**Thursday, January 10, 2019**

**(Statewide Session)**

~~Indicates Matter Stricken~~

Indicates New Matter

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

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

Matthew 18:20

“For where two or three are gathered in my name, there I am in the midst of them.”

Let us pray. Gracious Lord, as we gather in this Chamber, we remember Your promise that “…where two or three are gathered in my name, there I am in the midst of them.”

We claim Your promise this day and pray that You will make Your presence a part of every decision that comes from this Body.

Through the power of Your spirit, O God, enable us to be better than we are, wiser than we know, and stronger than we can dream. Therefore each day forward, may we hold fast to what is good, may we overcome what is evil and may we be constant in our daily prayer. In Your holy name we pray, Amen.

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

**Point of Quorum**

At 11:05 A.M., Senator MASSEY made the point that a quorum was not present. It was ascertained that a quorum was present. The Senate resumed.

**Doctor of the Day**

Senator MARTIN introduced Dr. Helen Stockinger of Spartanburg, S.C., Doctor of the Day.

**Leave of Absence**

At 12:10 P.M., Senator ALEXANDER requested a leave of absence for Senator LEATHERMAN.

**Leave of Absence**

At 12:10 P.M., Senator GOLDFINCH requested a leave of absence for Senator CAMPBELL for the balance of the day.

**CO-SPONSORS ADDED**

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

S. 2 Sen. Setzler

S. 104 Sen. Sheheen

S. 105 Sen. Sheheen

S. 281 Sen. Campbell

S. 313 Sen. Shealy

S. 332 Sen. Senn

**RECALLED AND COMMITTED**

S. 333 -- Senator M.B. Matthews: A BILL TO AMEND ARTICLE 5, CHAPTER 21, TITLE 24 OF THE 1976 CODE, RELATING TO PROBATION, BY ADDING SECTION 24‑21‑435, TO PROVIDE THAT PROBATION OFFICERS, COURT PERSONNEL, COUNTY AND MUNICIPAL PERSONNEL, PUBLIC OFFICIALS, AND PRIVATE VOLUNTEERS WHO PARTICIPATE IN COMMUNITY SERVICE PROGRAMS IN WHICH A PROBATIONER IS COMPLETING COMMUNITY SERVICE AS A CONDITION OF PROBATION ARE NOT LIABLE FOR CIVIL DAMAGES UNLESS AN INJURY OR DAMAGES RESULT FROM THE GROSS NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT OF SUCH PERSON.

On motion of Senator MARTIN, with unanimous consent, the Bill was recalled from the Committee on Judiciary and committed to the Committee on Corrections and Penology.

**RECALLED AND COMMITTED**

S. 338 -- Senator Climer: A BILL TO AMEND ARTICLE 7, CHAPTER 5, TITLE 58 OF THE 1976 CODE, RELATING TO THE REGULATION OF WATER AND SEWER UTILITIES’ ADEQUACY OF SERVICE, BY ADDING SECTION 58-5-715, TO REQUIRE THAT A WATER OR SEWER UTILITY SUBJECT TO THE PUBLIC SERVICE COMMISSION’S SUPERVISION AND REGULATION MUST ESTABLISH CUSTOMER CLASSES BASED UPON GEOGRAPHIC SERVICE LOCATION, TO PROVIDE THAT A CLASS BASED UPON GEOGRAPHIC SERVICE LOCATION CONSISTS OF CUSTOMERS WHO ARE SERVED BY A WATER OR SEWER UTILITY FOR WHICH THE UTILITY’S SYSTEM COMPONENTS THAT PROVIDE THE SERVICE TO THOSE CUSTOMERS ARE PHYSICALLY CONNECTED AND THIS CLASS IS IN ADDITION TO OTHER TYPES OF CUSTOMER CLASSES, AND TO PROVIDE THAT A CUSTOMER IN A GEOGRAPHIC SERVICE LOCATION CLASS MUST NOT PAY FOR THE CONSTRUCTION, MAINTENANCE, OR IMPROVEMENT OF THE UTILITY’S PIPES OR OTHER EQUIPMENT THAT PROVIDES SERVICE TO CUSTOMERS IN A SEPARATE GEOGRAPHIC SERVICE LOCATION CLASS.

