

NO. 78

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2015

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TUESDAY, MAY 26, 2015

**Tuesday, May 26, 2015**  
**(Statewide Session)**

~~Indicates Matter Stricken~~  
Indicates New Matter

The Senate assembled at 12:00 Noon, 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 tells us:

“It shall be said, ‘Build up, build up, prepare the road! Remove the obstacles out of the way of my people.’” (Isaiah 57:14)

Bow in prayer with me, please:

Some issues are obviously *not* new, O Lord. Even ancient texts remind us that getting from one place to another has been a priority for the people of God almost since the beginning of time. So we pray, O Father, that You grant to these Senators a realistic, clear vision as to how they can indeed achieve one of their key goals this session: to improve South Carolina’s roadways, to make our highways safe for citizens and visitors, and to do this by choosing to work together in a spirit of harmony and unity. May it be so. To You alone be the glory, dear Lord. Amen.

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

**ADDENDUM TO THE JOURNAL**

The following remarks by Senator KIMPSON were ordered printed in the Journal of April 14, 2015:

**Remarks by Senator KIMPSON**

Mr. PRESIDENT, members of the Senate, what we saw flashed across the television screens around the world on Saturday, April 4, 2015, was a horrific tragedy in the State of South Carolina. I don’t believe the actions of Mr. Slager are representative of the overwhelming percentage of our law enforcement officers. In fact the overwhelming number of our law enforcement officers do the right thing. They go to work every day and put themselves in harm’s way. I had the honor, the humble honor of meeting with the Scott family -- mother, father and siblings -- children and all of the relatives the day before the funeral. I have to

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commend them for the courage and the patience of handling this whole ordeal.

The one thing that the Scott family said to the nation and to this State, is we must have patience so the facts and the investigation can reveal the evidence. They have definitely acted in a dignified manner. And to the young man, Mr. Santana, who was like a ram in the bush and caught the whole episode on video, he should be commended for his courage and his bravery. There have been several Bills introduced this morning -- Senator MALLOY, the Senator SCOTT, and I understand Senator SAAB is going to introduce a Bill also. I'm going to urge this Senate to listen carefully while these Bills proceed and keep an open mind as we are attempting to make sure that Mr. Scott's legacy lives and that he did not die in vain. To the officers Slager and Habersham, the second officer on duty, who by all accounts thus far as the evidence has revealed-- the community is crying for him to be brought to justice as well. What we witnessed in this incident that but for the video evidence, the narrative of the two police officers in this case, the North Charleston case, may have not been questioned. The video, if you reconcile with the officers' statements is totally inconsistent.

And that's why back in December we filed a Bill for body cameras. I am pleased to say that his Bill is being supported in a bipartisan way. After Senator MALLOY and I offered the Bill, we had a number of co-sponsors, including an early co-sponsor, Senator THURMOND from Charleston and a number of other members of the democratic leadership. Now in the aftermath of the shooting, I'm very proud of this body because Senator GROOMS, Senator SHEALY and many others have joined this legislation and are serving as co-sponsors as we attempt to reform and bring the necessary change to South Carolina.

I attended a ceremony, I attended the funeral and I also attended a press conference with Senator PINCKNEY and the message is... let this death, this unfortunate tragedy be a catalyst for change. Change doesn't have a big "D" or a big "R" in front of it, but is progressive. We can navigate this legislation in a bipartisan way. I want to commend the South Carolina Bar for issuing a statement in support of the body camera legislation. I want to commend *The State* newspaper for issuing an endorsement for the body camera legislation. We will be working tomorrow at a subcommittee hearing. This will be our 4<sup>th</sup> hearing on S. 47, and I will encourage my colleagues to come to that hearing. What we intend to do is craft language that all stakeholders' voices that testify at this hearing to the extent possible, can be incorporated into a bipartisan

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Bill. We've gathered a lot of testimony over the last 3 meetings, and I'm optimistic and hopeful that we can get a Bill passed.

I want to close by reading some of the editorials from today's State newspaper. The case for cameras is pretty straightforward. They would protect both the public and law enforcement by providing a clear picture of what transpires during officers' encounters with citizens. Chances are the public and officers will maintain a higher level of civility and decorum because they know the cameras are turned on and are trained on them. Having a recording of what occurs also reduces our reliance on "he said", "she said" reports. Opportunistic suspects will be less likely to file frivolous lawsuits and rogue police officers will be less likely to cross the line or fabricate stories to cover up transgressions. Had it not been for the bystander's video of Mr. Scott's tragic end, we might not have ever known that the initial officer's account of what happened was untrue.

Lady and gentlemen of this body, the nation is watching. I hope we have the courage to move forward and do the right thing on behalf of transparency and accountability in the State of South Carolina.

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**Doctor of the Day**

Senator LOURIE introduced of Dr. William Anderson, III of Columbia, S.C., Doctor of the Day.

**Leave of Absence**

On motion of Senator BENNETT, at 12:34 A.M., Senator HEMBREE was granted a leave of absence for the balance of the day.

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:  
S. 719 Sen. Cromer

**RECALLED AND ADOPTED**

H. 4119 -- Reps. Horne, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G.A. Brown, R.L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H.A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee,

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Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Hosey, Howard, Huggins, Jefferson, Johnson, Jordan, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M.S. McLeod, W.J. McLeod, Merrill, Mitchell, D.C. Moss, V.S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G.M. Smith, G.R. Smith, J.E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO AFFIRM THE DEDICATION OF THE GENERAL ASSEMBLY TO THE FUTURE SUCCESS OF SOUTH CAROLINA'S YOUNG PEOPLE AND ITS DEDICATION TO THE PREVENTION OF TEEN PREGNANCY, AND TO DECLARE THE MONTH OF MAY 2015, AS "TEEN PREGNANCY PREVENTION MONTH" IN THE STATE OF SOUTH CAROLINA.

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

There was no objection.

The Resolution was recalled from the Committee on Medical Affairs and was taken up for immediate consideration.

The Senate proceeded to a consideration of the Resolution. The question then was the adoption of the Resolution.

On motion of Senator NICHOLSON, the Resolution was adopted and ordered sent to the House.

**RECALLED**

H. 3264 -- Rep. Taylor: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 137 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "AMERICAN RED CROSS SPECIAL LICENSE PLATES".

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

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

**Motion Adopted**

On motion of Senator ALEXANDER, with unanimous consent, Senators MATTHEWS, HAYES, LOURIE, CAMPBELL and ALEXANDER were granted leave to attend a subcommittee meeting and were granted leave to vote from the balcony.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 816 -- Senator Verdin: A CONCURRENT RESOLUTION TO CONGRATULATE DAVID M. WINKLES, JR., OF SUMTER COUNTY, PRESIDENT OF THE SOUTH CAROLINA FARM BUREAU FEDERATION, UPON THE OCCASION OF HIS RETIREMENT, TO RECOGNIZE AND COMMEND HIS EXCEPTIONAL CONTRIBUTIONS TO THE AGRICULTURAL INDUSTRY OF THE PALMETTO STATE, AND TO WISH HIM CONTINUED SUCCESS AND HAPPINESS IN ALL HIS FUTURE ENDEAVORS.

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

S. 817 -- Senator Setzler: A SENATE RESOLUTION TO HONOR RAYMOND H. "BUDDY" DELANEY, JR., OF WEST COLUMBIA, AND THE ENTIRE DELANEY FAMILY, AND TO RECOGNIZE THE FRIENDLY, FAMILY OWNED AND OPERATED BEST MATTRESS COMPANY WHICH HAS BEEN IN OPERATION AND MAINTAINED UNPRECEDENTED EXCELLENCE IN QUALITY AND SERVICE FOR ALMOST NINE DECADES.

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The Senate Resolution was adopted.

S. 818 -- Senator Malloy: A SENATE RESOLUTION TO HONOR DR. ALVIN T. HEATLEY OF DARLINGTON COUNTY FOR HIS OUTSTANDING ACCOMPLISHMENTS IN THE FIELD OF EDUCATION AND FOR HIS DEDICATED SERVICE TO BUTLER HERITAGE FOUNDATION AS ITS CHAIRMAN AND TO THE STATE OF SOUTH CAROLINA.

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The Senate Resolution was adopted.

