUSH, TO COMMEND HIM FOR THE MANY CONTRIBUTIONS HE HAS MADE TO THE COLUMBIA-AREA METROPOLITAN RADIO MARKET, AND TO DECLARE MARCH 21, 2013, AS JONATHON RUSH DAY IN SOUTH CAROLINA.

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

H. 3801 -- Reps. G. R. Smith, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Bedingfield, Bernstein, Bingham, Bowen, Bowers, Branham, Brannon, G. A. Brown, R. L. Brown, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, H. A. Crawford, K. R. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Edge, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Harrell, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Kennedy, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, Neal, Newton, Norman, Ott, Owens, Parks, Patrick, Pitts, Pope, Powers Norrell, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, J. E. Smith, J. R. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Vick, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Wood: A CONCURRENT RESOLUTION TO RECOGNIZE AND EXPRESS DEEP APPRECIATION TO THE INDEPENDENT COLLEGES AND UNIVERSITIES IN SOUTH CAROLINA DURING “INDEPENDENT COLLEGE AND UNIVERSITY WEEK” OF APRIL 15 THROUGH 19, 2013, AND ON “INDEPENDENT COLLEGE AND UNIVERSITY DAY” ON APRIL 17, 2013, FOR THEIR OUTSTANDING CONTRIBUTIONS IN EDUCATING THE YOUTH OF OUR STATE AND NATION.

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

**REPORTS OF STANDING COMMITTEES**

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

S. 521 -- Senators Campsen, Sheheen and Scott: A BILL TO AMEND SECTION 59‑3‑10 OF THE 1976 CODE, RELATING TO THE ELECTION OF THE STATE SUPERINTENDENT OF EDUCATION, TO PROVIDE FOR THE APPOINTMENT OF THE SUPERINTENDENT BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, AND TO PROVIDE FOR THE TERM, QUALIFICATIONS, AND FILLING OF A VACANCY IN THE OFFICE SUPERINTENDENT; AND TO REPEAL SECTION 59‑3‑20.

**S. 521--Motion Adopted**

Senator COURSON asked unanimous consent to make a motion that the Bill be placed at the end of the Second Reading Calendar for consideration today.

There was no objection and the motion was adopted.

Senator HAYES from the Committee on Banking and Insurance submitted a favorable report on:

H. 3620 -- Reps. Sandifer and Gambrell: A BILL TO AMEND SECTION 38‑90‑160, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXEMPTION OF CAPTIVE INSURANCE COMPANIES FROM CERTAIN PROVISIONS OF TITLE 38, SO AS TO PROVIDE AN INDUSTRIAL INSURED CAPTIVE INSURANCE COMPANY IS SUBJECT TO CERTAIN REQUIREMENTS CONCERNING REPORTS FOR RISK‑BASED CAPITAL, ACQUISITIONS DISCLOSURE, AND ASSET DISPOSITION, AND CEDED REINSURANCE AGREEMENTS, AND TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY ELECT NOT TO TAKE REGULATORY ACTION CONCERNING RISK‑BASED CAPITAL IN SPECIFIC CIRCUMSTANCES.

Ordered for consideration tomorrow.

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

H. 3621 -- Reps. Sandifer and Gambrell: A BILL TO AMEND SECTION 38‑5‑120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REVOCATION OR SUSPENSION OF A CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS IN THIS STATE BY AN INSURER, SO AS TO REVISE PROVISIONS CONCERNING A REVOCATION OF THE LICENSEE OF A HAZARDOUS INSURER.

Ordered for consideration tomorrow.

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

**THIRD READING BILLS**

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

S. 262 -- Senators Leatherman, Setzler and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 44 TO TITLE 11 SO AS TO ENACT THE “HIGH GROWTH SMALL BUSINESS JOB CREATION ACT OF 2013” BY PROVIDING FOR STATE NONREFUNDABLE INCOME TAX CREDITS FOR QUALIFIED INVESTMENTS IN BUSINESSES MEETING CERTAIN CRITERIA AND PRIMARILY ENGAGED IN MANUFACTURING, PROCESSING, WAREHOUSING, WHOLESALING, SOFTWARE DEVELOPMENT, INFORMATION TECHNOLOGY SERVICES, RESEARCH AND DEVELOPMENT, OR OTHER NONPROHIBITED SERVICES, TO ESTABLISH THE CRITERIA AND PROCEDURES FOR THE CREDIT, AND TO MAKE THE CREDIT TRANSFERABLE.

**Recorded Vote**

Senators BRIGHT, DAVIS, SHEALY and BRYANT desired to be recorded as voting against the third reading of the Bill.

S. 476 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE BOARD OF FUNERAL SERVICE, RELATING TO FEES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4268, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**Recorded Vote**

Senators SHANE MARTIN and BRIGHT desired to be recorded as voting against the third reading of the Joint Resolution.

S. 477 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE BOARD OF FUNERAL SERVICE, RELATING TO REQUIREMENTS OF LICENSURE FOR FUNERAL SERVICE PROVIDERS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4318, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**Recorded Vote**

Senators SHANE MARTIN and BRIGHT desired to be recorded as voting against the third reading of the Joint Resolution.

**AMENDED, READ THE THIRD TIME**

**SENT TO THE HOUSE**

S. 214 -- Senators Fair and Ford: A BILL TO AMEND SECTION 40‑30‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING THE MASSAGE/BODYWORK PRACTICE ACT, SO AS TO DELETE THE DEFINITION OF THE DISCIPLINARY PANEL; TO AMEND SECTION 40‑30‑40, RELATING TO THE ADVISORY PANEL FOR MASSAGE/BODYWORK THERAPY UNDER THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, SO AS TO REDESIGNATE THE ADVISORY PANEL TO BE KNOWN AS THE PANEL, TO DELETE CERTAIN QUALIFICATIONS FOR PANEL MEMBERS, TO REDUCE THE TERM OF A PANEL MEMBER TO TWO YEARS, AND TO PROVIDE COMPENSATION FOR MEMBERS; TO AMEND SECTION 40‑30‑50, RELATING TO DUTIES OF THE PANEL, SO AS TO PROVIDE ADDITIONAL DUTIES AND POWERS; TO AMEND SECTIONS 40‑30‑220, RELATING TO EQUITABLE REMEDIES AVAILABLE TO THE PANEL, 40‑30‑230, RELATING TO GROUNDS OF MISCONDUCT, 40‑30‑240, RELATING TO INVESTIGATIONS OF MISCONDUCT RELATED TO SUBSTANCE ABUSE, 40‑30‑250, RELATING TO DISCIPLINARY ACTIONS, 40‑30‑260, RELATING TO VOLUNTARY SURRENDER OF A LICENSE, 40‑30‑270, RELATING TO APPEALS FROM DISCIPLINARY PANEL DECISIONS, 40‑30‑300, RELATING TO SERVICE OF PROCESS ON NONRESIDENTS, AND 40‑30‑310, RELATING TO CIVIL PENALTIES, ALL SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 40‑30‑60, RELATING TO USE OF EMPLOYEES OF THE DEPARTMENT AND PROMULGATION OF REGULATIONS BY THE BOARD, SO AS TO REMOVE OBSOLETE REFERENCES; TO AMEND SECTION 40‑30‑90, RELATING TO REPORTING REQUIREMENTS, SO AS TO REMOVE AN OBSOLETE REFERENCE; AND TO AMEND SECTION 40‑30‑110, RELATING TO QUALIFICATIONS FOR LICENSURE, SO AS TO REQUIRE CLASSROOM STUDY INSTEAD OF SUPERVISED STUDY, AND TO SPECIFY PROFESSIONAL EXAMINATIONS CONSIDERED ACCEPTABLE FOR LICENSURE; AND TO REPEAL SECTION 40‑30‑65, RELATING TO THE CREATION AND STRUCTURE OF THE DISCIPLINARY PANEL, SECTION 40‑30‑70, RELATING TO DUTIES OF THE DISCIPLINARY PANEL, AND SECTION 40‑30‑210, RELATING TO PROCEDURES BEFORE THE DISCIPLINARY PANEL.