On motion of Senator RANKIN, with unanimous consent, the Bill was recalled from the Committee on Agriculture and Natural Resources and committed to the Committee on Judiciary.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 355 -- Senator Shealy: A CONCURRENT RESOLUTION TO CONGRATULATE MARION B. MASON, SENIOR ART EDUCATOR OF LEXINGTON COUNTY SCHOOL DISTRICT ONE, UPON THE OCCASION OF HIS RETIREMENT; TO COMMEND HIM FOR HIS FORTY-TWO YEARS OF DEDICATED HIGH SCHOOL TEACHING AND SERVICE TO THE CITIZENS OF THE MIDLANDS OF SOUTH CAROLINA, AND TO WISH HIM CONTINUED SUCCESS IN ALL HIS FUTURE ENDEAVORS.

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

S. 356 -- Senator Shealy: A CONCURRENT RESOLUTION TO CONGRATULATE THE LEXINGTON HIGH SCHOOL GIRLS' GOLF TEAM, COACHES, AND SCHOOL OFFICIALS ON AN OUTSTANDING SEASON AND TO HONOR THEM FOR WINNING THE AAAAA SOUTH CAROLINA GIRLS' GOLF STATE CHAMPIONSHIP.

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

S. 357 -- Senator Cromer: A SENATE RESOLUTION TO CONGRATULATE THE MID-CAROLINA HIGH SCHOOL CHEERLEADING TEAM, COACHES, AND SCHOOL OFFICIALS ON AN OUTSTANDING SEASON AND TO HONOR THEM FOR WINNING THE 2018 STATE AAA COMPETITIVE CHEERLEADING CHAMPIONSHIP.

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The Senate Resolution was adopted.