S. 819 -- Senators Nicholson and O'Dell: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE NINETY SIX HIGH SCHOOL BASEBALL TEAM, COACHES, AND SCHOOL OFFICIALS FOR AN OUTSTANDING SEASON AND TO CONGRATULATE THEM ON WINNING THE 2015 CLASS AA STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 820 -- Senators Matthews and Setzler: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE CALHOUN ACADEMY BASEBALL TEAM, COACHES, AND SCHOOL OFFICIALS FOR AN OUTSTANDING SEASON AND TO CONGRATULATE THEM ON WINNING THE 2015 CLASS AA SOUTH CAROLINA INDEPENDENT SCHOOL ASSOCIATION STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 821 -- Senator Jackson: A SENATE RESOLUTION TO RECOGNIZE AND HONOR DOROTHY G. HAM, PRINCIPAL OF WEBBER ELEMENTARY SCHOOL, UPON THE OCCASION OF HER RETIREMENT AFTER MORE THAN THIRTY-TWO YEARS OF EXEMPLARY SERVICE, AND TO WISH HER CONTINUED SUCCESS AND HAPPINESS IN ALL HER FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 822 -- Senators Scott, Alexander, Allen, Bennett, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Corbin, Courson, Cromer, Davis, Fair, Gregory, Grooms, Hayes, Hembree, Hutto, Jackson, Johnson, Kimpson, Leatherman, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McElveen, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Sabb, Setzler, Shealy, Sheheen, Thurmond, Turner, Verdin, Williams and Young: A CONCURRENT RESOLUTION TO HONOR AND RECOGNIZE THE COLUMBIA ALUMNAE CHAPTER OF DELTA SIGMA THETA SORORITY, INCORPORATED, AND

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CONGRATULATE ITS MEMBERS ON THE OCCASION OF THEIR DIAMOND JUBILEE MARKING SEVENTY-FIVE YEARS OF SISTERHOOD, SCHOLARSHIP, AND SERVICE IN THE MIDLANDS OF SOUTH CAROLINA.

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

S. 823 -- Senators Bryant and Cromer: A SENATE RESOLUTION TO RECOGNIZE AND CONGRATULATE CEDAR GROVE ELEMENTARY SCHOOL IN WILLIAMSTON FOR WINNING THE NINTH ANNUAL INTERNATIONAL JETTOY COMPETITION.

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The Senate Resolution was adopted.

S. 824 -- Senator Coleman: A SENATE RESOLUTION TO RECOGNIZE AND HONOR MR. KEITH LEWIS, CHIEF DEPUTY OF THE FAIRFIELD COUNTY SHERIFF'S OFFICE, FOR HIS MANY YEARS OF DEDICATED SERVICE TO FAIRFIELD COUNTY AND TO WISH HIM MUCH SUCCESS AND HAPPINESS IN ALL HIS FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 825 -- Senators Leatherman and Cromer: A SENATE RESOLUTION TO HONOR BOBBY BOWERS, DIRECTOR OF MAPPING AND CENSUS FOR THE SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE, ON THE OCCASION OF HIS RETIREMENT, TO EXTEND DEEP APPRECIATION FOR HIS FIFTY-SIX YEARS OF DISTINGUISHED PUBLIC SERVICE TO THE STATE OF SOUTH CAROLINA, AND TO OFFER BEST WISHES FOR A SATISFYING AND REWARDING RETIREMENT.

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The Senate Resolution was adopted.

H. 4243 -- Reps. Henegan, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon,

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Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hart, Hayes, Henderson, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Jordan, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR THE SIGNIFICANT SERVICE OF MARLBORO ELECTRIC COOPERATIVE OF BENNETTSVILLE AND TO CONGRATULATE THE ORGANIZATION ON ITS SEVENTY-FIFTH ANNIVERSARY OF PROVIDING ELECTRICITY IN THE PALMETTO STATE.

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

#### **REPORTS OF STANDING COMMITTEES**

##### **Appointment Reported**

Senator FAIR from the Committee on Corrections and Penology submitted a favorable report on:

##### **Statewide Appointment**

Initial Appointment, South Carolina Board of Probation, Parole and Pardon Services, with the term to commence March 15, 2015, and to expire March 15, 2021

##### 3rd Congressional District:

Dan L. Batson, 637 Allison Circle, Anderson, SC 29625 *VICE* Beverly R. McAdams

Received as information.

#### **HOUSE CONCURRENCE**

S. 815 -- Senators Malloy, Alexander, Allen, Bennett, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Corbin, Courson, Cromer, Davis, Fair, Gregory, Grooms, Hayes, Hembree, Hutto, Jackson, Johnson, Kimpson, Leatherman, Lourie, L. Martin, S. Martin, Massey, Matthews,

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McElveen, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Sabb, Scott, Setzler, Shealy, Sheheen, Thurmond, Turner, Verdin, Williams and Young: A CONCURRENT RESOLUTION TO EXPRESS THE BELIEF OF THE GENERAL ASSEMBLY THAT NASCAR RACING IS AN INTEGRAL AND VITAL PART OF THE STATE OF SOUTH CAROLINA AND ITS ECONOMY AND TO RECOGNIZE THE DARLINGTON RACEWAY AS ONE OF OUR STATE'S MOST TREASURED ATTRACTIONS, AS WELL AS IDENTIFY SOUTH CAROLINA'S RICH NASCAR HISTORY IN THE STATE OF SOUTH CAROLINA AND TO NAME THE WEEK OF AUGUST 31, 2015 THROUGH SEPTEMBER 6, 2015 AS "DARLINGTON RACEWAY WEEK, A WEEK TOO TOUGH TO TAME IN SOUTH CAROLINA".

Returned with concurrence.

Received as information.

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

**READ THE THIRD TIME  
SENT TO THE HOUSE**

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

S. 484 -- Senators Shealy, Jackson and Cleary: A BILL TO AMEND SECTION 59-10-310 OF THE 1976 CODE, RELATING TO THE ESTABLISHMENT OF ELEMENTARY SCHOOL FOOD SERVICE MEALS AND COMPETITIVE FOOD REQUIREMENTS, TO PROVIDE THAT ALL SCHOOL SERVICE MEALS AND COMPETITIVE FOODS PROVIDED IN KINDERGARTEN THROUGH TWELFTH GRADE DURING THE ACADEMIC SCHOOL YEAR MUST MEET OR MAY EXCEED THE NUTRITIONAL REQUIREMENTS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, TO PROVIDE THAT A SCHOOL DISTRICT BOARD OF TRUSTEES MAY ADOPT A MORE RESTRICTIVE POLICY AND THE POLICY DOES NOT RESTRICT THE FOOD A PARENT OR GUARDIAN MAY PROVIDE FOR STUDENT CONSUMPTION AT SCHOOL, AND TO PROVIDE THAT ALL A LA CARTE ITEMS SOLD FOR STUDENT CONSUMPTION MUST

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BE INCLUDED ON SCHOOL MENUS IN ADDITION TO THE REGULAR MEAL; TO AMEND SECTION 59-10-330(B), RELATING TO THE COORDINATED SCHOOL HEALTH ADVISORY COUNCIL AND THE DEVELOPMENT OF HEALTH WELLNESS PLANS, TO PROVIDE THAT THE SCHOOL HEALTH IMPROVEMENT PLAN MUST REPORT COMPLIANCE WITH THE REQUIREMENTS CONTAINED IN SECTION 59-10-310.

**COMMITTEE AMENDMENT ADOPTED  
AMENDED, READ THE SECOND TIME**

H. 3568 -- Reps. G.R. Smith, Duckworth, Burns, Goldfinch, Clemmons, Yow, Kirby, Spires, Norrell, Cobb-Hunter, Daning, Parks, Mitchell, Robinson-Simpson, Bamberg, Limehouse, Sottile, Cole, Corley, Felder, Finlay, Funderburk, Gagnon, Hamilton, Hardee, Hardwick, Henderson, McCoy, McKnight, Nanney, Sandifer, Tallon, Wells, Willis, Dillard and Stavrinakis: A BILL TO AMEND SECTION 12-36-2120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE STATE SALES TAX, SO AS TO EXEMPT CONSTRUCTION MATERIALS USED BY AN ENTITY ORGANIZED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AS A NONPROFIT ORGANIZATION TO BUILD, REHABILITATE, OR REPAIR A HOME FOR THE BENEFIT OF AN INDIVIDUAL OR FAMILY IN NEED.

The Senate proceeded to a consideration of the Bill.

The Senate Finance Committee proposed the following amendment (DKA\3568C002.DKA.SA15), which was adopted:

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

/ SECTION 1. Section 12-36-2120 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) construction materials used by an entity organized under Section 501(c)(3) of the Internal Revenue Code as a nonprofit corporation to build, rehabilitate, or repair a home for the benefit of an individual or family in need. For purposes of this item, ‘an individual or family in need’ means an individual or family, as applicable, whose income is less than or equal to eighty percent of the county median income.” /

Re-number sections to conform.

Amend title to conform.

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Senator O'DELL explained the amendment.

The amendment was adopted.