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

**Motion Under Rule 26B**

Senator HUTTO asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection.

Senators HUTTO and MATTHEWS proposed the following amendment (214R003.CBH), which was adopted:

Amend the bill, as and if amended, page 8, by striking lines 5-7 and inserting:

/ ~~(7)~~ ~~has committed dishonorable, unethical, or unprofessional conduct that is likely to deceive, defraud, or harm the public;~~

~~(8)~~(7) lacks the professional or ethical competence to practice massage/bodywork;

~~(9)~~(8) has been convicted of or has pled guilty to or nolo contendere to a violent crime as defined in Section 16-1-60, during the previous five years has been convicted of or has pled guilty to or nolo contendere to a felony ~~or a crime which~~ that directly relates to the practice or ability to practice massage/bodywork, or during the previous seven years has been convicted of or has pled guilty to or nolo contendere to a felony, an essential element of which is dishonesty, that reasonably relates to the ability to practice massage/bodywork;

~~(10)~~(9) has practiced massage/bodywork while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him or her unfit to practice massage/bodywork;

~~(11)~~(10) has sustained a physical or mental disability, as determined by a physician~~, which~~ that renders further practice by the licensee dangerous to the public. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

The amendment was adopted.

The question then was third reading of the Bill.

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

**Ayes 42; Nays 2**

**AYES**

Alexander Allen Bennett

Campbell Campsen Cleary

Coleman Corbin Courson

Cromer Davis Fair

Ford Gregory Grooms

Hayes Hembree Hutto

Jackson Johnson Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McElveen

McGill Nicholson O'Dell

Peeler Pinckney Reese

Scott Setzler Shealy

Sheheen Thurmond Turner

Verdin Williams Young

**Total--42**

**NAYS**

Bright Bryant

**Total--2**

There being no further amendments, the Bill was read the third time, passed and ordered sent to the House of Representatives with amendments.

**SECOND READING BILL**

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

S. 517 -- Senators Massey and Nicholson: A BILL TO AMEND ACT 185 OF 1997, RELATING TO THE BOARD OF TRUSTEES OF SCHOOL DISTRICT NO. 4 OF MCCORMICK COUNTY, TO PROVIDE THAT IN THE EVENT OF A VACANCY ON THE BOARD OCCURRING FOR ANY REASON OTHER THAN EXPIRATION OF A TERM, THE BOARD SHALL CALL A SPECIAL ELECTION TO FILL THE UNEXPIRED TERM, AND TO MAKE TECHNICAL CHANGES.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**AMENDED, READ THE SECOND TIME**

S. 75 -- Senator Cromer: A BILL TO AMEND SECTION 40‑57‑130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LICENSE RENEWALS FOR REAL ESTATE BROKERS AND SALESMEN, SO AS TO REQUIRE A CRIMINAL BACKGROUND CHECK FROM A SOURCE APPROVED BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION; AND BY ADDING SECTION 40‑57‑245 SO AS TO REQUIRE THAT THE DEPARTMENT ASSIGN ONE INVESTIGATOR FOR EVERY TWO THOUSAND FIVE HUNDRED LICENSEES TO ENSURE COMPLAINTS ARE PROCESSED AND CONSIDERED IN AN EXPEDITIOUS MANNER.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Labor, Commerce and Industry.

Senator MASSEY proposed the following amendment (75R002.ASM), which was adopted:

Amend the committee report, as and if amended, by striking SECTIONS 1 and 2 and inserting:

/ SECTION 1. Chapter 57, Title 40 of the 1976 Code is amended by adding:

“Section 40‑57‑115. In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for licensure as a salesman, broker, broker‑in‑charge, property manager, and property manager‑in‑charge, the commission shall require initial applicants to submit to a state criminal records check, by a source approved by the commission, and a national criminal records check. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.”

SECTION 2. Section 40‑57‑150 of the 1976 Code is amended to read:

“Section 40‑57‑150. (A) Investigations must be conducted in accordance with Section 40‑1‑80 and must be performed by investigators who have completed one hundred hours of training in programs that are approved by the commission and provide instruction on real estate principles, state statutory and regulatory law, and investigative techniques.

(B) A restraining order must be obtained in accordance with Section 40‑1‑100.

(C)(1) Whenever the department has reason to believe that a violation of this chapter has occurred, an investigation must be initiated within thirty days.

(2) The department shall conclude its investigation within one hundred fifty days from receipt of the complaint or seek a waiver of this period from the commission upon a showing of due diligence and extenuating circumstances.

(~~2~~3) A hearing on the charges must be at the time and place designated by the commission and must be conducted in accordance with the Administrative Procedures Act.

(~~3~~4) The commission shall render a decision and shall serve, within ninety days, notice, in writing, of the commission’s decision to the licensee charged. The commission also shall state in the notice the date upon which the ruling or decision becomes effective.

(~~4~~5) The department shall maintain a public docket or other permanent record in which must be recorded all orders, consent orders, or stipulated settlements.

(D) A licensee may voluntarily surrender his license in accordance with Section 40‑1‑150.

(E)(1) The commission may impose disciplinary action in accordance with Section 40‑1‑120.

(2) Upon determination by the commission that one or more of the grounds for discipline exists, as provided for in Section 40‑1‑110 or Section 40‑57‑140, the commission may impose a fine of not less than one hundred or more than one thousand dollars for each violation. The commission may recover the costs of the investigation and the prosecution as provided for in Section 40‑1‑170.

(3) Nothing in this section prevents a licensee from voluntarily entering into a consent order with the commission wherein violations are not contested and sanctions are accepted.

(F) The department shall annually post a report that provides the data for the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.” /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the perfecting amendment.

The amendment was adopted.

The Committee on Labor, Commerce and Industry proposed the following amendment (n:\s-res\amend\75r001.tca.docx), which was adopted:

Amend the bill, as and if amended, by striking SECTION 1 and SECTION 2 and inserting:

/ SECTION 1. Chapter 57, Title 40 of the 1976 Code is amended by adding:

“Section 40‑57‑133. In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for licensure as a salesman, broker, broker‑in‑charge, property manager, and property manager‑in‑charge, the commission shall require applicants to submit to a state criminal records check, by a source approved by the commission, and a national criminal records check. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.”