S. 358 -- Senator Cromer: A BILL TO AMEND SECTION 38-31-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE SOUTH CAROLINA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION, SO AS TO APPLY THE PROVISIONS OF CHAPTER 31, TITLE 38, TO A CLAIM OR LOSS COVERED BY SELF-INSURANCE THAT OCCURRED PRIOR TO THE ACQUISITION OF A BLOCK OF BUSINESS BY A LICENSED INSURER; AND TO AMEND SECTION 42-5-20, RELATING TO INSURANCE REQUIREMENTS FOR WORKERS' COMPENSATION, SO AS TO PROHIBIT A SELF-INSURER FROM PARTICIPATING IN OR OBTAINING BENEFITS FROM THE SOUTH CAROLINA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION AND TO REQUIRE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION TO SECURE AN ACTUARIAL OPINION BEFORE APPROVING THE TRANSFER OF A SELF-INSURER TO A LICENSED INSURER.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 359 -- Senator Gambrell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 21 TO CHAPTER 71, TITLE 38 SO AS TO ESTABLISH A LICENSE REQUIREMENT FOR PHARMACY BENEFITS MANAGERS, TO PROHIBIT A PHARMACY BENEFITS MANAGER FROM RESTRICTING OR PENALIZING A PHARMACY FROM DISCLOSING CERTAIN INFORMATION, TO PROHIBIT A PHARMACY BENEFITS MANAGER FROM UNDERTAKING CERTAIN ACTIONS, TO SET CERTAIN REQUIREMENTS FOR A MAXIMUM ALLOWABLE COST LIST, AND TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO ENFORCE THE PROVISIONS OF THIS ARTICLE; TO AMEND SECTION 38-2-10, AS AMENDED, RELATING TO ADMINISTRATIVE PENALTIES, SO AS TO APPLY CERTAIN ADMINISTRATIVE PENALTIES TO PHARMACY BENEFITS MANAGERS; TO AMEND SECTION 38-71-1810, RELATING TO PHARMACY AUDIT RIGHTS, SO AS TO ALLOW A PHARMACY TO SUBMIT RECORDS IN AN ELECTRONIC FORMAT OR BY CERTIFIED MAIL AND TO PROHIBIT CERTAIN ERRORS FROM SERVING AS THE SOLE BASIS OF THE REJECTION OF A CLAIM; AND TO REPEAL ARTICLE 20 OF CHAPTER 71, TITLE 38 RELATING TO PHARMACY BENEFIT MANAGERS.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 360 -- Senator Cromer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-47-55 SO AS TO CLARIFY THAT CERTAIN INDIVIDUALS ARE AUTHORIZED TO ADJUST FOOD SPOILAGE CLAIMS WITHOUT AN ADJUSTER'S LICENSE; BY ADDING SECTION 38-72-75 SO AS TO REQUIRE A LONG-TERM CARE INSURANCE PROVIDER TO SUBMIT ALL PREMIUM RATE SCHEDULES TO THE DEPARTMENT OF INSURANCE AND TO ESTABLISH CERTAIN PROCEDURES CONCERNING THE PREMIUM APPROVAL PROCESS; TO AMEND SECTION 38-3-110, RELATING TO THE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE, SO AS TO ALTER PUBLIC HEARING REQUIREMENTS; TO AMEND SECTION 38-7-20, RELATING TO INSURANCE PREMIUM TAXES, SO AS TO EXCLUDE CERTAIN FACTORS FROM THE TOTAL PREMIUM COMPUTATION; TO AMEND SECTION 38-7-60, RELATING TO THE SUBMISSION OF A RETURN OF PREMIUMS, SO AS TO REQUIRE THE SUBMISSION OF A RETURN OF PREMIUMS COLLECTED; TO AMEND SECTION 38-43-247, RELATING TO THE REPORTING OF CRIMINAL PROSECUTIONS, SO AS TO ONLY REQUIRE THE REPORTING OF CRIMINAL CONVICTIONS; TO AMEND SECTION 38-44-50, RELATING TO THE REVIEW OF A MANAGING GENERAL AGENT, SO AS TO ALTER THE SUBMISSION DATE FROM MARCH FIRST TO JUNE FIRST; TO AMEND SECTIONS 38-46-60 AND 38-46-90, BOTH RELATING TO A PARTY ENGAGED AS A REINSURANCE INTERMEDIARY-BROKER, SO AS TO ALTER THE SUBMISSION DATE OF CERTAIN DOCUMENTS FROM MARCH FIRST TO JUNE FIRST; TO AMEND SECTIONS 38-57-130, 38-57-140, AND 38-57-150, ALL RELATING TO PROHIBITED TRADE PRACTICES, SO AS TO CLARIFY THAT CERTAIN PRACTICES ARE PROHIBITED; TO AMEND SECTIONS 38-75-730 AND 38-75-1200, BOTH RELATING TO CANCELLATIONS OF PROPERTY, CASUALTY, AND TITLE INSURANCE POLICIES, SO AS TO EXTEND WHEN AN INSURER CAN CANCEL A POLICY WITHOUT CAUSE TO ONE HUNDRED TWENTY DAYS AND TO PROHIBIT AN INSURER FROM CANCELLING A POLICY OUTSIDE OF THE ONE HUNDRED TWENTY-DAY PERIOD IF THEY HAD NOTICE OF A CHANGE IN RISK PRIOR TO THE EXPIRATION OF THE ONE HUNDRED TWENTY-DAY PERIOD; TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO THE APPLICATION OF CERTAIN PROVISIONS TO CAPTIVE INSURANCE COMPANIES, SO AS TO APPLY THE SOUTH CAROLINA INSURANCE DATA SECURITY ACT TO CAPTIVE INSURANCE COMPANIES; AND TO AMEND SECTION 38-99-70, RELATING TO LICENSEES EXEMPTED FROM CERTAIN DATA SECURITY REQUIREMENTS, SO AS TO ONLY EXEMPT THE LICENSEES FROM THE PROVISIONS OF SECTION 38-99-20.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 361 -- Senator M. B. Matthews: A BILL TO AMEND SECTION 16-3-651, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL SEXUAL CONDUCT DEFINITIONS, SO AS TO ADD A DEFINITION FOR "CONSENT".

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

S. 362 -- Senator Verdin: A BILL TO AMEND ARTICLE 25, CHAPTER 6, TITLE 12 OF THE 1976 CODE, RELATING TO INCOME TAX CREDITS, BY ADDING SECTION 12-6-3775, TO PROVIDE FOR AN INCOME TAX CREDIT TO AN INDIVIDUAL OR BUSINESS THAT CONSTRUCTS, PURCHASES, OR LEASES CERTAIN SOLAR ENERGY PROPERTY AND THAT PLACES IT IN SERVICE IN THIS STATE, AND TO DEFINE NECESSARY TERMS.