Senator CLEARY proposed the following amendment (3568R001.KM.REC), which was adopted:

Amend the bill, as and if amended, page 1, line 42, by adding a new SECTION to read:

/ SECTION (3). Section 12-36-2120 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) children’s clothing sold to a private charitable organization exempt from federal and state income tax, except for private schools, for the sole purpose of distribution by that organization to needy children. For purposes of this item:

(a) ‘clothing’ means those items exempt from sales and use tax pursuant to item (57)(a)(i) and (iii) of this section; and

(b) ‘needy children’ means children eligible for free meals under the National School Lunch Program of the United States Department of Agriculture.” /

Re-number sections to conform.

Amend title to conform.

Senator CLEARY explained the amendment.

The amendment was adopted.

The question then being the second reading of the Bill.

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

**Ayes 42; Nays 0**

**AYES**

Alexander	Allen	Bennett
Bright	Bryant	Campbell
Campsen	Cleary	Coleman
Corbin	Courson	Cromer
Davis	Fair	Gregory
Grooms	Hayes	Hutto
Jackson	Johnson	Kimpson
Leatherman	Lourie	Malloy

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<i>Martin, Larry</i>	<i>Martin, Shane</i>	Massey
Matthews	McElveen	Nicholson
O'Dell	Peeler	Pinckney
Sabb	Scott	Setzler
Shealy	Sheheen	Thurmond
Verdin	Williams	Young

**Total--42**

**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**

H. 3583 -- Reps. Clemmons, Simrill, McCoy, Loftis, Atwater, Kirby, Corley, Bernstein, McEachern, Weeks, Johnson, Goldfinch, Kennedy, H.A. Crawford, Rutherford, Whitmire, Douglas, Burns, Clyburn, Erickson, G.R. Smith, Yow, Spires, Chumley, Allison, Hardee, Anderson, Gagnon, Putnam, Nanney, Williams, Limehouse, Duckworth, Norrell, Anthony, Ballentine, Bannister, Bedingfield, Bingham, Clary, Delleney, Felder, Finlay, Funderburk, Gambrell, Hamilton, Hardwick, Hicks, Hiott, Hixon, Huggins, Long, Lowe, Lucas, V.S. Moss, Murphy, Norman, Pitts, Pope, Quinn, Riley, Rivers, Sandifer, G.M. Smith, Stringer, Tallon, Taylor, Thayer, Toole, Wells, Willis, Newton, Forrester, Hill and Gilliard: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 23 TO CHAPTER 35, TITLE 11 SO AS TO PROHIBIT THE STATE OR A POLITICAL SUBDIVISION OF THE STATE FROM ACCEPTING A PROPOSAL FROM OR PROCURING GOODS OR SERVICES FROM A BUSINESS WHICH ENGAGES IN THE BOYCOTT OF A PERSON OR AN ENTITY BASED ON RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.

The Senate proceeded to a consideration of the Bill.

The Committee on Finance proposed the following amendment (BBM\3583C001.BBM.DG15), which was adopted:

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

/ SECTION \_\_\_\_ . A. Sections 11-57-320 and 11-57-330 of the 1976 Code, both as added by Act 267 of 2014, are amended to read”

“Section 11-57-320. Notwithstanding Section 11-57-310, a person engaged in investment activities in Iran as described in Section 11-57-300, may contract with the State, ~~on a case-by-case basis~~, if:

(1) the investment activities in Iran were made before ~~the effective date of this act~~ January 1, 2015, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the state agency makes a determination that the commodities or services are necessary to perform its functions and that, absent such an exemption, the state agency would be unable to obtain the commodities or services for which the contract is offered. Such determination shall be entered into the procurement record.

Section 11-57-330. (A) A state agency or entity shall require a person that attempts to contract with the State, including a contract renewal or assumption, to certify, at the time the bid is submitted or the contract is entered into, renewed, or assigned, that the person or the assignee is not identified on a list created pursuant to Section 11-57-310. A state agency shall include certification information in the procurement record. This section does not apply to and such certification is not required for contracts between public procurement units, nor contracts between public procurement units and external procurement activities, as that term is defined in Section 11-35-4610.

(B) A person ~~that who~~ contracts with the State, ~~including a contract renewal or assumption~~, shall not ~~utilize~~ enter into a subcontract, on the contract with the state agency or entity, with any ~~subcontractor that~~ person that is identified on a list created pursuant to Section 11-57-310.

(C) Upon receiving information that a person who has made the certification required by subsection (A) is in violation thereof, the state agency or entity shall review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of this act within ninety days after the determination of such violation, then the state agency or entity shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to,

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imposing sanctions, seeking compliance, recovering damages, or declaring the contractor in default.”

B. Section 11-57-510 of the 1976 Code, as added by Act 267 of 2014, is amended to read:

“Section 11-57-510. (A) ~~After this act takes effect~~ Effective January 1, 2015, every bid or proposal made to a political subdivision of the State or any public department, agency, or official thereof where competitive bidding is required by statute, rule, regulation, or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: ‘By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Section 11-57-310.’ This section does not apply to and such certification is not required for contracts between public procurement units, nor contracts between public procurement units and external procurement activities, as that term is defined in Section 11-35-4610.

(B) Notwithstanding subsection (A), the statement of noninvestment in the Iranian energy sector may be submitted electronically.

(C) A bid shall not be considered for award nor shall any award be made where the condition set forth in subsection (A) has not been complied with; provided, however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. A political subdivision may award a bid to a bidder who cannot make the certification pursuant to subsection (A), ~~on a case-by-case basis~~, if:

(1) the investment activities in Iran were made before ~~the effective date of this act~~ January 1, 2015, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the political subdivision makes a determination that the goods or services are necessary for the political subdivision to perform its functions and that, absent such an exemption, the political subdivision would be unable to obtain the goods or services for which the contract is

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offered. Such determination shall be made in writing and shall be a public document.”

C. Article 1, Chapter 57, Title 11 of the 1976 Code is amended by adding:

“Section 11-57-50. Failure to comply with a provision of this chapter is not grounds for a protest filed pursuant to Section 11-35-4210 or any other preaward protest process appearing in a procurement ordinance adopted by a political subdivision pursuant to Section 11-35-50 or Section 11-35-70, or similar law.”

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

Renumber sections to conform.

Amend title to conform.

Senator O'DELL explained the amendment.

The question then being the second reading of the Bill.

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	Gregory
Grooms	Hayes	Hutto
Jackson	Johnson	Kimpson
Leatherman	Lourie	Malloy
<i>Martin, Larry</i>	<i>Martin, Shane</i>	Massey
Matthews	McElveen	Nicholson

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O'Dell	Peeler	Pinckney
Rankin	Sabb	Scott
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.

**READ THE SECOND TIME**

H. 3880 -- Reps. Ott, Hixon, Pitts, Riley and Johnson: A BILL TO AMEND SECTION 50-11-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS THAT RELATE TO THE MIGRATORY WATERFOWL COMMITTEE, THE CREATION OF THE COMMITTEE, ITS MEMBERSHIP, AND RESPONSIBILITIES, SO AS TO INCREASE ITS MEMBERSHIP BY ONE WHO SHALL BE A DESIGNEE OF DELTA WATERFOWL OF SOUTH CAROLINA WHO IS NOT A PAID EMPLOYEE.

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

Senator CAMPSSEN explained the Bill.

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

**Ayes 42; Nays 0**

**AYES**

Alexander	Allen	Bennett
Bright	Bryant	Campbell
Campsen	Cleary	Coleman
Corbin	Courson	Cromer
Davis	Fair	Gregory
Grooms	Hayes	Hutto

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Jackson	Johnson	Kimpson
Malloy	<i>Martin, Larry</i>	<i>Martin, Shane</i>
Massey	Matthews	McElveen
Nicholson	O'Dell	Peeler
Pinckney	Rankin	Sabb
Scott	Setzler	Shealy
Sheheen	Thurmond	Turner
Verdin	Williams	Young

**Total--42**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

H. 3083 -- Reps. Huggins, Kennedy, Clary, Corley, Weeks, Whipper and Gilliard: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA OVERDOSE PREVENTION ACT" BY ADDING CHAPTER 130 TO TITLE 44 SO AS TO PROVIDE CERTAIN PROFESSIONALS AND OTHER INDIVIDUALS PROTECTION FROM CIVIL AND CRIMINAL LIABILITY AND PROFESSIONAL DISCIPLINE FOR PRESCRIBING, DISPENSING, OR ADMINISTERING AN OPIOID ANTIDOTE TO INDIVIDUALS AT RISK OF AN OPIOID OVERDOSE, TO REQUIRE PROVISION OF INSTRUCTIONAL INFORMATION TO NONHEALTH CARE PROFESSIONALS ADMINISTERING OPIOID ANTIDOTES AND DOCUMENTATION OF RECEIPT OF THE INSTRUCTION, TO PROVIDE FOR FUNDING AND FOR GRANTS TO ORGANIZATIONS TO SUPPORT OPIOID OVERDOSE PREVENTION AND AWARENESS PROJECTS, TO CLARIFY THAT THE PROVISIONS OF THE CHAPTER DO NOT RELIEVE LAW ENFORCEMENT AND EMERGENCY RESPONDERS OF THEIR LEGAL RESPONSIBILITIES TO RESPOND TO MEDICAL EMERGENCIES AND CRIMINAL CONDUCT, AND FOR OTHER PURPOSES.