SECTION 2. Chapter 57, Title 40 of the 1976 Code is amended by adding:

“Section 40‑57‑245. The department must assign one investigator for every ~~two~~ ten thousand ~~five hundred~~ licensees to ensure that complaints are processed and considered in an expeditious manner.”/

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

Senators HUTTO and MATTHEWS proposed the following amendment (75R003.CBH), which was adopted:

Amend the bill, as and if amended, page 2, line 5, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_\_. Section 40-57-145(A)(8) of the 1976 Code is amended to read:

“(8) is convicted of violating the federal and state fair housing laws, forgery, embezzlement, breach of trust, larceny, obtaining money or property under false pretense, extortion, fraud, conspiracy to defraud, or ~~any other offense classified as a felony or involving moral turpitude, or pleading guilty or nolo contendere to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court~~ has been convicted of a violent crime as defined in Section 16-1-60, has been convicted during the previous five years of a felony directly related to the practice of the profession, or has been convicted during the previous seven years of a felony, an essential element of which is dishonesty, reasonably related to the practice of the profession, or pleading guilty or nolo contendere to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court;” /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

The amendment was adopted.

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

**Ayes 44; Nays 0**

**AYES**

Alexander Allen Bennett

Bright Bryant Campbell

Campsen Cleary Coleman

Corbin Courson Cromer

Davis Fair Ford

Gregory Grooms Hayes

Hembree Hutto Jackson

Johnson Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McElveen

McGill Nicholson O'Dell

Peeler Pinckney Reese

Setzler Shealy Sheheen

Thurmond Turner Verdin

Williams Young

**Total--44**

**NAYS**

**Total--0**

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

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

S. 310 -- Senators Alexander and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑29‑95 SO AS TO PROVIDE THE MANUFACTURED HOUSING BOARD SHALL ADOPT CERTAIN FINANCIAL RESPONSIBILITY GUIDELINES FOR ITS LICENSEES; BY ADDING SECTION 40‑29‑225 SO AS TO PROVIDE CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF LICENSURE AS A MANUFACTURED HOME RETAIL DEALER, RETAIL SALESMAN, INSTALLER, CONTRACTOR, OR REPAIRER; BY ADDING SECTION 40‑29‑325 SO AS TO PROVIDE A DEALER SHALL INCLUDE HIS LICENSE NUMBER IN ADVERTISING, TO PROVIDE AN EXCEPTION, AND TO PROVIDE PENALTIES FOR A VIOLATION; BY ADDING SECTION 40‑29‑500 SO AS TO PROVIDE FAILURE TO OBTAIN AN APPROPRIATE BUILDING PERMIT BEFORE INSTALLING A MANUFACTURED HOME CONSTITUTES A VIOLATION; TO AMEND SECTION 40‑29‑80, RELATING TO BASES FOR SUSPENDING, REVOKING, RESTRICTING, OR DENYING A LICENSE BY THE BOARD, SO AS TO INCLUDE THE AIDING OR ABETTING AN UNLICENSED ENTITY TO EVADE THE PROVISIONS OF THE CHAPTER OR TO ALLOW USE OF A LICENSE BY AN UNLICENSED ENTITY; TO AMEND SECTION 40‑29‑200, RELATING TO APPLICATIONS FOR LICENSURE AND RENEWAL, SO AS TO PROVIDE AN APPLICANT FOR LICENSURE AS A RETAIL DEALER SHALL GIVE THE BOARD A FINANCIAL STATEMENT REVIEWED BY A CERTIFIED PUBLIC ACCOUNTANT, TO PROVIDE THE HOLDER OF A LIEN ON A MANUFACTURED HOME IS NOT SUBJECT TO THE PROVISIONS OF THIS CHAPTER FOR THE SALE, EXCHANGE, OR TRANSFER BY LEASE‑PURCHASE A REPOSSESSED MANUFACTURED HOME MADE THROUGH A LICENSED MANUFACTURED HOME RETAILER, AND TO PROVIDE A PERSON LICENSED BY ANOTHER BOARD OR COMMISSION IN THIS STATE MAY NOT INSTALL A MANUFACTURED HOME BUT MAY REPAIR, INSPECT, OR IMPROVE A MANUFACTURED HOME CONSISTENT WITH THE REQUIREMENTS OF HIS LICENSE; AND TO AMEND SECTION 40‑29‑230, RELATING TO VIOLATIONS OF SURETY BOND, CLAIM, AND RELEASE REQUIREMENTS FOR APPLICANTS FOR LICENSURE BY THE BOARD, SO AS TO INCLUDE THE INABILITY OF AN APPLICANT TO SATISFY REQUISITE FINANCIAL RESPONSIBILITY GUIDELINES AS A BASIS FOR INCREASING THE AMOUNT OF THE REQUIRED SURETY BOND OR OTHER APPROVED SECURITY.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Labor, Commerce and Industry.

Senators HUTTO and MATTHEWS proposed the following amendment (310R001.CBH), which was adopted:

Amend the committee amendment, as and if amended, page [310-3], by striking lines 12-31 and inserting:

/ (~~E~~F) The board may deny a license to an applicant who submits an application meeting the requirements of this chapter if the applicant has been convicted in a court of competent jurisdiction of a violent crime as defined in Section 16-1-60, a felony within the prior five years directly related to any aspect of the business of manufactured housing, or a felony within the prior seven years, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing ~~or an offense involving moral turpitude~~.

(~~F~~G) No person may be issued a license as a manufactured home retail dealer unless the person can show proof satisfactory to the board of two years’ experience in the manufactured home industry or other relevant experience acceptable to the board.

(~~G~~H) Notwithstanding any other provision of law, the board may not grant reciprocity or issue a license to an applicant:

(1) whose license in another state is currently restricted in any way, including probationary or other conditions, or was surrendered in lieu of disciplinary action or was revoked;

(2) who has disciplinary action pending against him in another state; or

(3) who is currently under sentence, including probation or parole, for a ~~felony, crime of moral turpitude, or other criminal violation related to any aspect of the business of manufactured housing~~ violation of Section 16-1-60, a felony within the prior five years directly related to any aspect of the business of manufactured housing, or a felony within the prior seven years, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the perfecting amendment.

The amendment was adopted.

The Committee on Labor, Commerce and Industry proposed the following amendment (AGM\310C002.AGM.AB13), which was adopted:

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

/ SECTION 1. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑95. (A) The board shall consider the financial responsibility of an applicant as determined by this section and regulations promulgated by the board.

(B) A retail dealer applicant who has a net worth of less than one hundred fifty thousand dollars or a credit score of less than six hundred fifty must appear before the board.

(C) Should the board license an applicant who is unable to meet the financial responsibility guidelines of this section or the regulations of the board, then the board may modify or restrict the activities of the licensee.”

SECTION 2. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑325. Licensed, manufactured housing retail dealers shall include their dealer license number on any print, Internet, or email advertisement by the retail dealer for the sale of a manufactured home located in South Carolina.”

SECTION 3. Section 40‑29‑200 of the 1976 Code is amended to read:

“Section 40‑29‑200. (A) All licenses expire June thirtieth of each even‑numbered year following the date of issue, unless sooner revoked or suspended.

