**Thursday, January 28, 2010**

**(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:

At the outset of Genesis we read:

“In the beginning God created the heavens and the earth.”

(Genesis 1:1)

Join me in prayer, please:

Gracious God, Creator Supreme, guide each one of these Senators and their staff members. Enable them to honor You always through the work they carry out here in this place. We pray, O God, that these leaders will be led by You as they serve the people of South Carolina, doing so with grace, honor, creativity, and unfailing hope. And as always we call upon You to be with those who are in uniform, those serving in places close to home and in those spots far away. Whatever our role, let every single one of us praise You by keeping You at the very center of the good things that we ever accomplish. All this we pray in Your name and to Your glory, Holy Lord.

Amen.

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

**REGULATIONS RECEIVED**

The following were received and referred to the appropriate committees for consideration:

Document No. 4107

Agency: Department of Health and Environmental Control

Chapter: 61

Statutory Authority: 1976 Code Sections 44-1-60 and 44-93-10 et seq.

SUBJECT: Infectious Waste Management Regulations

Received by Lieutenant Governor January 28, 2010

Referred to Medical Affairs Committee

Legislative Review Expiration May 28, 2010

Document No. 4108

Agency: Department of Health and Environmental Control

Chapter: 61

Statutory Authority: 1976 Code Section 44-7-250

SUBJECT: Standards for Licensing Community Residential Care Facilities

Received by Lieutenant Governor January 28, 2010

Referred to Medical Affairs Committee

Legislative Review Expiration May 28, 2010

Document No. 4116

Agency: State Board of Education

Chapter: 43

Statutory Authority: 1976 Code Sections 59-16-10 et seq.

SUBJECT: South Carolina Virtual School Program

Received by Lieutenant Governor January 28, 2010

Referred to Education Committee

Legislative Review Expiration May 28, 2010

Document No. 4117

Agency: State Board of Education

Chapter: 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-25-110

SUBJECT: Requirements for Additional Areas of Certification

Received by Lieutenant Governor January 28, 2010

Referred to Education Committee

Legislative Review Expiration May 28, 2010

**Doctor of the Day**

Senator McCONNELL introduced Dr. Lance Scott of Charleston, S.C., Doctor of the Day.

**Leave of Absence**

On motion of Senator PEELER, at 11:05 A.M., Senator COURSON was granted a leave of absence until his arrival time of 3:30 P.M. today.

**Leave of Absence**

On motion of Senator BRYANT, at 11:05 A.M., Senator SHANE MARTIN was granted a leave of absence until 1:00 P.M. today.

**Leave of Absence**

At 1:05 P.M., Senator SHOOPMAN requested a leave of absence from 5:00 - 9:00 P.M.

**CO-SPONSORS ADDED**

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

S. 590 Sen. Ford

S. 1096 Sens. Courson, Verdin

S. 1032 Sen. Campsen

**Privilege of the Chamber**

On motion of Senators CAMPSEN and GROOMS, in accordance with Rule 35, Ms. Lucy Beckham, Principal of Wando High School in Charleston, S.C., was granted the Privilege of the Chamber, to that area behind the rail, on the occasion of her being named the 2010 MetLife Secondary School Principal of the Year by the National Association of Secondary School Principals (NAASP).

The Order of the Palmetto given by the Honorable Mark Sanford was also presented to Mrs. Beckham.

**RETURN REQUESTED FROM LEGISLATIVE COUNCIL THIRD READING RECONSIDERED**

**RETURNED TO THE THIRD READING CALENDAR**

H. 3488 -- Reps. J.E. Smith, Hart, Williams, R.L. Brown, Hutto and Weeks: A JOINT RESOLUTION TO ESTABLISH A COMMITTEE TO STUDY CERTAIN ISSUES AFFECTING VETERANS AND PROVIDE FOR RELATED MATTERS INCLUDING, BUT NOT LIMITED TO, COMMITTEE MEMBERSHIP AND DUTIES, THE FILLING OF VACANCIES, COMMITTEE MEETINGS, AND STAFFING.

Senator L. MARTIN asked unanimous consent to make a motion to request the return of the Joint Resolution from Legislative Council.

There was no objection and a message was sent accordingly.

The Joint Resolution was returned from Legislative Council.

Having voted on the prevailing side, Senator L. MARTIN moved to reconsider the vote whereby the Joint Resolution was given a third reading.