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

Senator CLEARY explained 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	Gregory
Grooms	Hayes	Hutto
Jackson	Johnson	Kimpson
Leatherman	Malloy	<i>Martin, Larry</i>
<i>Martin, Shane</i>	Massey	Matthews
McElveen	Nicholson	O'Dell
Peeler	Pinckney	Rankin
Sabb	Scott	Setzler
Shealy	Sheheen	Thurmond
Turner	Verdin	Williams
Young		

**Total--43**

**NAYS**

**Total--0**

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

**CARRIED OVER**

S. 505 -- Senators L. Martin, Hembree and Shealy: A BILL TO AMEND SECTION 24-21-440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERIODS OF PROBATION, SO AS TO TOLL THE PERIOD DURING PERIODS OF CIVIL COMMITMENT; TO AMEND SECTION 24-21-560, AS AMENDED,

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RELATING TO COMMUNITY SUPERVISION PROGRAMS, SO AS TO TOLL THE COMMUNITY SUPERVISION PERIOD DURING PERIODS OF CIVIL COMMITMENT; AND TO AMEND SECTION 24-21-670, RELATING TO PERIODS OF PAROLE, SO AS TO TOLL THE PAROLE PERIOD DURING PERIODS OF CIVIL COMMITMENT.

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

H. 3725 -- Reps. J.E. Smith, Quinn, Lowe, Jordan and W.J. McLeod: A BILL TO AMEND SECTION 12-67-120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN REGARD TO THE SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT, SO AS TO ADD THE DEFINITION OF "STATE-OWNED ABANDONED BUILDINGS"; TO AMEND SECTION 12-67-140, RELATING TO THE ELIGIBILITY OF A TAXPAYER TO RECEIVE A TAX CREDIT FOR REHABILITATING AN ABANDONED BUILDING, SO AS TO PROVIDE IF A TAX CREDIT IS EARNED BY A TAXPAYER WHO REHABILITATES A STATE-OWNED ABANDONED BUILDING THE CREDIT MUST BE CLAIMED OVER A TWO-YEAR PERIOD AND TO PROVIDE REQUIREMENTS FOR A TAXPAYER WHO SELLS A BUILDING SITE; TO AMEND SECTION 12-6-3535, RELATING TO INCOME TAX CREDITS FOR MAKING QUALIFIED REHABILITATION EXPENDITURES FOR A CERTIFIED HISTORIC STRUCTURE, SO AS TO PROVIDE AN ADDITIONAL INCOME TAX CREDIT OPTION FOR TAXPAYERS, TO PROVIDE ADDITIONAL REQUIREMENTS FOR WHEN A TAX CREDIT MAY BE TAKEN WHEN A TAXPAYER REHABILITATES A STATE-OWNED ABANDONED BUILDING, AND TO PROVIDE REQUIREMENTS FOR TAX CREDITS EARNED BY A PASS-THROUGH ENTITY; BY ADDING SECTION 12-67-160 SO AS TO PROVIDE REQUIREMENTS FOR A CERTIFICATION OF THE ABANDONED BUILDING SITE; BY ADDING SECTION 12-6-3586 SO AS TO ALLOW A TAX CREDIT TO A TAXPAYER WHO CONSTRUCTS, PURCHASES, OR LEASES A NONRESIDENTIAL SOLAR ENERGY SYSTEM; AND TO AMEND SECTION 12-6-3587, RELATING TO THE PURCHASE AND INSTALLATION OF SOLAR ENERGY SYSTEMS FOR HEATING WATER, SPACE HEATING, AIR COOLING, OR GENERATING ELECTRICITY, SO AS TO PROVIDE THAT THE CREDIT IS

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ALLOWED WITHOUT REGARD TO WHETHER THE TAXPAYER OCCUPIES THE INSTALLATION SITE.

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

S. 789 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION - BOARD OF PHARMACY, RELATING TO ADMINISTRATIVE CITATIONS AND PENALTIES; AND FINES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4521, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator MASSEY, the Resolution was carried over.

S. 790 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, RELATING TO FEES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4554, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator MASSEY, the Resolution was carried over.

S. 791 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION - OFFICE OF STATE FIRE MARSHAL, RELATING TO ARTICLE 8, OFFICE OF STATE FIRE MARSHAL, DESIGNATED AS REGULATION DOCUMENT NUMBER 4555, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator MASSEY, the Resolution was carried over.

S. 792 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, RELATING TO UNEMPLOYMENT TRUST FUND, DESIGNATED AS REGULATION DOCUMENT NUMBER 4475, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator MASSEY, the Resolution was carried over.

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S. 802 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO REGULATIONS FOR SPECIES OR SUBSPECIES OF NON-GAME WILDLIFE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4560, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator CAMPSSEN, the Resolution was carried over.

S. 803 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO TERM AND CONDITIONS FOR THE PUBLIC'S USE OF STATE LAKES AND PONDS OWNED OR LEASED BY THE DEPARTMENT OF NATURAL RESOURCES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4547, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator CAMPSSEN, the Resolution was carried over.

S. 804 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO WILDLIFE MANAGEMENT AREA REGULATIONS; TURKEY HUNTING RULES AND SEASONS; AND EITHER-SEX DAYS AND ANTLERLESS DEER LIMITS FOR PRIVATE LANDS IN GAME ZONES 1-6, DESIGNATED AS REGULATION DOCUMENT NUMBER 4546, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator CAMPSSEN, the Resolution was carried over.

**ADOPTED**

S. 758 -- Senator Matthews: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 178 FROM ITS SOUTHEASTERN INTERSECTION WITH THE BOWMAN TOWN LIMITS TO ITS INTERSECTION WITH THE ORANGEBURG/DORCHESTER COUNTY LINE THE "HONORABLE FRED C. MACK MEMORIAL HIGHWAY" AND

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ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THIS DESIGNATION.

The Resolution was adopted and ordered sent to the House.

S. 805 -- Senator Verdin: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE HIGHWAY 49 BRIDGE OVER THE ENOREE RIVER "SGT. BRANDON F. EGGLESTON MEMORIAL BRIDGE" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THIS DESIGNATION.

The Resolution was adopted and ordered sent to the House.

H. 4059 -- Reps. Huggins, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G.A. Brown, R.L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H.A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Jefferson, Johnson, Jordan, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M.S. McLeod, W.J. McLeod, Merrill, Mitchell, D.C. Moss, V.S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G.M. Smith, G.R. Smith, J.E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE THE FORMATION OF THE INTERNATIONAL SACRAL AGENESIS CAUDAL REGRESSION ASSOCIATION AND TO PROCLAIM SATURDAY, JUNE 6, 2015, AS "SACRAL AGENESIS CAUDAL REGRESSION SYNDROME AWARENESS DAY" IN SOUTH CAROLINA.

The Resolution was adopted and ordered returned to the House.

**OBJECTION**

S. 453 -- Senators Fair and Reese: A BILL TO MAKE PERMANENT THE PROVISIONS OF SECTION 14-1-240, RELATING TO

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SURCHARGES ON CERTAIN MISDEMEANORS TO FUND TRAINING AT THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY.

Senator MASSEY objected to further consideration of the Bill.

**OBJECTION**

H. 4056 -- Reps. Funderburk, Norrell, King, Knight, Brannon, Cobb-Hunter, Daning, Henderson, Herbkersman, Hicks, Kennedy, Newton, Simrill, Thayer, Weeks, Hodges, Pope and Ballentine: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 57-5-1655 SO AS TO PROVIDE THAT A DEPARTMENT OF TRANSPORTATION CONTRACTOR OR CONTRACTING FIRM SHALL NOT BE QUALIFIED TO PARTICIPATE IN DEPARTMENT CONTRACTS AS A PRIME CONTRACTOR OR SUBCONTRACTOR UNDER CERTAIN CIRCUMSTANCES.

Senator DAVIS objected to further consideration of the Bill

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

**MOTION ADOPTED**

At 1:20 P.M., on motion of Senator CROMER, the Senate agreed to dispense with the balance of the Motion Period.