(B) An applicant for licensure shall:

(1) demonstrate financial responsibility as required by ~~regulations of the board~~ Section 40‑29‑95;

(2) for a retail dealer, provide a financial statement reviewed by a licensed certified public accountant;

(~~2~~3) not have engaged illegally in the licensed classification;

(~~3~~4) demonstrate familiarity with the regulations adopted by the board concerning the classification for which application is made;

(~~4~~5) if a corporation, have complied with the laws of South Carolina regarding qualification for doing business in this State or have been incorporated in South Carolina and have and maintain a registered agent and a registered office in this State;

(~~5~~6) submit proof of registration with the Department of Revenue and submit a current tax identification number;

(~~6~~7) where applicable, pass an examination administered by the board or its designated test provider in the license classification for which application is made;

(~~7~~8) where applicable, complete training as prescribed by the board.

(C) A manufactured housing license is not required for a licensed real estate salesman or licensed real estate broker who negotiates or attempts to negotiate for any legal entity the listing, sale, purchase, exchange, lease, or other disposition of a used manufactured or mobile home in conjunction with the listing, sale, purchase, exchange, lease, or other disposition of real estate upon which the used manufactured or mobile home is located.

(D) The holder of a lien on a manufactured home who sells, exchanges, or transfers by lease‑purchase a repossessed manufactured home subject to the lien is not subject to the provisions of this chapter if the sale, exchange, or transfer is through a licensed manufactured home retail dealer. A sale by a lienholder conducted through the foreclosure process of Section 29‑3‑610, et seq. may not be subject to the provisions of this chapter.

(~~D~~E) A license must be issued in only one person’s name who may be the individual owner, stockholder, copartner, manufactured home retail salesman or other representative of a manufactured home manufacturer, manufactured home retail dealer, or other entity required to be licensed. It is the duty of a manufactured home retail dealer and manufactured home manufacturer to conspicuously display the licenses in the established place of business. Manufactured home retail salesmen and manufactured home contractors, installers, and repairers are required to carry their licenses on their persons at all times when they are doing business in this State, and they must be shown upon request.

(~~E~~F) The board may deny a license to an applicant who submits an application meeting the requirements of this chapter if the applicant has been convicted in a court of competent jurisdiction of a felony within the prior seven years or an offense involving moral turpitude.

(~~F~~G) No person may be issued a license as a manufactured home retail dealer unless the person can show proof satisfactory to the board of two years’ experience in the manufactured home industry or other relevant experience acceptable to the board.

(~~G~~H) Notwithstanding any other provision of law, the board may not grant reciprocity or issue a license to an applicant:

(1) whose license in another state is currently restricted in any way, including probationary or other conditions, or was surrendered in lieu of disciplinary action or was revoked;

(2) who has disciplinary action pending against him in another state; or

(3) who is currently under sentence, including probation or parole, for a felony, crime of moral turpitude, or other criminal violation related to any aspect of the business of manufactured housing.

(~~H~~I)(1) An applicant may be granted an apprentice salesperson license for up to one hundred twenty days. An apprentice salesperson license may not be issued to an applicant if the applicant has ever been:

(a) denied any type of license issued pursuant to this chapter;

(b) subject to suspension or revocation of a license issued pursuant to this chapter; or

(c) subject to any disciplinary action taken in accordance with this chapter.

(2) An applicant is subject to all of the requirements of this chapter and regulations promulgated pursuant to this chapter, except that an applicant is not required to complete the training, testing, and bond requirements established for a regular retail salesperson license.”

SECTION 4. Section 40‑29‑230(B)(3) of the 1976 Code is amended to read:

“(3) The board, upon a finding of a violation by a licensee or that an applicant is unable to meet the financial responsibility guidelines, may further require the licensee to increase the amount of a surety bond or other approved security. An increase must be proportioned to the seriousness of the offense ~~or~~, the repeat nature of the licensee’s violations, ~~but the~~ or related to the financial condition of an applicant. The total amount may not exceed an additional seventy‑five thousand dollars for manufacturers, fifty thousand dollars for dealers, twenty thousand dollars for salespersons, and ten thousand dollars for manufactured home contractors, installers, and repairers. The board, after one year, may reduce an increased surety bond or other approved security when satisfied that violations have been cured by appropriate corrective action and that the licensee is otherwise in good standing. The bonds cannot be reduced below amounts provided in this section.”

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 43; Nays 0**

**AYES**

Alexander Allen Bennett

Bright Bryant Campbell

Campsen Cleary Coleman

Corbin Courson Cromer

Davis Fair Ford

Gregory Grooms Hayes

Hembree Hutto Jackson

Johnson Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McElveen McGill

Nicholson O'Dell Peeler

Pinckney Reese Setzler

Shealy Sheheen Thurmond

Turner Verdin Williams

Young

**Total--43**

**NAYS**

**Total--0**

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 382 -- Senators Grooms, Alexander, L. Martin, Campbell, Davis, McGill, Nicholson, O’Dell, Reese, Shealy, Johnson, Verdin, Williams, Cleary, Allen, Rankin, Setzler, Lourie, Scott, Ford, Turner, Bennett, Corbin, Bright, Hutto, Jackson, Sheheen, Pinckney, Cromer, Hembree, Matthews, McElveen, Young, Hayes and Malloy: A BILL TO AMEND SECTION 56-15-10, RELATING TO DEFINITIONS FOR REGULATING MANUFACTURERS, DISTRIBUTORS, AND DEALERS, TO DEFINE THE TERMS “DUE CAUSE” AND “MATERIAL BREACH”; TO AMEND SECTION 56-15-40, RELATING TO SPECIFIC ACTS DEEMED UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES, TO PROVIDE THAT A MANUFACTURER, DISTRIBUTOR, WHOLESALER, DISTRIBUTOR BRANCH OR DIVISION, FACTORY BRANCH OR DIVISION, WHOLESALE BRANCH OR DIVISION, OR FINANCIAL ARM, OFFICER, AGENT, OR OTHER REPRESENTATIVE THEREOF, MAY NOT REQUIRE OR COERCE A MOTOR VEHICLE DEALER TO OFFER TO SELL OR SELL ANY EXTENDED SERVICE CONTRACT, EXTENDED MAINTENANCE PLAN, FINANCIAL PRODUCT, OR INSURANCE PRODUCT OFFERED, SOLD, OR SPONSORED BY THE MANUFACTURER OR TO SELL, ASSIGN, OR TRANSFER ANY RETAIL INSTALLMENT SALES CONTRACT OR LEASE OBTAINED BY THE MOTOR VEHICLE DEALER IN CONNECTION WITH THE SALE OR LEASE OF A NEW MOTOR VEHICLE MANUFACTURED BY THE MANUFACTURER TO A SPECIFIED FINANCE COMPANY, CLASS OF FINANCE COMPANIES, LEASING COMPANY, CLASS OF LEASING COMPANIES, OR TO ANY OTHER SPECIFIED PERSON; TO AMEND CHAPTER 15, TITLE 56 BY ADDING SECTION 56-15-47, TO PROVIDE THAT A MANUFACTURER MAY NOT PREVENT A MOTOR VEHICLE DEALER FROM DESIGNATING A SUCCESSOR TO THE DEALERSHIP IN THE EVENT OF DEATH OR INCAPACITY OF THE MOTOR VEHICLE DEALER; TO AMEND SECTION 56-15-60, RELATING TO MOTOR VEHICLE DEALER’S CLAIMS FOR COMPENSATION, TO PROVIDE THAT ALL WARRANTY CLAIMS, SERVICE CLAIMS, OR INCENTIVE CLAIMS NOT SPECIFICALLY DISAPPROVED IN WRITING WITHIN THIRTY DAYS OF RECEIPT SHALL BE CONSTRUED AS APPROVED AND PAYMENT MUST FOLLOW WITHIN THIRTY DAYS, AND A MANUFACTURER SHALL NOT UNREASONABLY DISAPPROVE A CLAIM THAT RESULTS IN A CLERICAL OR ADMINISTRATIVE ERROR AND THAT CLAIM DISAPPROVAL MUST BE BASED ON A MATERIAL DEFECT; TO AMEND CHAPTER 15, TITLE 56 BY ADDING SECTION 56-15-95, TO PROVIDE THAT A MANUFACTURER MAY NOT TERMINATE OR CANCEL A FRANCHISE OR SELLING AGREEMENT OF A MOTOR VEHICLE DEALER WITHOUT DUE CAUSE, AND TO DETERMINE WHETHER DUE CAUSE EXISTS, THE COURT SHALL TAKE INTO CONSIDERATION CERTAIN FACTORS PROVIDED IN THE SECTION; BY ADDING SECTION 56-15-96, TO PROVIDE THAT A PERFORMANCE STANDARD, SALES EFFECTIVENESS STANDARD, SALES OBJECTIVE, OR PROGRAM FOR MEASURING DEALERSHIP PERFORMANCE THAT MAY HAVE A MATERIAL EFFECT ON A MOTOR VEHICLE DEALER SHALL BE FAIR, REASONABLE, EQUITABLE, BASED ON ACCURATE INFORMATION, AND UNIFORMLY APPLIED TO OTHER SIMILARLY SITUATED MOTOR VEHICLE DEALERS; AND BY ADDING SECTION 56-15-98, TO PROVIDE A MANUFACTURER OR DISTRIBUTOR, OFFICER, AGENT, OR ANY REPRESENTATIVE OF A MANUFACTURER OR DISTRIBUTOR MAY NOT UNREASONABLY ALTER A NEW MOTOR VEHICLE DEALER’S AREA OF RESPONSIBILITY, AND TO PROVIDE A PROCEDURE TO ALTER A NEW MOTOR VEHICLE DEALER’S AREA OF RESPONSIBILITY.