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

S. 363 -- Senator Davis: A BILL TO AMEND SECTION 44-20-30 OF THE 1976 CODE, RELATING TO TERMS DEFINED IN THE "SOUTH CAROLINA INTELLECTUAL DISABILITY, RELATED DISABILITIES, HEAD INJURIES, AND SPINAL CORD INJURIES ACT", TO ADD A DEFINITION FOR "AUTISM SPECTRUM DISORDER"; AND TO AMEND SECTION 38-71-280 OF THE 1976 CODE, RELATING TO HEALTH INSURANCE COVERAGE FOR AUTISM SPECTRUM DISORDER, TO MAKE CONFORMING CHANGES.

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

S. 364 -- Senator Senn: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE INTERCHANGE LOCATED AT EXIT 216A IN CHARLESTON COUNTY ALONG INTERSTATE HIGHWAY 26 "REVEREND DR. WILLIE E. GIVENS, JR. INTERCHANGE" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERCHANGE CONTAINING THESE WORDS.

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

S. 365 -- Senators Jackson, Setzler, Peeler, Leatherman, Massey, Reese, Hutto, Malloy, Sheheen, Williams, Nicholson, Scott, Allen, Johnson, McElveen, Kimpson, Sabb, M. B. Matthews, Fanning, McLeod, Harpootlian, Alexander, Bennett, Campbell, Campsen, Cash, Climer, Corbin, Cromer, Davis, Gambrell, Goldfinch, Gregory, Grooms, Hembree, Martin, Rankin, Rice, Senn, Shealy, Talley, Turner, Verdin and Young: A SENATE RESOLUTION TO AUTHORIZE THE COMMISSIONING OF A PORTRAIT TO BE PLACED IN THE SENATE CHAMBER OF THE HONORABLE JOHN WESLEY MATTHEWS, JR., OF BOWMAN IN ORANGEBURG COUNTY, A SELFLESS AND DEDICATED SENATOR FROM THE THIRTY-NINTH SENATORIAL DISTRICT AND A DISTINGUISHED STATESMAN DESERVING PROPER RECOGNITION BY THE SENATE AND THE STATE OF SOUTH CAROLINA.

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Senator JACKSON spoke on the Resolution.

The Senate Resolution was introduced and referred to the Committee on Operations and Management.

**Remarks by Senator JACKSON**

Thank you. I will be brief. I want to speak on the very special Senate Resolution on the desk. I know it is late Thursday and time to go but it is a Resolution to honor one of our own. Members of the Senate, we have among us someone who is the longest serving African-American legislator in the history of South Carolina. I think our research has indicated even in the country. That is our very own JOHN WESLEY MATTHEWS, who has served for 45 years. Someone said to me a long time ago as a young minister that it is much better to see a sermon than to hear a sermon. That means your examples far outweigh your ability to articulate. Senator MATTHEWS has done that. I'm very proud to sponsor, along with many of you, the leadership of both sides of the isles, a very special Resolution. I ask the Senate to hang a portrait of the longest serving legislator in the history of South Carolina. Perhaps in the nation. He has served 45 years without any hint of scandal -- has been a great example for us and also many who have gone from this Body. Thank you for the PRESIDENT, Majority Leader, Chair, Minority Leader and many other who's have joined me in co-sponsoring this Resolution, so I just wanted to stand as the clerk reads and we can say more at a later time about Senator MATTHEWS. Thank you, members of the Senate.

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

H. 3480 -- Reps. Huggins, Alexander, Allison, Anderson, Atkinson, Bailey, Bales, Ballentine, Bamberg, Bannister, Bennett, Bernstein, Blackwell, Bradley, Brawley, Brown, Bryant, Burns, Calhoon, Caskey, Chellis, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cogswell, Collins, B. Cox, W. Cox, Crawford, Daning, Davis, Dillard, Elliott, Erickson, Felder, Finlay, Forrest, Forrester, Fry, Funderburk, Gagnon, Garvin, Gilliam, Gilliard, Govan, Hardee, Hart, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hill, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, Johnson, Jordan, Kimmons, King, Kirby, Ligon, Loftis, Long, Lowe, Lucas, Mace, Mack, Magnuson, Martin, McCoy, McCravy, McDaniel, McGinnis, McKnight, Moore, Morgan, D. C. Moss, V. S. Moss, Murphy, B. Newton, W. Newton, Norrell, Ott, Parks, Pendarvis, Pope, Ridgeway, Rivers, Robinson, Rose, Rutherford, Sandifer, Simmons, Simrill, G. M. Smith, G. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Thigpen, Toole, Trantham, Weeks, West, Wheeler, White, Whitmire, R. Williams, S. Williams, Willis, Wooten, Young and Yow: A CONCURRENT RESOLUTION TO HONOR JAMES HENRY "JIM" MILLS ON HIS INDUCTION INTO THE CHAPIN HALL OF FAME.