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

**CONCURRENCE**

S. 133 -- Senators Davis and Kimpson: A BILL TO AMEND SECTION 63-19-2050 OF THE 1976 CODE, RELATING TO RECORD DESTRUCTION OF JUVENILE RECORDS, TO PROVIDE FOR THE AUTOMATIC EXPUNGEMENT OF JUVENILE RECORDS FOR NON-VIOLENT CRIMES THAT OCCUR BEFORE THE AGE OF SIXTEEN YEARS OLD, TO PROVIDE FOR THE CIRCUMSTANCES UNDER WHICH THE AUTOMATIC EXPUNGEMENT MAY OCCUR, AND TO PROVIDE FOR AN EXPUNGEMENT PROCESS FOR JUVENILE RECORDS RELATED

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TO CERTAIN CRIMES THAT OCCUR AT THE AGE OF SIXTEEN OR SEVENTEEN YEARS OLD.

The House returned the Bill with amendments, the question being concurrence in the House amendments.

Senator LARRY MARTIN explained the amendments.

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

**Ayes 45; Nays 0**

**AYES**

Alexander	Allen	Bennett
Bright	Bryant	Campbell
Campsen	Cleary	Coleman
Corbin	Courson	Cromer
Davis	Fair	Gregory
Grooms	Hayes	Hutto
Jackson	Johnson	Kimpson
Leatherman	Lourie	Malloy
<i>Martin, Larry</i>	<i>Martin, Shane</i>	Massey
Matthews	McElveen	Nicholson
O'Dell	Peeler	Pinckney
Rankin	Reese	Sabb
Scott	Setzler	Shealy
Sheheen	Thurmond	Turner
Verdin	Williams	Young

**Total--45**

**NAYS**

**Total--0**

On motion of Senator LARRY MARTIN, the Senate concurred in the House amendments and a message was sent to the House accordingly. Ordered that the title be changed to that of an Act and the Act enrolled for Ratification.

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**CONCURRENCE**

S. 268 -- Senators L. Martin and Campsen: A BILL TO AMEND SECTION 14-7-1630, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF STATE GRAND JURIES, TO AMEND SECTION 14-7-1650, AS AMENDED, RELATING TO THE DUTIES AND OBLIGATIONS OF THE ATTORNEY GENERAL REGARDING THE STATE GRAND JURY SYSTEM, TO AMEND SECTION 14-7-1660, AS AMENDED, RELATING TO THE SELECTION OF GRAND JURORS, TO AMEND SECTION 14-7-1690, AS AMENDED, RELATING TO THE GRAND JURY'S AREAS OF INQUIRY AND RELATED PROCEDURES, TO AMEND SECTION 14-7-1720, AS AMENDED, RELATING TO SECRECY OF GRAND JURY PROCEEDINGS, AND TO AMEND SECTION 14-7-1730, AS AMENDED, RELATING TO JURISDICTION OF PRESIDING JUDGES OF STATE GRAND JURIES, ALL SO AS TO REVISE PROCEDURES REGARDING THE STATE GRAND JURY SYSTEM RELATING TO NOTIFICATION PROCEDURES WHEN A STATE GRAND JURY IS IMPANELED, COMMUNICATIONS BETWEEN THE PRESIDING JUDGE AND THE ATTORNEY GENERAL INCLUDING APPELLATE REVIEW OF A JUDGE'S REFUSAL TO IMPANEL A STATE GRAND JURY, AMONG OTHER THINGS, TO PROVIDE A PROCEDURE WHEN A CONFLICT OF INTEREST ARISES INVOLVING THE ATTORNEY GENERAL RELATED TO THE GRAND JURY PROCESS, TO PROVIDE PROCEDURES RELATED TO SECRECY OF CERTAIN GRAND JURY PROCEEDINGS, AND TO MAKE OTHER NECESSARY TECHNICAL CHANGES.

The House returned the Bill with amendments, the question being concurrence in the House amendments.

Senator LARRY MARTIN explained the amendments.

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

**Ayes 45; Nays 0**

**AYES**

Alexander	Allen	Bennett
Bright	Bryant	Campbell
Campsen	Cleary	Coleman
Corbin	Courson	Cromer

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Davis	Fair	Gregory
Grooms	Hayes	Hutto
Jackson	Johnson	Kimpson
Leatherman	Lourie	Malloy
<i>Martin, Larry</i>	<i>Martin, Shane</i>	Massey
Matthews	McElveen	Nicholson
O'Dell	Peeler	Pinckney
Rankin	Reese	Sabb
Scott	Setzler	Shealy
Sheheen	Thurmond	Turner
Verdin	Williams	Young

**Total--45**

**NAYS**

**Total--0**

On motion of Senator LARRY MARTIN, the Senate concurred in the House amendments and a message was sent to the House accordingly. Ordered that the title be changed to that of an Act and the Act enrolled for Ratification.

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE WITH AMENDMENTS**

S. 3 -- Senators L. Martin, Shealy, Malloy, Courson, Fair, Turner, Lourie and Hembree: A BILL TO AMEND SECTION 16-25-10 OF THE 1976 CODE, TO PROVIDE NECESSARY DEFINITIONS; TO AMEND SECTION 16-25-20 OF THE 1976 CODE, RELATING TO CRIMINAL DOMESTIC VIOLENCE OFFENSES AND PENALTIES, SO AS TO RESTRUCTURE THE CRIMINAL DOMESTIC VIOLENCE OFFENSES INTO DEGREES AND PROVIDE PENALTIES; TO AMEND SECTION 16-25-30, RELATING TO THE ILLEGAL POSSESSION OF A FIREARM BY A PERSON CONVICTED OF A DOMESTIC VIOLENCE OFFENSE, TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON CONVICTED OF A CRIMINAL DOMESTIC VIOLENCE OFFENSE OR A PERSON SUBJECT TO AN ORDER OF PROTECTION FOR DOMESTIC OR FAMILY VIOLENCE TO SHIP, TRANSPORT, OR RECEIVE A FIREARM OR AMMUNITION, AND TO PROVIDE

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NOTICE TO A PERSON TO WHOM THE STATUTE APPLIES; TO AMEND SECTION 16-25-65, RELATING TO CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, TO PROVIDE THAT THE COURT MUST ORDER PARTICIPATION IN A DOMESTIC VIOLENCE INTERVENTION PROGRAM AND ALLOW A RESTRICTION ON FIREARMS AND AMMUNITION AS A CONDITION OF BOND; AND TO AMEND CHAPTER 3, TITLE 16, RELATING TO OFFENSES AGAINST THE PERSON, BY ADDING ARTICLE 18, TO PROVIDE NECESSARY DEFINITIONS AND TO ESTABLISH A PROCEDURE FOR THE ISSUANCE OF PERMANENT AND EMERGENCY CIVIL NO-CONTACT ORDERS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE DURATION OF CIVIL NO-CONTACT ORDERS, AND TO PROVIDE A PENALTY FOR THE VIOLATION OF CIVIL NO-CONTACT ORDERS.

The House returned the Bill with amendments.

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

Senator LARRY MARTIN proposed the following amendment (JUD0003.033), which was adopted:

Amend the bill, as and if amended, by striking page 40, line 13, through page 46, line 13, and inserting:

/ Part VII /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the House amendments.

The question then was the adoption of the amendment.

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

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Davis	Fair	Gregory
Grooms	Hayes	Hutto
Jackson	Johnson	Kimpson
Leatherman	Lourie	Malloy
<i>Martin, Larry</i>	<i>Martin, Shane</i>	Massey
Matthews	McElveen	O'Dell
Peeler	Pinckney	Rankin
Reese	Sabb	Scott
Setzler	Shealy	Sheheen
Thurmond	Turner	Verdin
Williams	Young	

**Total--44**

**NAYS**

**Total--0**

The amendment was adopted.

**POINT OF ORDER**

Senator BRYANT proposed the following amendment (3R018.KM.KLB), which was ruled out of order:

Amend the bill, as and if amended, page 5, by striking line 21 and inserting:

/ Section 16-25-65.