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

The Committee on Transportation proposed the following amendment (382R002.LKG), which was adopted:

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

/ SECTION 1. Section 56‑15‑10(r) of the 1976 Code is amended to read:

“(r) ~~[Deleted]~~ ‘Due cause’ means a material breach by a dealer of a lawful provision of a franchise or selling agreement that is not cured within a reasonable period of time after being given prior written notice of the specific material breach.

(s) ‘Material breach’ means a contract violation that is substantial and significant.”

SECTION 2. A. Section 56‑15‑40(2) of the 1976 Code is amended to read:

“(2) It shall be deemed a violation of paragraph (a) of Section 56‑15‑30 for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or an officer, agent or other representative ~~thereof~~, to require, coerce, or attempt to coerce, any motor vehicle dealer:

(a) ~~To~~ to order or accept delivery of any motor vehicle or vehicles, appliances, equipment, parts or accessories ~~therefor~~, or any other commodity or commodities which such motor vehicle dealer has not voluntarily ordered~~.~~;

(b) ~~To~~ to order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of said motor vehicles as publicly advertised by the manufacturer thereof~~.~~;

(c) ~~To~~ to order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever;

(d) to offer to sell or to sell any extended service contract, extended maintenance plan, financial product, or insurance product offered, sold, or sponsored by the manufacturer, or distributor, or wholesaler. Nothing in this subsection shall prohibit a manufacturer or distributor or financial arm from providing functionally available incentive programs to a motor vehicle dealer who voluntarily offers to sell or sells any extended service contract, extended maintenance plan, financial product, or insurance product offered, sold, or sponsored by the manufacturer or distributor or financial arm;

(e) to sell, assign, or transfer any retail installment sales contract or lease obtained by the motor vehicle dealer in connection with the sale or lease of a new motor vehicle manufactured by the manufacturer to a specified finance company, class of finance companies, leasing company, class of leasing companies, or to any other specified person.”

B. Section 56‑15‑40 of the 1976 Code is amended by adding an appropriately numbered new subsection to read:

“( )(a) For purposes of this subsection, a ‘financial services company’ means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated or controlled, in whole or in part, by a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division.

(b) A manufacturer or distributor may not use any financial services company or leasing company owned or controlled by the manufacturer or distributor to accomplish what would otherwise be illegal conduct on the part of the manufacturer or distributor pursuant to subitems (2)(d) or (e).”

SECTION 3. Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑47. A manufacturer may not prevent a motor vehicle dealer from designating a successor to the dealership in the event of death or incapacity of the motor vehicle dealer. The designation may be made by the motor vehicle dealer by will or other written instrument or, in the event of his death or incapacity, by the qualified executor or personal representative of the motor vehicle dealer by will or other written instrument. No individual may succeed to a franchise until the franchisor has been given written notice as to the identity, financial ability, and qualifications of the successor in question. The manufacturer or distributor is not required to accept a succession which does not meet the manufacturer’s or distributor’s written, reasonable, and uniformly applied minimal standard qualifications. The burden of proof shall be on the manufacturer or distributor to show that the succession does not meet the manufacturuer’s or distributor’s written, reasonable, and uniformly applied minimal standard qualifications.”

SECTION 4. Section 56‑15‑60 of the 1976 Code is amended to read:

“Section 56‑15‑60. (A)(1) Every manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division must fulfill properly a warranty agreement and compensate adequately and fairly each of its motor vehicle dealers for labor and parts. All warranty claims, service claims, or incentive claims made by motor vehicle dealers pursuant to this section and Section 56‑15‑50 for labor and parts must be paid within thirty days following their approval. All claims must be either approved or disapproved within thirty days after their receipt. Any claim not specifically disapproved in writing within thirty days of receipt shall be construed as approved and payment must follow within thirty days. The motor vehicle dealer who submits a disapproved claim must be notified in writing of its disapproval within that period, and the notice must state the specific grounds upon which the disapproval is based.

(2) A claim disapproval must be based on a material defect. A manufacturer shall not disapprove claims:

(a) for which the motor vehicle dealer has received preauthorization from the manufacturer or its representative; or

(b) based on the motor vehicle dealer’s incidental failure to comply with a specific claim processing requirement that results in a clerical or administrative error.

(3) In the event of neglect, oversight, or mistake by the motor vehicle dealer, the dealer may submit an amended claim for labor and parts up to sixty days from the date on which the manufacturer provided written notice to the motor vehicle dealer of the material defect or deviation. The motor vehicle dealer must substantiate the claim in accordance with the manufacturer’s reasonable written procedures.

(4) Any special handling of claims required by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, but not uniformly required of all dealers of that make, may be enforced only after thirty days’ notice in writing of good and sufficient reason.”

SECTION 5. Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑95. (A) A manufacturer may not terminate or cancel a franchise or selling agreement of a motor vehicle dealer without due cause.

(B) The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation regardless of the terms of the franchise or selling agreement.