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

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

On motion of Senator L. MARTIN, the Joint Resolution was ordered placed on the Third Reading Calendar.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1117 -- Senators Sheheen and Jackson: A BILL TO AMEND CHAPTER 7, TITLE 2 OF THE 1976 CODE, RELATING TO LEGISLATIVE ENACTMENTS, BY ADDING SECTION 2-7-67 TO PROVIDE THAT THE ANNUAL APPROPRIATIONS BILL MUST REDUCE APPROPRIATIONS TO THE SENATE AND THE HOUSE OF REPRESENTATIVES IN AN AMOUNT EQUAL TO THE AVERAGE REDUCTION IN APPROPRIATIONS MADE FOR THE DEPARTMENTS, INSTITUTIONS, BOARDS, OR COMMISSIONS INCLUDED IN THE ACT.

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

S. 1118 -- Senators Cromer and Leventis: A BILL TO AMEND SECTION 48-34-40 OF THE 1976 CODE, RELATING TO THE REQUIREMENTS FOR CONDUCTING A PRESCRIBED FIRE, TO REFERENCE OTHER SPECIFIC STATUTORY AND REGULATORY REQUIREMENTS; AND TO AMEND SECTION 48-34-50, RELATING TO LIABILITY FOR DAMAGES CAUSED BY A PRESCRIBED FIRE, TO PROVIDE THAT NO PROPERTY OWNER, LESSEE, AGENT, OR EMPLOYEE MAY BE HELD LIABLE FOR DAMAGES CAUSED BY THE RESULTING SMOKE OF A PRESCRIBED FIRE UNLESS GROSS NEGLIGENCE IS PROVEN, AND TO DEFINE GROSS NEGLIGENCE.

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Read the first time and referred to the Committee on Fish, Game and Forestry.

S. 1119 -- Senator McGill: A BILL TO AMEND SECTION 28-2-340 OF THE 1976 CODE, RELATING TO EVIDENCE WHICH MAY BE ADMITTED IN CONDEMNATION ACTIONS, TO PROVIDE THAT EVIDENCE OF THE MOST RECENT ASSESSED VALUATION OF THE PROPERTY PRIOR TO THE TAKING COMPARED TO THE ASSESSED VALUATION OF THE PROPERTY AFTER THE TAKING; AND TO AMEND ARTICLE 5, CHAPTER 29, TITLE 6, BY ADDING SECTION 6-29-845, TO PROVIDE THAT IN DETERMINING AN AWARD IN A TAKINGS LAWSUIT, THE JUDGE MAY CONSIDER EVIDENCE OF THE MOST RECENT ASSESSED VALUATION OF THE PROPERTY PRIOR TO THE TAKING COMPARED TO THE ASSESSED VALUATION OF THE PROPERTY AFTER THE TAKING.

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

S. 1120 -- Senators Lourie, Pinckney, Williams, Leventis, Anderson, Land and Sheheen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-3-1360 SO AS TO PROHIBIT HEALTH CARE PROVIDERS FROM ENGAGING IN DEBT COLLECTION ACTIVITIES RELATING TO MEDICAL TREATMENT RECEIVED IN CONNECTION WITH A CLAIM FOR COMPENSATION OF A VICTIM OF CRIME UNTIL AN AWARD IS MADE OR A CLAIM IS DENIED AND TO STAY THE STATUTE OF LIMITATIONS FOR THE COLLECTION OF THIS DEBT UNDER CERTAIN CIRCUMSTANCES.

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

S. 1121 -- Senators Mulvaney and Sheheen: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE ON SANDHILL ROAD IN KERSHAW, SOUTH CAROLINA, AS THE "LEIGH ALLISON SHEPARD MEMORIAL BRIDGE" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THE WORDS "LEIGH ALLISON SHEPARD MEMORIAL BRIDGE".

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

S. 1122 -- Senators Rose, Matthews and Grooms: A SENATE RESOLUTION TO CONGRATULATE MRS. JENETA WHITE OF DORCHESTER COUNTY ON THE OCCASION OF HER ONE HUNDREDTH BIRTHDAY, AND TO WISH HER A JOYOUS BIRTHDAY CELEBRATION AND CONTINUED HEALTH AND HAPPINESS.

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The Senate Resolution was adopted.

H. 4447 -- Rep. G. A. Brown: A CONCURRENT RESOLUTION TO CONGRATULATE MRS. MARY LEE ELMORE ON THE OCCASION OF HER NINETIETH BIRTHDAY AND TO WISH HER A JOYOUS BIRTHDAY CELEBRATION AND CONTINUED HEALTH AND HAPPINESS.