( ) A person commits the offense of domestic criminal sexual violent conduct if the person violates the provisions of Section 16-3-652 against a household member. A person who violates this subsection is guilty of a felony and, upon conviction, must be punished as provided in Section 16-3-652. /

Amend the bill, as and if amended, page 10, by striking lines 18-22 and inserting:

/ 16-3-210(B), criminal sexual conduct in the first and second degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct with minors, first, second, and third degree (Section 16-3-655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16-3-656); domestic criminal sexual violent conduct (Section 16-25-20( )); assault and battery with intent to kill /

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Amend the bill further, as and if amended, page 11, line 30, by adding an appropriately numbered new SECTION to read:

/ SECTION \_\_. Section 17-25-45(C)(1) of the 1976 Code is amended to read:

“(C)(1) ‘Most serious offense’ means:

16-1-40 Accessory, for any offense enumerated in this item

16-1-80 Attempt, for any offense enumerated in this item

16-3-10 Murder

16-3-29 Attempted Murder

16-3-50 Voluntary manslaughter

16-3-85(A)(1) Homicide by child abuse

16-3-85(A)(2) Aiding and abetting homicide by child abuse

16-3-210 Lynching, First degree

16-3-210(B) Assault and battery by mob, First degree

16-3-620 Assault and battery with intent to kill

16-3-652 Criminal sexual conduct, First degree

16-25-20( ) Domestic criminal sexual violent conduct

16-3-653 Criminal sexual conduct, Second degree

16-3-655 Criminal sexual conduct with minors, except where evidence presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)

16-3-656 Assault with intent to commit criminal sexual conduct, First and Second degree

16-3-910 Kidnapping

16-3-920 Conspiracy to commit kidnapping

16-3-930 Trafficking in persons

16-3-1075 Carjacking

16-11-110(A) Arson, First degree

16-11-311 Burglary, First degree

16-11-330(A) Armed robbery

16-11-330(B) Attempted armed robbery

16-11-540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results

24-13-450 Taking of a hostage by an inmate

25-7-30 Giving information respecting national or state defense to foreign contacts during war

25-7-40 Gathering information for an enemy

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43-35-85(F) Abuse or neglect of a vulnerable adult resulting in death

55-1-30(3) Unlawful removing or damaging of airport facility or equipment when death results

56-5-1030(B)(3) Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation

58-17-4090 Obstruction of railroad, death results.” /

Amend the bill further, as and if amended, page 25, line 10, by adding an appropriately numbered new SECTION to read:

/ SECTION. \_\_\_ Section 16-3-652(C) of the 1976 Code is amended to read:

“(2) Criminal sexual conduct in the first degree is a felony punishable by death, or by a mandatory minimum term of imprisonment for not more than thirty years to life, according to the discretion of the court.

(3) If the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to items (1) and (2), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, ‘life imprisonment’ means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. No person sentenced to life imprisonment, pursuant to this subsection, is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. Under no circumstances may a female who is pregnant be executed, so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death imposed pursuant to this section to life imprisonment pursuant to the provisions of Section 14, Article IV of the Constitution of South Carolina, 1895, the commuttee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(a) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, the court

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shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pled guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States, or the State of South Carolina, or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(b) In sentencing a person, upon conviction or adjudication of guilt of a defendant pursuant to this section, the judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(i) Statutory aggravating circumstances:

(A) The victim's resistance was overcome by force.

(B) The victim was prevented from resisting the act because the actor was armed with a dangerous weapon.

(C) The victim was prevented from resisting the act by threats of great and immediate bodily harm, accompanied by an apparent power to inflict bodily harm.

(D) The victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing his resistance.

(E) The crime was committed by a person with a prior conviction for murder.

(F) The offender committed the crime for himself or another for the purpose of receiving money or a thing of monetary value.

(G) The offender caused or directed another to commit the crime or committed the crime as an agent or employee of another person.

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(H) The crime was committed against two or more persons by the defendant by one act, or pursuant to one scheme, or course of conduct.

(I) The crime was committed during the commission of burglary in any degree, kidnapping, or trafficking in persons.

(ii) Mitigating circumstances:

(A) The defendant has no significant history of prior criminal convictions involving the use of violence against another person.

(B) The crime was committed while the defendant was under the influence of mental or emotional disturbance.

(C) The defendant was an accomplice in the crime committed by another person and his participation was relatively minor.

(D) The defendant acted under duress or under the domination of another person.

(E) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(F) The age or mentality of the defendant at the time of the crime.

(G) The defendant was below the age of eighteen at the time of the crime.

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances, which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases, the judge shall make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

When a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion,

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or any other arbitrary factor. When a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in this subsection. Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. When a statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to life imprisonment. No person sentenced to life imprisonment pursuant to this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for the death penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant upon conviction or adjudication of guilt of a defendant pursuant to this section, the trial judge shall dismiss the jury and shall sentence the defendant to life imprisonment, as provided in this subsection.

(c) Notwithstanding the provisions of Section 14-7-1020, in cases involving capital punishment a person called as a juror must be examined by the attorney for the defense.

(d) In a criminal action pursuant to this section, which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless those beliefs or attitudes would render him unable to return a verdict according to law.

(4) In all cases in which an individual is sentenced to death pursuant to this section, the trial judge, before the dismissal of the jury, shall verbally instruct the jury concerning the discussion of its verdict. A standard written instruction must be promulgated by the Supreme Court for use in capital cases brought pursuant to this section.

(a) The verbal instruction must include:

(i) the right of the juror to refuse to discuss the verdict;

(ii) the right of the juror to discuss the verdict to the extent that the juror so chooses;

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(iii) the right of the juror to terminate any discussion pertaining to the verdict at any time the juror so chooses;

(iv) the right of the juror to report any person who continues to pursue a discussion of the verdict or who continues to harass the juror after the juror has refused to discuss the verdict or communicated a desire to terminate discussion of the verdict; and

(v) the name, address, and phone number of the person or persons to whom the juror should report any harassment concerning the refusal to discuss the verdict or the juror's decision to terminate discussion of the verdict.

(b) In addition to the verbal instruction of the trial judge, each juror, upon dismissal from jury service, shall receive a copy of the written jury instruction as provided herein.

(5) Whenever the death penalty is imposed pursuant to this section, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of South Carolina. The clerk of the trial court, within ten days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of South Carolina together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of South Carolina.

(a) The Supreme Court of South Carolina shall consider the punishment as well as any errors by way of appeal.

(b) With regard to the sentence, the court shall determine whether the:

(i) sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

(ii) evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection (3)(b)(i); and

(iii) sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(c) Both the defendant and the State shall have the right to submit briefs within the time provided by the court and to present oral arguments to the court.

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(d) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, is authorized to:

(i) affirm the sentence of death; or

(ii) set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court of South Carolina in its decision, and the extracts prepared as provided for, must be provided to the resentencing judge for his consideration. If the court finds error prejudicial to the defendant in the sentencing proceeding conducted by the trial judge before the trial jury as outlined in subsection (3)(a), the court may set the sentence aside and remand the case for a resentencing proceeding to be conducted by the same or a different trial judge and by a new jury impaneled for this purpose. In the resentencing proceeding, the new jury, if the defendant does not waive the right of a trial jury for the resentencing proceeding, shall hear evidence in extenuation, mitigation, or aggravation of the punishment in addition to any evidence admitted in the defendant's first trial relating to guilt for the particular crime for which the defendant has been found guilty.

(e) The sentence review is in addition to direct appeal, if taken, and the review and appeal must be consolidated for consideration. The court shall render its decision on all legal errors, the factual substantiation of the verdict, and the validity of the sentence.

(6) Whenever the solicitor seeks the death penalty pursuant to this section, he shall notify the defense attorney of his intention to seek the death penalty at least thirty days prior to the trial of the case. At the request of the defense attorney, the defense attorney must be excused from all other trial duties ten days prior to the term of court in which the trial is to be held.

(a) Whenever any person is charged with first degree criminal sexual conduct and the death penalty is sought, the court, upon determining that the person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend the person in the trial of the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of the attorneys so appointed may be the public defender or a member of his staff. In all cases when no conflict exists, the public defender or member of his staff must be appointed if qualified. If a conflict exists, the court

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then shall turn first to the contract public defender attorneys, if qualified, before turning to the Office of Indigent Defense.

(b) Notwithstanding another provision of law, the court shall order payment of all fees and costs from funds available to the Office of Indigent Defense for the defense of the indigent. Any attorney appointed must be compensated at a rate not to exceed fifty dollars per hour for time expended out of court and seventy-five dollars per hour for time expended in court. Compensation may not exceed twenty-five thousand dollars and must be paid from funds available to the Office of Indigent Defense for the defense of indigent represented by court-appointed, private counsel.

(c) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed twenty thousand dollars as the court deems appropriate. Payment of these fees and expenses may be ordered in cases where the defendant is an indigent represented by either court-appointed, private counsel, or the public defender.

(d) Court-appointed counsel seeking payment for fees and expenses shall request these payments from the Office of Indigent Defense within thirty days after the completion of the case. For the purposes of this statute, exhaustion of the funds shall occur if the funds administered by the Office of Indigent Defense and reserved for death penalty fees and expenses have been reduced to zero. If either the Death Penalty Trial Fund or the Conflict Fund has been exhausted in a month and the other fund contains money not scheduled to be disbursed in that month, then the Indigent Defense Commission must transfer a sufficient amount from the fund with the positive fund balance to the fund with no balance and pay the obligation to the extent possible.

(e) Payment in excess of the hourly rates and limit in item (b) or (c) is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of services cannot await prior authorization, the

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court may authorize the provision of and payment for services nunc pro tunc.

(f) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant.