(C) In determining whether due cause exists, the court shall take into consideration:

(1) the motor vehicle dealer’s sales in relation to the business available to the motor vehicle dealer;

(2) the motor vehicle dealer’s investment and obligations;

(3) whether the motor vehicle dealer was provided adequate inventory;

(4) injury to the public welfare;

(5) the adequacy of the motor vehicle dealer’s sales and service facilities, equipment, and parts;

(6) the qualifications of the management, sales, and service personnel to provide the consumer with reasonably good service and care of new motor vehicles;

(7) the motor vehicle dealer’s failure to comply with the requirements of the franchise agreement;

(8) the opportunity to cure the alleged breach; and

(9) the harm caused to the manufacturer or distributor.”

SECTION 6. Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑96. (A) A performance standard, sales effectiveness standard, sales objective, or program for measuring dealership performance that may have a material effect on a motor vehicle dealer, including, but not limited to, his right to payment under any incentive or reimbursement program, shall be fair, reasonable, equitable, based on accurate information, and uniformly applied to other similarly situated motor vehicle dealers.

(B) If a motor vehicle dealer protests a new performance standard, sales effectiveness standard, sales objective, or program for measuring dealership performance, the burden of proof shall be on the manufacturer to show the action is reasonable and justifiable in light of the market conditions.”

SECTION 7. Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑98. (A) A manufacturer or distributor, officer, agent, or any representative of a manufacturer or distributor may not unreasonably alter a new motor vehicle dealer’s area of responsibility.

(B) To alter a new motor vehicle dealer’s area of responsibility, a manufacturer or distributor, officer, agent, or any representative of a manufacturer or distributor must provide advance notice to the motor vehicle dealer including an explanation of the basis for the alteration at least sixty days before the effective date of the alteration.

(C)(1) At any time prior to the effective date of an alteration of a new motor vehicle dealer’s area of responsibility, and after the completion of any internal appeal process pursuant to the manufacturer’s or distributor’s policy manual, the motor vehicle dealer may petition the court to enjoin or prohibit the alteration.

(2) The court shall enjoin or prohibit the alteration of a motor vehicle dealer’s area of responsibility unless the franchisor shows, by a preponderance of the evidence, that the alteration is reasonable and justifiable in light of market conditions.

(3) If a motor vehicle dealer petitions the court, no alteration to a motor vehicle dealer’s area of responsibility shall become effective until a final determination by the court.

(D) If a new motor vehicle dealer’s area of responsibility is altered, the manufacturer shall allow twenty-four months for the motor vehicle dealer to become sales effective prior to taking any action claiming a breach or nonperformance of the motor vehicle dealer’s sales performance responsibilities.”

SECTION 8. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator CAMPBELL explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 40; Nays 0; Abstain 1**

**AYES**

Alexander Allen Bennett

Bright Bryant Campbell

Campsen Cleary Coleman

Corbin Courson Cromer

Davis Fair Ford

Gregory Hayes Hembree

Hutto Jackson Johnson

Leatherman Lourie Malloy

*Martin, Larry* Massey McElveen

McGill Nicholson O'Dell

Peeler Reese Setzler

Shealy Sheheen Thurmond

Turner Verdin Williams

Young

**Total--40**

**NAYS**

**Total--0**

**ABSTAIN**

*Martin, Shane*

**Total--1**

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

**OBJECTION TO FURTHER CONSIDERATION**

S. 237 -- Senators Shealy, Setzler, Courson, Turner, Cromer, Massey and Young: A BILL TO AMEND SECTION 10‑1‑161 OF THE 1976 CODE, RELATING TO STATE CAPITOL BUILDING FLAGS FLOWN AT HALF‑STAFF, TO PROVIDE THAT FLAGS ATOP THE STATE CAPITOL BUILDING MUST BE LOWERED TO HALF‑STAFF FOR MEMBERS OF THE UNITED STATES MILITARY SERVICES, WHO WERE RESIDENTS OF THIS STATE AND WHO LOST THEIR LIVES IN THE LINE OF DUTY, ON THE DAY WHEN THEIR NAMES ARE RELEASED TO THE GENERAL PUBLIC, AND THE FLAGS SHALL REMAIN AT HALF‑STAFF UNTIL AT LEAST DAWN THE SECOND DAY AFTER FUNERAL SERVICES ARE CONDUCTED.

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

Senator FAIR explained the committee amendment.

Senator MALLOY spoke on the Bill.

Senator HAYES objected to further consideration of the Bill.

**AMENDMENT PROPOSED**

**OBJECTION TO FURTHER CONSIDERATION OF THE BILL**

S. 261 -- Senators Leatherman, Setzler and Ford: A BILL TO AMEND SECTION 12‑6‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO JANUARY 2, 2013, AND TO DELETE AN INAPPLICABLE SUBITEM.

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

Senator HUTTO proposed the following amendment (NL\  
261C003.NL.DG13):

Amend the amendment bearing document number P:\  
LEGWORK\SENATE\amend\COUNCIL\NL\261.002.NL.DG13.docx, as and if amended, by striking the amendment in its entirety and inserting:

/ SECTION \_\_\_. (A) For tax year 2013, if the updated reference to the Internal Revenue Code contained in SECTION 1 of this Act result in an increased tax liability for a taxpayer compared to if reference to the Internal Revenue Code remained through December 31, 2011, then the taxpayer may claim a refundable credit equal to the amount of the increased tax liability, in the manner that the Department of Revenue shall prescribe. The credit may be claimed in tax year 2013 or 2014.

(B)(1) By December 1, 2013, the department must estimate the amount of credits claimed pursuant to this section in tax year 2013. Based on the estimate, each member of the General Assembly’s legislative salary, including in-district expense payments, shall be reduced equally by an amount sufficient to equal the amount of the estimate. The Senate and the House of Representatives shall transfer the reduced amount to the general fund.

(2) By December 1, 2014, the department must estimate the amount of credits claimed pursuant to this section in tax year 2014. If the department under estimated the amount claimed in 2013, the excess amount must be added to the 2014 estimate. Based on the estimate, plus any amount added from 2013, each member of the General Assembly’s legislative salary shall be reduced equally by an amount sufficient to equal the amount of the estimate. The Senate and the House of Representatives shall transfer the reduced amount to the general fund. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

Senator SHEHEEN objected to further consideration of the Bill.

**OBJECTION**

S. 521 -- Senators Campsen, Sheheen and Scott: A BILL TO AMEND SECTION 59‑3‑10 OF THE 1976 CODE, RELATING TO THE ELECTION OF THE STATE SUPERINTENDENT OF EDUCATION, TO PROVIDE FOR THE APPOINTMENT OF THE SUPERINTENDENT BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, AND TO PROVIDE FOR THE TERM, QUALIFICATIONS, AND FILLING OF A VACANCY IN THE OFFICE SUPERINTENDENT; AND TO REPEAL SECTION 59‑3‑20.

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

Senator MALLOY objected to further consideration of the Bill.