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

H. 3481 -- Reps. Huggins, Alexander, Allison, Anderson, Atkinson, Bailey, Bales, Ballentine, Bamberg, Bannister, Bennett, Bernstein, Blackwell, Bradley, Brawley, Brown, Bryant, Burns, Calhoon, Caskey, Chellis, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cogswell, Collins, B. Cox, W. Cox, Crawford, Daning, Davis, Dillard, Elliott, Erickson, Felder, Finlay, Forrest, Forrester, Fry, Funderburk, Gagnon, Garvin, Gilliam, Gilliard, Govan, Hardee, Hart, Hayes, Henderson-Myers, Henegan, Herbkersman, Hewitt, Hill, Hiott, Hixon, Hosey, Howard, Hyde, Jefferson, Johnson, Jordan, Kimmons, King, Kirby, Ligon, Loftis, Long, Lowe, Lucas, Mace, Mack, Magnuson, Martin, McCoy, McCravy, McDaniel, McGinnis, McKnight, Moore, Morgan, D. C. Moss, V. S. Moss, Murphy, B. Newton, W. Newton, Norrell, Ott, Parks, Pendarvis, Pope, Ridgeway, Rivers, Robinson, Rose, Rutherford, Sandifer, Simmons, Simrill, G. M. Smith, G. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Thigpen, Toole, Trantham, Weeks, West, Wheeler, White, Whitmire, R. Williams, S. Williams, Willis, Wooten, Young and Yow: A CONCURRENT RESOLUTION TO HONOR WILLIAM F. "BILL" ZEIGLER ON HIS INDUCTION INTO THE CHAPIN HALL OF FAME.

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

**REPORT OF STANDING COMMITTEE**

Senator SHEALY from the Family and Veterans Services polled out S. 327 favorable:

S. 327 -- Senator Shealy: A BILL TO AMEND SECTION 1-25-60(A)(5)(b) OF THE 1976 CODE, RELATING TO THE STATE INTERAGENCY PLANNING AND EVALUATION ADVISORY COMMITTEE, TO REDESIGNATE THE GENERAL COMMITTEE AS THE FAMILY AND VETERANS’ SERVICES COMMITTEE.

**Poll of the Family and Veterans Services**

**Polled 17; Ayes 17; Nays 0**

**AYES**

Shealy Sheheen Young

Johnson McElveen Turner

Climer Fanning McLeod

Talley Gambrell Cash

Verdin Cromer Gregory

*Margie Matthews* Harpootlian

**Total--17**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

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

**SECOND READING BILL**

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

S. 335 -- Senator Massey: A BILL TO AMEND ACT 516 OF 1976, RELATING TO THE ELECTION OF COMMISSIONERS OF THE BATH, LANGLEY, AND CLEARWATER WATER AND SEWER DISTRICTS IN AIKEN COUNTY, TO CHANGE THE COMMENCEMENT OF EACH COMMISSIONER’S OFFICE TO JANUARY FIRST IN THE YEAR FOLLOWING THE COMMISSIONER’S ELECTION AND TO CHANGE THE TERM EXPIRATION DATE TO DECEMBER 31 OF EACH EVEN‑NUMBERED YEAR; AND TO AMEND ACT 1006 OF 1958, RELATING TO THE ELECTION OF COMMISSIONERS OF THE BATH, LANGLEY, AND CLEARWATER WATER AND SEWER DISTRICTS IN AIKEN COUNTY, TO CHANGE THE COMMENCEMENT OF EACH COMMISSIONER’S TERM TO JANUARY FIRST IN THE YEAR FOLLOWING THE COMMISSIONER’S ELECTION AND TO CHANGE THE TERM EXPIRATION DATE TO DECEMBER 31 OF EACH EVEN‑NUMBERED YEAR, TO CHANGE THE ELECTION DATE FOR COMMISSIONERS TO THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER, AND TO CHANGE THE FILING PROCEDURE FOR COMMISSION CANDIDATES TO REQUIRE THEM TO FILE AN INTENTION OF CANDIDACY WITH THE AIKEN COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS AND TO SET A FILING DEADLINE.

On motion of Senator MASSEY.