(g) The Supreme Court shall promulgate guidelines on the expertise and qualifications necessary for attorneys to be certified as competent to handle death penalty cases brought pursuant to this section.

(h) The Office of Indigent Defense shall maintain a list of death penalty qualified attorneys who have applied for and received certification by the Supreme Court as provided for in this subsection. In the event the court-appointed counsel notifies the chief administrative judge in writing that he or she does not wish to provide representation in a death penalty case, the chief administrative judge shall advise the Office of Indigent Defense which shall forward a name or names to the chief administrative judge for consideration. The appointment power is vested in the chief administrative judge. The Office of Indigent Defense shall establish guidelines as are necessary to ensure that attorneys' names are presented to the judges on a fair and equitable basis, taking into account geography and previous assignments from the list. Efforts must be made to present an attorney from the area or region where the action is initiated.

(i) The payment schedule provided in this subsection, as amended by Act 164 of 1993, shall apply to any case for which trial occurs on or after July 1, 1993.

(j) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may be appointed by the court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense. This item shall not pertain to any case in which counsel has been appointed on the effective date of this act.

(k) The judicial department biennially shall develop and make available to the public a list of standard fees and expenses associated with the defense of an indigent person in a death penalty case.

(l) Notwithstanding another provision of law, in any trial pursuant to this section when the maximum penalty is death or in a separate sentencing proceeding following the trial, the defendant and his counsel shall have the right to make the last argument.” /

Re-number sections to conform.

Amend title to conform.

[SJ]

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Senator BRYANT explained the amendment.

**Point of Order**

Senator HUTTO raised a Point of Order under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill. The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

**POINT OF ORDER**

Senator BRYANT proposed the following amendment (3R019.KM.KLB), which was ruled out of order:

Amend the bill, as and if amended, page 5, by striking line 21 and inserting:

/ Section 16-25-65.

(C) A person commits the offense of domestic criminal sexual violent conduct if the person violates the provisions of Section 16-3-652 against a household member. A person who violates this subsection is guilty of a felony punishable by death, or by a mandatory minimum term of imprisonment for thirty years to life.

(D) If the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to items (1) and (2), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, 'life imprisonment' means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. No person sentenced to life imprisonment, pursuant to this subsection, is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. Under no circumstances may a female who is pregnant be executed, so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death imposed pursuant to this section to life imprisonment pursuant to the provisions of Section 14, Article IV of the Constitution of South

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Carolina, 1895, the commuttee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(1) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pled guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States, or the State of South Carolina, or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(2) In sentencing a person, upon conviction or adjudication of guilt of a defendant pursuant to this section, the judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(i) The victim's resistance was overcome by force.

(ii) The victim was prevented from resisting the act because the actor was armed with a dangerous weapon.

(iii) The victim was prevented from resisting the act by threats of great and immediate bodily harm, accompanied by an apparent power to inflict bodily harm.

(iv) The victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing his resistance.

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(v) The crime was committed by a person with a prior conviction for murder.

(vi) The offender committed the crime for himself or another for the purpose of receiving money or a thing of monetary value.

(vii) The offender caused or directed another to commit the crime or committed the crime as an agent or employee of another person.

(viii) The crime was committed against two or more persons by the defendant by one act, or pursuant to one scheme, or course of conduct.

(ix) The crime was committed during the commission of burglary in any degree, kidnapping, or trafficking in persons.

(b) Mitigating circumstances:

(i) The defendant has no significant history of prior criminal convictions involving the use of violence against another person.

(ii) The crime was committed while the defendant was under the influence of mental or emotional disturbance.

(iii) The defendant was an accomplice in the crime committed by another person and his participation was relatively minor.

(iv) The defendant acted under duress or under the domination of another person.

(v) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(vi) The age or mentality of the defendant at the time of the crime.

(vii) The defendant was below the age of eighteen at the time of the crime.

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances, which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases, the judge shall make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating

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circumstances enumerated in this section is found, the death penalty must not be imposed.

When a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion, or any other arbitrary factor. When a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in this subsection. Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. When a statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to life imprisonment. No person sentenced to life imprisonment pursuant to this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for the death penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant upon conviction or adjudication of guilt of a defendant pursuant to this section, the trial judge shall dismiss the jury and shall sentence the defendant to life imprisonment, as provided in this subsection.

(3) Notwithstanding the provisions of Section 14-7-1020, in cases involving capital punishment a person called as a juror must be examined by the attorney for the defense.

(4) In a criminal action pursuant to this section, which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless those beliefs or attitudes would render him unable to return a verdict according to law.

(E) In all cases in which an individual is sentenced to death pursuant to this section, the trial judge, before the dismissal of the jury, shall

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verbally instruct the jury concerning the discussion of its verdict. A standard written instruction must be promulgated by the Supreme Court for use in capital cases brought pursuant to this section.

(1) The verbal instruction must include:

(a) the right of the juror to refuse to discuss the verdict;

(b) the right of the juror to discuss the verdict to the extent that the juror so chooses;

(c) the right of the juror to terminate any discussion pertaining to the verdict at any time the juror so chooses;

(d) the right of the juror to report any person who continues to pursue a discussion of the verdict or who continues to harass the juror after the juror has refused to discuss the verdict or communicated a desire to terminate discussion of the verdict; and

(e) the name, address, and phone number of the person or persons to whom the juror should report any harassment concerning the refusal to discuss the verdict or the juror's decision to terminate discussion of the verdict.

(2) In addition to the verbal instruction of the trial judge, each juror, upon dismissal from jury service, shall receive a copy of the written jury instruction as provided herein.

(F) Whenever the death penalty is imposed pursuant to this section, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of South Carolina. The clerk of the trial court, within ten days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of South Carolina together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of South Carolina.

(1) The Supreme Court of South Carolina shall consider the punishment as well as any errors by way of appeal.

(2) With regard to the sentence, the court shall determine whether the:

(a) sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

(b) evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection (D)(2)(a); and

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(c) sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(3) Both the defendant and the State shall have the right to submit briefs within the time provided by the court and to present oral arguments to the court.

(4) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, is authorized to:

(a) affirm the sentence of death; or

(b) set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court of South Carolina in its decision, and the extracts prepared as provided for, must be provided to the resentencing judge for his consideration. If the court finds error prejudicial to the defendant in the sentencing proceeding conducted by the trial judge before the trial jury as outlined in subsection (D)(1), the court may set the sentence aside and remand the case for a resentencing proceeding to be conducted by the same or a different trial judge and by a new jury impaneled for this purpose. In the resentencing proceeding, the new jury, if the defendant does not waive the right of a trial jury for the resentencing proceeding, shall hear evidence in extenuation, mitigation, or aggravation of the punishment in addition to any evidence admitted in the defendant's first trial relating to guilt for the particular crime for which the defendant has been found guilty.

(5) The sentence review is in addition to direct appeal, if taken, and the review and appeal must be consolidated for consideration. The court shall render its decision on all legal errors, the factual substantiation of the verdict, and the validity of the sentence.

(G) Whenever the solicitor seeks the death penalty pursuant to this section, he shall notify the defense attorney of his intention to seek the death penalty at least thirty days prior to the trial of the case. At the request of the defense attorney, the defense attorney must be excused from all other trial duties ten days prior to the term of court in which the trial is to be held.

(1) Whenever any person is charged with first degree criminal sexual conduct and the death penalty is sought, the court, upon determining that the person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend the person in the trial of

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the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of the attorneys so appointed may be the public defender or a member of his staff. In all cases when no conflict exists, the public defender or member of his staff must be appointed if qualified. If a conflict exists, the court then shall turn first to the contract public defender attorneys, if qualified, before turning to the Office of Indigent Defense.

(2) Notwithstanding another provision of law, the court shall order payment of all fees and costs from funds available to the Office of Indigent Defense for the defense of the indigent. Any attorney appointed must be compensated at a rate not to exceed fifty dollars per hour for time expended out of court and seventy-five dollars per hour for time expended in court. Compensation may not exceed twenty-five thousand dollars and must be paid from funds available to the Office of Indigent Defense for the defense of indigent represented by court-appointed, private counsel.

(3) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed twenty thousand dollars as the court deems appropriate. Payment of these fees and expenses may be ordered in cases where the defendant is an indigent represented by either court-appointed, private counsel, or the public defender.

(4) Court-appointed counsel seeking payment for fees and expenses shall request these payments from the Office of Indigent Defense within thirty days after the completion of the case. For the purposes of this statute, exhaustion of the funds shall occur if the funds administered by the Office of Indigent Defense and reserved for death penalty fees and expenses have been reduced to zero. If either the Death Penalty Trial Fund or the Conflict Fund has been exhausted in a month and the other fund contains money not scheduled to be disbursed in that month, then the Indigent Defense Commission must transfer a sufficient amount from the fund with the positive fund balance to the fund with no balance and pay the obligation to the extent possible.