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

**MADE SPECIAL ORDER**

S. 4 -- Senators Scott, Malloy, Setzler, Matthews, Allen, Coleman, Ford, Hutto, Jackson, Johnson, Lourie, McElveen, McGill, Nicholson, Pinckney, Reese, Sheheen and Williams: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7‑13‑25 SO AS TO ESTABLISH EARLY VOTING PROCEDURES; TO AMEND SECTION 7‑3‑20, AS AMENDED, RELATING TO DUTIES OF THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO FURTHER DEFINE HIS DUTIES; AND TO AMEND SECTION 7‑15‑320, RELATING TO PERSONS QUALIFIED TO VOTE BY ABSENTEE BALLOT, SO AS TO INCLUDE VOTING DURING THE EARLY VOTING PERIOD.

Senator PEELER moved to make the Bill a Special Order.

The Bill was made a Special Order.

**MADE SPECIAL ORDER**

S. 92 -- Senators Davis, S. Martin, Verdin, Grooms, Bryant and Bright: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “NDAA NULLIFICATION ACT OF 2013”, BY ADDING SECTION 8‑1‑15, RELATING TO PUBLIC OFFICERS AND EMPLOYEES, TO PROHIBIT ANY OFFICER OR EMPLOYEE OF THE STATE OR ANY OFFICER OR EMPLOYEE OF A POLITICAL SUBDIVISION FROM AIDING THE DETENTION OF ANY UNITED STATES CITIZEN WITHOUT TRIAL BY THE UNITED STATES ARMED FORCES IN VIOLATION OF THE CONSTITUTION OF SOUTH CAROLINA.

Senator PEELER moved to make the Bill a Special Order.

The Bill was made a Special Order.

**MOTION ADOPTED**

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

**HAVING DISPENSED WITH THE MOTION PERIOD, THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE WITH AMENDMENTS**

S. 304 -- Senators Shealy, Cromer and Campsen: A BILL TO AMEND SECTIONS 50‑13‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS REGARDING GENERAL RESTRICTIONS ON FRESHWATER FISHING, SO AS TO MAKE A TECHNICAL CHANGE AND TO REVISE THE DEFINITION OF THE TERM “BAIT FISH”; TO AMEND SECTION 50‑13‑60, AS AMENDED, RELATING TO THE LAWFUL POSSESSION OF FISH, SO AS TO MAKE A TECHNICAL CHANGE TO THE PROVISION RELATING TO THE POSSESSION OF A GAME FISH; TO AMEND SECTIONS 50‑13‑200, 50‑13‑210, 50‑13‑250, 50‑13‑260, AND 50‑13‑270, ALL AS AMENDED, RELATING TO THE PROTECTION OF FRESHWATER GAME FISH, SO AS TO REVISE THE AGE OF PERSONS IN A BOAT THAT MAY USE AN UNLIMITED NUMBER OF FISHING DEVICES, TO REVISE THE NUMBER OF TROUT THAT MAY BE TAKEN ON THE LOWER REACH OF THE SALUDA RIVER, TO PROVIDE THE LEGAL LENGTH OF SMALLMOUTH BASS THAT MAY BE TAKEN FROM CERTAIN LAKES, RIVERS, AND RESERVOIRS ALONG THE STATE’S WESTERN REGION, AND TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 50‑13‑620, 50‑13‑625, AND 50‑13‑635, ALL AS AMENDED, RELATING TO THE PROTECTION OF NONGAME FISH, SO AS TO PROVIDE THAT A COMMERCIAL TROTLINE WHICH USES FIFTY OR FEWER HOOKS MUST BE MARKED AT INTERVALS OF TWENTY‑FIVE HOOKS, TO REVISE THE AGE OF PERSONS IN A BOAT THAT MAY USE AN UNLIMITED NUMBER OF FISHING DEVICES, AND TO REVISE THE NUMBER OF SET HOOKS A RECREATIONAL FISHERMAN MAY USE.

The House returned the Bill with amendments.

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

Senators CAMPSEN, SHEALY and CORBIN proposed the following amendment (304R004.GEC), which was adopted:

Amend the bill, as and if amended, pages 3-4, by striking SECTION 8 and inserting:

/ SECTION 8. Section 50‑13‑620(A) of the 1976 Code, as last amended by Act 114 of 2012, is further amended to read:

“Section 50-13-620. (A) A trotline, trap, eel pot, gill net, and hoop net must be marked with a white floating marker not less than a capacity of one quart and not more than a capacity of one gallon and must be made of solid, buoyant material that does not sink if punctured or cracked. A floating marker must be constructed of plastic, PVC spongex, plastic foam, or cork. A hollow buoy or float, including plastic, metal, or glass bottles or jugs, must not be used, except that a manufactured buoy or float specifically designed for use with nongame fishing devices may be hollow if constructed of heavy duty plastic material and approved by the department. ~~A floating marker used the first through the fifteenth inclusive of each month must be colored white only; for the remainder of the month markers must be yellow only and, except for a trotline, there must not be any other color marker attached to the device.~~ The owner’s name and department customer identification number must be legible on each of the white ~~or yellow~~ floating markers. Both commercial and recreational fishermen shall comply with provisions of this title pertaining to the marking and use of a nongame fishing device. A trotline must be marked on both ends. A commercial trotline must be marked at intervals of every fifty hooks. A commercial trotline which uses fifty or fewer hooks must be marked at intervals of twenty‑five hooks. A recreational trotline must be marked at intervals of every twenty‑five hooks. ~~An end marker must conform to the white and yellow marking scheme.~~ Each interval float must be ‘International Orange’ in color.” /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the amendment.

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

**Ayes 43; Nays 0**

**AYES**

Alexander Allen Bennett

Bright Bryant Campbell

Campsen Cleary Coleman

Corbin Courson Cromer

Davis Fair Ford

Gregory Grooms Hayes

Hembree Jackson Johnson

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McElveen McGill

Nicholson O'Dell Peeler

Pinckney Reese Setzler

Shealy Sheheen Thurmond

Turner Verdin Williams

Young

**Total--43**

**NAYS**

**Total--0**

The amendment was adopted.

There being no further amendments, the Bill was amended and ordered returned to the House with amendments.

**OBJECTION**

S. 521 -- Senators Campsen, Sheheen and Scott: A BILL TO AMEND SECTION 59‑3‑10 OF THE 1976 CODE, RELATING TO THE ELECTION OF THE STATE SUPERINTENDENT OF EDUCATION, TO PROVIDE FOR THE APPOINTMENT OF THE SUPERINTENDENT BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, AND TO PROVIDE FOR THE TERM, QUALIFICATIONS, AND FILLING OF A VACANCY IN THE OFFICE SUPERINTENDENT; AND TO REPEAL SECTION 59‑3‑20.

Senator HAYES asked unanimous consent to make a motion to take up the Bill for immediate consideration.

Senator JACKSON objected.

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

**THIRD READING FAILED**

**VOTE RECONSIDERED, RETURNED TO THE THIRD**

**READING CALENDAR**

S. 53 -- Senators Campsen, Hayes and Young: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, TO DELETE THE SUPERINTENDENT OF EDUCATION FROM THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED AND PROVIDE THAT THE SUPERINTENDENT OF EDUCATION MUST BE APPOINTED BY THE GOVERNOR, UPON THE ADVICE AND CONSENT OF THE SENATE, FOR A TERM COTERMINOUS WITH THE GOVERNOR UPON THE EXPIRATION OF THE TERM OF THE SUPERINTENDENT OF EDUCATION SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION; AND PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE XI, RELATING TO THE STATE BOARD OF EDUCATION, SO AS TO ABOLISH THE BOARD EFFECTIVE UPON THE STATE SUPERINTENDENT OF EDUCATION BEING APPOINTED BY THE GOVERNOR.