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

H. 4474 -- Rep. G. A. Brown: A CONCURRENT RESOLUTION TO HONOR AND RECOGNIZE WOODROW "WOODY" DRATEN WINDHAM, JUNIOR, OF RICHLAND COUNTY, AND TO CONGRATULATE HIM UPON THE OCCASION OF RECEIVING THE SOUTH CAROLINA BROADCASTERS ASSOCIATION'S PRESTIGIOUS MASTERS AWARD.

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

**REPORT OF STANDING COMMITTEE**

Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable with amendment report on:

S. 452 -- Senators Campbell, Leatherman, Reese, Shoopman, Williams, Mulvaney, Pinckney, O’Dell, Ford, Knotts, Bryant, Land, Grooms, Hutto, Fair, Peeler, Sheheen, Ryberg, Massey, Elliott, Alexander, McGill, Bright, L. Martin, Matthews, Setzler and Rose: A BILL TO AMEND CHAPTER 4, TITLE 49 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA SURFACE WATER WITHDRAWAL AND REPORTING ACT, TO PROVIDE THAT SUBJECT TO CERTAIN EXCEPTIONS, SURFACE WATER WITHDRAWALS MUST BE MADE PURSUANT TO A PERMIT, TO PROVIDE FOR COMPLETE EXEMPTIONS FROM THE PERMITTING REQUIREMENT, TO PROVIDE THAT REGISTERED SURFACE WATER WITHDRAWERS MAY WITHDRAW SURFACE WATER WITHOUT A PERMIT BUT SUBJECT TO CERTAIN RESTRICTIONS, TO PROVIDE FOR NONCONSUMPTIVE SURFACE WATER WITHDRAWAL PERMITS, TO PROVIDE FOR AN APPLICATION PROCEDURE FOR SURFACE WATER WITHDRAWERS THAT OWN AND OPERATE A LICENSED IMPOUNDMENT OR NEW SURFACE WATER WITHDRAWERS THAT WITHDRAW WATER FROM A LICENSED IMPOUNDMENT, TO PROVIDE FOR REPORTS TO THE DEPARTMENT OF NATURAL RESOURCES FROM PERMITTED AND REGISTERED WATER WITHDRAWERS AND THE CONTENTS OF THOSE REPORTS, TO PROVIDE THAT REGISTERED AND EXEMPT SURFACE WATER WITHDRAWERS MAY APPLY FOR A SURFACE WATER WITHDRAWAL PERMIT, TO AUTHORIZE NONRIPARIAN USE OF SURFACE WATER, TO PROVIDE FOR A PERMITTING PROCESS FOR NEW SURFACE WATER WITHDRAWERS, TO PROVIDE FOR THE CONTENTS OF THE APPLICATION, TO PROVIDE FOR THE DEPARTMENT’S DETERMINATION CONCERNING THE PERMIT, TO PROVIDE FOR PUBLIC HEARINGS CONCERNING NEW PERMIT APPLICATIONS FOR INTERBASIN TRANSFERS, TO PROVIDE FOR THE CONTENTS OF ISSUED PERMITS AND THE RIGHTS CONFERRED BY A PERMIT, TO PROVIDE FOR CIRCUMSTANCES UNDER WHICH A PERMIT MAY BE MODIFIED, SUSPENDED, OR REVOKED, TO PROVIDE FOR NOTICE TO THE DEPARTMENT CONCERNING CERTAIN NEW WATER INTAKES, TO PROVIDE FOR TEMPORARY PERMITS, TO PROVIDE AUTHORIZED WITHDRAWAL AMOUNTS, TO PROVIDE FOR OPERATIONAL AND CONTINGENCY PLANS, TO PROVIDE FOR POWERS AND DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES CONCERNING IMPLEMENTATION OF THE CHAPTER, TO PROVIDE APPROPRIATE PENALTIES FOR VIOLATIONS, TO PROVIDE FOR PERMIT APPLICATION FEES; AND TO REPEAL CHAPTER 21, TITLE 49, RELATING TO THE INTERBASIN TRANSFER OF WATER, TO PROVIDE THAT CHAPTER 1, TITLE 49, RELATING TO GENERAL PROVISIONS CONCERNING WATER, WATER RESOURCES, AND DRAINAGE IS NOT AFFECTED BY AND SUPERCEDED BY CHAPTER 4, TITLE 49 AND TO PROVIDE APPROPRIATE DEFINITIONS.

Ordered for consideration tomorrow.