(5) Payment in excess of the hourly rates and limit in item (1) or (2) is authorized only if the court certifies, in a written order with specific

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findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of services cannot await prior authorization, the court may authorize the provision of and payment for services nunc pro tunc.

(6) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant.

(7) The Supreme Court shall promulgate guidelines on the expertise and qualifications necessary for attorneys to be certified as competent to handle death penalty cases brought pursuant to this section.

(8) The Office of Indigent Defense shall maintain a list of death penalty qualified attorneys who have applied for and received certification by the Supreme Court as provided for in this subsection. In the event the court-appointed counsel notifies the chief administrative judge in writing that he or she does not wish to provide representation in a death penalty case, the chief administrative judge shall advise the Office of Indigent Defense which shall forward a name or names to the chief administrative judge for consideration. The appointment power is vested in the chief administrative judge. The Office of Indigent Defense shall establish guidelines as are necessary to ensure that attorneys' names are presented to the judges on a fair and equitable basis, taking into account geography and previous assignments from the list. Efforts must be made to present an attorney from the area or region where the action is initiated.

(9) The payment schedule provided in this subsection, as amended by Act 164 of 1993, shall apply to any case for which trial occurs on or after July 1, 1993.

(10) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may be appointed by the court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense. This item shall not pertain to any case in which counsel has been appointed on the effective date of this act.

(11) The judicial department biennially shall develop and make available to the public a list of standard fees and expenses associated with the defense of an indigent person in a death penalty case.

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(12) Notwithstanding another provision of law, in any trial pursuant to this section when the maximum penalty is death or in a separate sentencing proceeding following the trial, the defendant and his counsel shall have the right to make the last argument.” /

Re-number sections to conform.

Amend title to conform.

The question then was the adoption of the amendment.

Senator BRYANT explained the amendment.

**Point of Order**

Senator HUTTO raised a Point of Order under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill.

The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

**Appeal of the Ruling by the PRESIDENT**

Senator BRYANT appealed the Ruling by the PRESIDENT.

**ACTING PRESIDENT PRESIDES**

At 2:12 P.M., Senator COURSON, assumed the Chair.

The question then was, “Shall the Ruling by the PRESIDENT be overridden?”

The ACTING PRESIDENT stated that Rule 7 provided for debate of fifteen minutes each for proponents and opponents.

Senator LARRY MARTIN spoke contra to overriding the Ruling by the PRESIDENT.

Senator BRYANT argued in favor of overriding the Ruling by the PRESIDENT.

Senator SCOTT spoke contra to overriding the Ruling by the PRESIDENT.

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

[SJ]

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**Ayes 3; Nays 41**

**AYES**

Bright                      Bryant                      *Martin, Shane*

**Total--3**

**NAYS**

Alexander	Allen	Bennett
Campbell	Campsen	Cleary
Coleman	Corbin	Courson
Cromer	Davis	Fair
Gregory	Grooms	Hayes
Hutto	Jackson	Johnson
Kimpson	Leatherman	Lourie
Malloy	<i>Martin, Larry</i>	Matthews
McElveen	Nicholson	O'Dell
Peeler	Pinckney	Rankin
Reese	Sabb	Scott
Setzler	Shealy	Sheheen
Thurmond	Turner	Verdin
Williams	Young	

**Total--41**

The Senate refused to override the ruling of the PRESIDENT.

The amendment was ruled out of order.

The Bill was ordered returned to the House of Representatives with amendments.

**PRESIDENT PRESIDES**

At 2:23 P.M., the PRESIDENT assumed the Chair.

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

**Debate Interrupted**

H. 3702 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE

[SJ]

**TUESDAY, MAY 26, 2015**

FUND FOR FISCAL YEAR 2014-2015, AND TO ALLOW UNEXPENDED FUNDS APPROPRIATED TO BE CARRIED FORWARD TO SUCCEEDING FISCAL YEARS AND EXPENDED FOR THE SAME PURPOSES.

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

**Amendment No. 5A**

Senators SHANE MARTIN, DAVIS, BRIGHT and BRYANT proposed the following amendment (3702R010.KM.SRM):

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

/ SECTION 1. In accordance with the provisions of Section 36(B)(2) and (3), Article III, 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 2014-2015 the following amounts:

(1) H63 - Department of Education

School Bus Lease or Purchase	\$	17,000,000
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(2) H03 - Commission on Higher Education

of State Veteran Tuition

Out

Reimbursement-Colleges	\$	7,000,000
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(3) H51 - Medical University of South Carolina

Children's Hospital	\$	1
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(4) H59 - State Board for Technical and Comprehensive Education

ReadySC	\$	4,249,000
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(5) J02 - Department of Health and Human Services

Telemedicine	\$	2,000,000
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(6) D10 - State Law Enforcement Division

New Laboratory Facility	\$	1
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(7) D10 - State Law Enforcement Division

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Vehicles	\$	900,000	
(8) K05 - Department of Public Safety Law Enforcement Vehicles	\$	1,000,000	
(9) K05 - Department of Public Safety Body Armor Replacement	\$	800,000	
(10) K05 - Department of Public Safety Supply Warehouse Roof Replacement	\$	250,000	
(11) P16 - Department of Agriculture Consumer Protection Equipment	\$	1,000,000	
(12) P28 - Department of Parks, Recreation and Tourism Welcome Center Facility Management	\$	1	
(13) Y14 - State Ports Authority Georgetown Port Maintenance Dredging	\$	2,600,000	
(14) U12 - Department of Transportation Facility Maintenance and Renovation	\$	870,000	
(15) County Transportation Fund Capital Expenditures			
Maintenance	\$	<u>47,144,208</u>	Road
			\$
84,813,211			

SECTION 2. (A)Of the funds appropriated above in Section 1, Item (2) to the Commission on Higher Education for Out of State Veteran

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Tuition Reimbursement-Colleges, the Office of State Treasurer is directed to establish a fund, separate and distinct from the general fund and all other funds, entitled the College and University Out of State Veteran Tuition Differential Reimbursement Fund. Any funds appropriated in this act for this purpose must be deposited into the fund and interest accrued by the fund must remain in the fund.

(B)The purpose of the fund is to reimburse public institutions of higher learning, as defined in Section 59-103-5 of the 1976 Code, for revenue loss resulting from the provisions of Section 59-112-50(C). By March 1, 2016, a public institution of higher learning seeking a reimbursement from this fund must submit an application to the Commission on Higher Education to receive a reimbursement from the fund. The total reimbursement to a public institution may not exceed the difference between the amount the institution would have charged but for Section 59-112-50(C), and the amount the institution actually charged. The Commission on Higher Education may require any proof it determines necessary to verify the veracity of the application.

(C)By June 15, 2016, the Commission on Higher Education must distribute the funds to those institutions that have applied pursuant to subsection (B). In the event that the total requested and verified reimbursements exceed the amount in the fund, the distribution to each public institution shall be reduced pro rata based on the institution's amount of verified reimbursements compared to the total amount of verified reimbursements of all institutions.

SECTION 3. Funds appropriated above in Section 1, Item (14) to the Department of Transportation shall be used to fund the Orangeburg District Office Building Renovation, Clarendon County Maintenance Complex Construction, SHEP Greenville/Spartanburg Office Construction, and Lexington Maintenance Complex Construction.

SECTION 4. The Comptroller General shall post the appropriations contained in SECTION 1 of this joint resolution as provided in Section 11-11-320(D) of the 1976 Code. Unexpended funds appropriated pursuant to SECTION 1 of this joint resolution may be carried forward to succeeding fiscal years and expended for the same purposes.

SECTION 5. This joint resolution takes effect thirty days after the completion of the 2014-2015 Fiscal Year in accordance with the provisions of Section 36(B)(3)(a), Article III, Constitution of South Carolina, 1895, and Section 11-11-320(D)(1) of the 1976 Code. /

Renumber sections to conform.

Amend title to conform.

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Senator DAVIS spoke on the amendment.

**Objection**

Senator LEATHERMAN asked unanimous consent, with Senator DAVIS retaining the floor, for the Senate to stand adjourned.

Senator THURMOND objected.

Senator DAVIS resumed speaking on the amendment.

Debate was interrupted by adjournment.

**Motion Adopted**

Senator LEATHERMAN moved that the Senate stand adjourned to meet tomorrow, Wednesday, May 27, 2015 at 10:00 A.M.

There was no objection.

**Statement by Senator THURMOND**

Senator THURMOND desired to be recorded as voting against the motion to adjourn.

**ADJOURNMENT**

At 5:00 P.M., on motion of Senator LEATHERMAN, the Senate adjourned to meet tomorrow at 10:00 A.M.

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