**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. 1 -- Senators Leatherman, Peeler, Setzler, Massey, Malloy, Rankin and Campsen: A BILL TO AMEND SECTION 1-3-210 OF THE 1976 CODE, RELATING TO FILLING VACANCIES WHEN THE SENATE IS NOT IN SESSION, TO CLARIFY THAT THE GOVERNOR MAY ONLY MAKE AN INTERIM APPOINTMENT TO AN OFFICE REQUIRING THE SENATE’S ADVICE AND CONSENT IF THE APPOINTMENT IS MADE DURING THE SAME INTERIM DURING WHICH THE OFFICE BECOMES VACANT; TO PROVIDE THAT, IF THE SENATE DOES NOT CONFIRM AN INTERIM APPOINTMENT DURING THE NEXT ENSUING REGULAR LEGISLATIVE SESSION, THE GOVERNOR MAY NOT MAKE ANOTHER INTERIM APPOINTMENT; AND TO PROVIDE THAT THE GOVERNOR’S AUTHORITY TO MAKE AN INTERIM APPOINTMENT TERMINATES WHEN THE GENERAL ASSEMBLY CONVENES FOR THE REGULAR LEGISLATIVE SESSION FOLLOWING THE INTERIM PERIOD DURING WHICH THE OFFICE BECAME VACANT.

The Senate proceeded to a consideration of the Bill.

Senator CAMPSEN spoke on the Bill.

**Remarks by Senator CAMPSEN**

Thank you, Mr. PRESIDENT. This is a Bill that was precipitated by a recent state supreme court decision, Leatherman v. McMaster, that the court took in original jurisdiction. The case was about the interpretation of Section 1-3-210 that deals with interim appointments. The Governor has the power to make interim appointments when we are not in session. The question was, does the vacancy that occurs when we are not in session have to be during the same interval between sessions as the appointment is made. The court determined it was an ambiguous statute. Because of that ambiguity, the court went to the intent of the legislature as is their standard of review.

I’m not too critical of the court, but I don't really agree with the decision.

What we are doing with S. 1 is clarifying this area of the law as it relates to interim powers and appointment powers in general. It is one of the myriad of devices that is in our structure of government that keeps each branch of government from getting too powerful.

Advice and consent keeps executive power in check. The framers thought it important to have appointments that are not unilaterally decided by one individual, so the court's ability to strike legislation down as unconstitutional or construe meaning is designed to check and limit power.

It is important in this separation of powers scenario to first recognize that, without the statute, the Governor doesn't have authority to make an interim appointment at all. The continuity of government supports the Governor’s ability to make interim appointments if a vacancy occurs in the off session. On the flip side is a fundamental tenant of state and constitutional law that the Senate has a role in advice and consent for long-term appointments.

In exercising this, it is important for the Senate to ask hard questions of the nominees. Historically, there have been very few nominees rejected. It is important for us to take the Governor’s nominations and act upon them, but in order for us to act on them, we have to get the appointment in a timely manner. This appointment came relatively late in the session.

The way S. 1 is structured actually puts incentive on the Governor's office to get the paper work done on the nomination, on the nominee to participate and cooperate with the Senate, and on the Senate to do the background checks, have hearings, and vote. It makes everybody have to work together.

Without this statute, and as a result of the Supreme Court’s opinion, the Governor could make an interim appointment that persists while we are out of session. Under this scenario, if we don't act while we are in session, then the individual could vacate the office for a day, then could be reappointed as interim. It could go on ad infinitum.

That would obviate advice and consent and violate how the framers structured government to contain political power. This decision could almost completely eviscerate this if not addressed.

We are reasserting our advice and consent role to make sure that it is going to be applicable. In the big picture it is important to the citizens that it be reinstated. Like the Governor’s veto power or the judicial branch’s authority to rule that a statute is unconstitutional, it is one of the devices that restrains runaway political power. I am vehemently opposed to restricting a branch of government’s ability to impose the balance that the framers took such care to impose. This legislation is important to maintain a balance in the separation of powers doctrine.

Madison said it best in Federalist 51 about political ambition: ambition must be made to counteract ambition. There is a very salient reason for the advice and consent powers. All we are doing is going back to the status quo before this decision. If we don't do anything when we adjourn, then the interim appointment is vacated. That is the effect of the statute. It makes inaction essentially action.