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

**THIRD READING BILLS**

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

S. 766 -- Senators Alexander, Thomas, Knotts, L. Martin, S. Martin, Nicholson, Land, Setzler, Fair, Peeler and Scott: A BILL TO AMEND TITLE 23 OF THE 1976 CODE, BY ADDING CHAPTER 52, THE “NOVELTY LIGHTER PROHIBITION ACT”, TO PROVIDE FOR THE DEFINITIONS AND THE PROHIBITION OF THE SALE OR DISTRIBUTION OF NOVELTY LIGHTERS AND TO PROVIDE PENALTIES.

**S. 766--Recorded Vote**

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

S. 1099 -- Senator McConnell: A JOINT RESOLUTION TO ADOPT REVISED CODE VOLUME 22 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO THE EXTENT OF ITS CONTENTS, AS THE ONLY GENERAL PERMANENT STATUTORY LAW OF THE STATE AS OF JANUARY 1, 2010.

**SECOND READING BILLS**

The following Bills and Joint Resolutions, having been read the second time, were ordered placed on the Third Reading Calendar:

H. 3624 -- Reps. A.D. Young, Horne, Knight and Harrell: A BILL TO PROVIDE THAT EACH MEMBER OF THE DORCHESTER COUNTY TRANSPORTATION COMMITTEE IS ALLOWED AND MUST BE PAID FROM DORCHESTER COUNTY “C” FUND REVENUES SEVENTY‑FIVE DOLLARS FOR EACH MEETING AT WHICH THE MEMBER IS IN ATTENDANCE.

S. 1112 -- Senator Coleman: A BILL TO AMEND ACT 191 OF 1991, AS AMENDED, RELATING TO THE FAIRFIELD COUNTY SCHOOL DISTRICT, SO AS TO REQUIRE THE FINANCE COMMITTEE ESTABLISHED BY THIS ACT TO PREPARE THE DISTRICT BUDGET AND TO SUBMIT IT FOR BOARD REVIEW, TO REQUIRE THE BOARD TO SUBMIT THE BUDGET TO THE FAIRFIELD COUNTY COUNCIL FOR APPROVAL, TO AUTHORIZE THE FAIRFIELD COUNTY COUNCIL TO NOTIFY THE COUNTY AUDITOR OF THE AMOUNT OF THE LEVY NEEDED TO OPERATE SCHOOLS IN THE DISTRICT, TO CREATE A FINANCE COMMITTEE TO OVERSEE THE FINANCIAL OPERATIONS OF THE DISTRICT AND TO PROVIDE ITS MEMBERSHIP, DUTIES, AND GOALS, TO PROVIDE FOR THE HIRING OF A FINANCE DIRECTOR FOR THE DISTRICT AND TO PROVIDE HIS RESPONSIBILITIES AND DUTIES, TO PROVIDE FOR THE ABOLITION OF THE FINANCE COMMITTEE AND THE POSITION OF FINANCE DIRECTOR UPON CERTAIN CONDITIONS, AND TO DEFINE THE DUTIES OF BOTH THE BOARD AND THE DISTRICT SUPERINTENDENT.

By prior motion of Senator COLEMAN, with unanimous consent

S. 1113 -- Senator Coleman: A BILL TO AMEND ACT 191 OF 1991, AS AMENDED, RELATING TO THE FAIRFIELD COUNTY SCHOOL DISTRICT, SO AS TO REVISE THE MEMBERSHIP OF THE BOARD OF TRUSTEES, TO REVISE COMPENSATION OF BOARD MEMBERS, TO PROVIDE FOR THE FILLING OF VACANCIES, TO PROVIDE FOR THE ABOLITION OF CERTAIN BOARD SEATS UPON CERTAIN CONDITIONS, AND TO REQUIRE THE SCHOOL DISTRICT BOARD AND SUPERINTENDENT TO COOPERATE WITH NEWLY APPROVED BOARD MEMBERS.

By prior motion of Senator COLEMAN, with unanimous consent

S. 1114 -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO CITRUS GREENING (CANDIDATUS LIBERIBACTER ASISTICUS) QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4105, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