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

**Amendment No. 8C**

Senator SCOTT proposed the following Amendment No. 8C (53R017.JS), which was previously carried over on March 12, 2013, was withdrawn:

Amend the joint resolution, as and if amended, by striking SECTION 1 and SECTION 2 and inserting:

/ SECTION 1. It is proposed that Section 7, Article VI of the Constitution of this State be amended by adding the following new paragraph at the end:

“Beginning upon the expiration of the term of the Superintendent of Education serving in office on the date of the ratification of the provisions of this paragraph, the Superintendent of Education must be appointed by the Governor, upon the advice and consent of the Senate. The appointed Superintendent of Education shall serve at the pleasure of the Governor. In addition to any qualifications provided for by law, the appointed Superintendent of Education must hold a doctorate in education, or related field, a masters degree in education, or a related field, a Masters of Public Administration, or a Juris Doctorate and must have at least ten years of experience in education, or ten years experience in a field related to his degree. Academic degrees required by this paragraph must be awarded by an institution of higher learning that has been accredited by a regional or national accrediting body. The General Assembly shall provide by law for the appointed Superintendent of Education’s duties, compensation, and any additional qualifications for the office and the procedures by which the appointment is made.”

SECTION 2. The proposed amendment in Section 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 7, Article VI of the Constitution of this State, relating to state constitutional officers, be amended so as to delete the Superintendent of Education from the list of state officers which the Constitution requires to be elected; to provide that upon the expiration of the term of the Superintendent of Education serving in office on the date of the ratification of this provision, the superintendent must be appointed by the Governor, upon the advice and consent of the Senate; to provide that the appointed Superintendent of Education shall serve at the pleasure of the Governor; to provide that in addition to other qualifications provided by law, the appointed Superintendent must hold doctorate in education, or related field, a masters degree in education, or a related field, a Masters of Public Administration, or a Juris Doctorate and have at least ten years of experience in education, or ten years experience in a field related to his degree; to provide that the required academic degrees must be awarded by an institution of higher learning that has been accredited by a regional or national accrediting body; and to require the General Assembly to provide by law for the appointed Superintendent of Education’s duties, compensation, and any additional qualifications and the procedures by which the appointment is made?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

Renumber sections to conform.

Amend title to conform.

Senator PINCKNEY explained the amendment.

**Objection**

Senator COURSON asked unanimous consent to make a motion that, when the Senate recedes at 5:30 P.M., it stand in recess until 7:00 P.M.

Senator SETZLER objected.

Senator PINCKNEY resumed explaining the amendment.

**RECESS**

With Senator PINCKNEY retaining the floor, at 4:51 P.M., on motion of Senator SETZLER, with unanimous consent, the Senate receded from business subject to the call of the PRESIDENT.

At 5:12 P.M., the Senate resumed.

Senator PINCKNEY resumed speaking on the amendment.

On motion of Senator PINCKNEY, with unanimous consent, Amendment No. 8C was withdrawn.

**READ THE SECOND TIME**

S. 521 -- Senators Campsen, Sheheen and Scott: A BILL TO AMEND SECTION 59‑3‑10 OF THE 1976 CODE, RELATING TO THE ELECTION OF THE STATE SUPERINTENDENT OF EDUCATION, TO PROVIDE FOR THE APPOINTMENT OF THE SUPERINTENDENT BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, AND TO PROVIDE FOR THE TERM, QUALIFICATIONS, AND FILLING OF A VACANCY IN THE OFFICE SUPERINTENDENT; AND TO REPEAL SECTION 59‑3‑20.

Senator HAYES asked unanimous consent to make a motion that the Bill be given a second reading, carrying over all amendments to third reading and waiving the provisions of Rule 26B.

There was no objection and the Bill was given a second reading, carrying over all amendments to third reading and waiving the provisions of Rule 26B.

The Senate resumed consideration of S. 53.

The question then was the third reading of the Joint Resolution.

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

**Ayes 27; Nays 16; Present 1**

**AYES**

Alexander Bennett Bright

Bryant Campbell Campsen

Cleary Corbin Courson

Cromer Davis Fair

Gregory Grooms Hayes

Hembree Lourie *Martin, Shane*

Massey McElveen Peeler

Shealy Sheheen Thurmond

Turner Verdin Young

**Total--27**

**NAYS**

Allen Coleman Ford

Jackson Johnson Leatherman

Malloy *Martin, Larry* McGill

Nicholson O'Dell Pinckney

Reese Scott Setzler

Williams

**Total--16**

**PRESENT**

Matthews

**Total--1**

Having failed to receive the necessary vote, the third reading of the Joint Resolution, S. 53, failed.

Having voted on the prevailing side, Senator LARRY MARTIN moved to reconsider the vote whereby the Joint Resolution failed to receive the necessary vote for third reading.

There was no objection and the motion to reconsider was adopted.

S. 53 was returned to the Third Reading Calendar for consideration tomorrow.

**Statement by Senator LARRY MARTIN**

I changed my vote in favor of S. 53 to “No” when during the tally of the vote it unfortunately became evident that we did not have the 31 votes required for third reading.  I did so in order to make the motion to reconsider the vote so that the Resolution would not die and that we could attempt to acheive the required votes on another day.

At 5:22 P.M., Senator COURSON moved that the Senate stand adjourned.

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

**Ayes 16; Nays 26**

**AYES**

Allen Coleman Ford

Jackson Johnson Lourie

Matthews McElveen McGill

Nicholson Pinckney Reese

Scott Setzler Sheheen

Williams

**Total--16**

**NAYS**

Alexander Bennett Bright

Bryant Campbell Campsen

Cleary Corbin Courson

Cromer Davis Fair

Gregory Grooms Hayes

Hembree Malloy *Martin, Larry*

*Martin, Shane* Massey Peeler

Shealy Thurmond Turner

Verdin Young

**Total--26**

The Senate refused to adjourn.

**RECESS**

At 5:28 P.M., on motion of Senator COURSON, the Senate receded from business not to exceed five minutes.

At 5:38 P.M., the Senate resumed.

At 5:39 P.M., Senator COURSON moved that the Senate stand adjourned.

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Initial Appointment, York County Natural Gas Authority, with the term to commence March 1, 2011, and to expire March 1, 2014

Fort Mill:

David T. Bowman, 572 Sweet Peach Lane, Fort Mill, SC 29715 *VICE* Alton L. Martin

**MOTION ADOPTED**

On motion of Senator CLEARY, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Hubert F. “Bert” Rawls of Myrtle Beach, S.C. Mr. Rawls had been retired from the U.S. Air Force and continued his career as a Special Agent with the Dept. of Housing and Urban Development and Health and Human Services. He was the beloved husband of Nancy, a devoted father and doting grandfather of 5 and great‑grandfather of 12.

**ADJOURNMENT**

At 5:39 P.M., on motion of Senator COURSON, the Senate adjourned to meet tomorrow at 11:00 A.M.

\* \* \*