I wanted to have a vote on this nominee. I intended to vote for the nominee, but this is not about this particular appointment. This is not about trying to hoard or give the Senate more power than it should have or ever did have. This is trying to set the balance of powers back in balance. From my perspective, this is about the structure of government and the powers the three branches have over each other and keeping that in balance. That is totally my motivation in being supportive of this.

Again, I'm not being critical of the court. I can admire their work but do not agree with the conclusion. In this case, they disrupted the balance and we have to reset it. They ruled the statute is ambiguous, and that is a clarion call for the General Assembly to step in and remove the ambiguity.

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

Senator MALLOY spoke on the Bill.

The question being the third reading of the Bill.

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

**Ayes 40; Nays 2**

**AYES**

Alexander Allen Bennett

Campsen Cash Corbin

Cromer Davis Gambrell

Goldfinch Grooms Harpootlian

Hembree Hutto Jackson

Johnson Kimpson Malloy

Martin Massey *Matthews, John*

*Matthews, Margie* McElveen McLeod

Nicholson Peeler Rankin

Reese Rice Sabb

Scott Senn Setzler

Shealy Sheheen Talley

Turner Verdin Williams

Young

**Total--40**

**NAYS**

Climer Fanning

**Total--2**

The Bill was read the third time, ordered sent to the House.

**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. 2 -- Senators Campsen, Massey, Malloy and Setzler: A BILL TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE 1976 CODE, ALL RELATING TO APPOINTMENTS AND REPORTS RECEIVED BY THE PRESIDENT PRO TEMPORE, TO SUBSTITUTE THE “PRESIDENT OF THE SENATE” FOR THE “PRESIDENT PRO TEMPORE OF THE SENATE,” “PRESIDENT PRO TEMPORE,” OR “PRESIDENT OF THE SENATE PRO TEMPORE” IN ORDER TO CONFORM THE SOUTH CAROLINA CODE OF LAWS WITH AMENDMENTS TO THE SOUTH CAROLINA CONSTITUTION ACT 214 OF 2014; AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE 1976 CODE, ALL RELATING TO APPOINTMENTS AND REPORTS RECEIVED BY THE LIEUTENANT GOVERNOR, TO SUBSTITUTE “PRESIDENT OF THE SENATE” FOR “LIEUTENANT GOVERNOR” OR TO STRIKE REFERENCES TO THE LIEUTENANT GOVERNOR IN ORDER TO CONFORM THE SOUTH CAROLINA CODE OF LAWS RELATED TO THE DUTIES OF THE LIEUTENANT GOVERNOR WITH AMENDMENTS TO THE SOUTH CAROLINA CONSTITUTION ACT 214 OF 2014.

The Senate proceeded to a consideration of the Bill.

Senator CAMPSEN spoke on the Bill.

The question being the third reading of the Bill.

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

**Ayes 41; Nays 0**

**AYES**

Alexander Allen Bennett

Campsen Cash Climer

Corbin Cromer Davis

Fanning Gambrell Goldfinch

Grooms Harpootlian Hembree

Hutto Jackson Johnson

Kimpson Malloy Martin

Massey *Matthews, John* McElveen

McLeod Nicholson Peeler

Rankin Reese Rice

Sabb Scott Senn

Setzler Shealy Sheheen

Talley Turner Verdin

Williams Young

**Total--41**

**NAYS**

**Total--0**

The Bill was read the third time, ordered sent to the House.

**Motion Adopted**

On motion of Senator MASSEY, the Senate agreed that when the Senate stands adjourned on Thursday, January 10, it will adjourn to meet Friday, January 11, under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up; and, further, that when the Senate stands adjourned on Friday, January 11, the Senate would stand adjourned subject to the times and limitations set forth under the provisions of Rule 1B to meet on Tuesday, January 15, Wednesday, January 16, and Thursday, January 17, and Friday, January 18 under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up. And further, the Senate would meet in regular statewide session Tuesday, January 22, at 2:00 P.M.

**REPORT NOTIFICATION**

The Judicial Merit Selection Committee’s Draft Report of Candidate Qualifications will be published on the website link below today, January 10, 2019. The report will be published in the Senate Journal on January 11, 2019.

<https://www.scstatehouse.gov/JudicalMeritPage/PublicHearingTranscriptes.php>

**Motion Adopted**

On motion of Senator MASSEY, the Senate agreed to stand adjourned.

**ADJOURNMENT**

At 12:23 P.M., on motion of Senator MASSEY, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

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