S. 1115 -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO PHYTOPHTHORA RAMORUM QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4106, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 590 -- Senators Peeler and Hutto: A BILL TO AMEND SECTION 7‑11‑70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NOMINATION OF CANDIDATES BY A PETITION, SO AS TO PROVIDE THAT NO QUALIFIED ELECTOR WHO VOTED IN A PRIMARY ELECTION IS ELIGIBLE TO SIGN A PETITION FOR A CANDIDATE TO RUN FOR AN OFFICE TO BE FILLED AT THE GENERAL ELECTION FOLLOWING THAT PRIMARY AND TO PROVIDE THAT A QUALIFIED ELECTOR OTHERWISE ELIGIBLE TO SIGN A PETITION FOR A CANDIDATE TO APPEAR ON A GENERAL ELECTION BALLOT MAY NOT SIGN MORE THAN ONE PETITION PER GENERAL ELECTION PER OFFICE; BY ADDING SECTION 7‑11‑75 SO AS TO PROVIDE THAT A PERSON OFFERING FOR ELECTION AS A PETITION CANDIDATE IN ANY GENERAL ELECTION MUST HAVE FIRST NOTIFIED THE ENTITY TO WHICH THE PETITION IS REQUIRED TO BE FILED BY THE BEGINNING DATE OF THE PRIMARY ELECTION PRECEDING THAT GENERAL ELECTION OF HIS INTENTION TO FILE AS A PETITION CANDIDATE FOR THAT OFFICE, AND TO PROVIDE THAT FAILURE TO DO SO DISQUALIFIES HIM AS A PETITION CANDIDATE FOR THAT GENERAL ELECTION; TO AMEND SECTION 7‑11‑80, AS AMENDED, RELATING TO THE FORM OF NOMINATING PETITIONS, SO AS TO REQUIRE ALL THE SIGNATURES TO BE LEGIBLE SO THAT THE NAME OF THE VOTER CAN BE IDENTIFIED BEYOND A REASONABLE DOUBT; TO AMEND SECTION 7‑11‑85, RELATING TO VERIFICATION OF THE SIGNATURES ON PETITIONS, SO AS TO REVISE THE VERIFICATION PROCESS, TO PROVIDE THAT ALL QUALIFIED ELECTORS SIGNING A PETITION FOR A CANDIDATE TO APPEAR ON A GENERAL ELECTION BALLOT FOR ELECTION TO A PARTICULAR OFFICE MUST HAVE BEEN A QUALIFIED ELECTOR WHO REGISTERED TO VOTE AT LEAST THIRTY DAYS BEFORE SUBMISSION OF THE PETITION, AND TO REQUIRE THE REGISTRATION BOARD TO VERIFY THE VOTER IS A QUALIFIED ELECTOR IN THAT JURISDICTION; BY ADDING SECTION 7‑11‑95 SO AS TO PROVIDE THAT THE ENTITY TO WHICH A PETITION MUST BE FILED MAY REJECT THE PETITION IF, AFTER A HEARING, THE ENTITY FINDS THAT BY A PREPONDERANCE OF THE EVIDENCE FRAUD WAS COMMITTED IN THE EXECUTION OF THE PETITION, AND TO PROVIDE THAT THE VALIDATION OF THE SIGNATURES ON A PETITION AND THE DETERMINATION OF WHETHER OR NOT FRAUD WAS COMMITTED IN THE EXECUTION OF THE PETITION MUST BE CONDUCTED IN PUBLIC AFTER NOTICE; AND BY ADDING SECTION 7‑11‑100 SO AS TO PROVIDE THAT DECISIONS OF A LOCAL ENTITY TO WHICH A PETITION MUST BE FILED MAY BE APPEALED TO THE STATE ELECTION COMMISSION AND THEREAFTER TO A COURT OF COMPETENT JURISDICTION IN THE MANNER IN WHICH APPEALS FROM THE STATE ELECTION COMMISSION MAY BE TAKEN.

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

The Judiciary Committee proposed the following amendment (JUD0590.008), which was adopted:

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

/ SECTION 1. Section 7‑11‑70 of the 1976 Code is amended to read:

“Section 7‑11‑70. (A) A candidate’s nominating petition for any office in this State shall contain the signatures of at least ~~five~~ three percent of the qualified registered electors of the geographical area of the office for which he offers as a candidate; provided, that no petition candidate is required to furnish the signatures of more than ~~ten thousand~~ four thousand qualified registered electors for any office. The official number of qualified registered electors of the geographical area of any office must be the number of registered electors of such area registered one hundred twenty days prior to the date of the election for which the nomination petition is being submitted.

(B) The petition must be certified to the State Election Commission in the case of national, state, circuit, and multicounty district offices; with the county election commission in the case of countywide or less than countywide offices with the exception of municipal offices; with the clerk of a municipality in case of a municipal office, and the certified petition shall constitute and be kept as a public record.

(C) A qualified elector may participate in only one nominating process for each partisan public office to be filled at the general election.

(1) An elector is considered to have participated in the nominating process for each partisan public office listed on the ballot at a primary election if the elector cast a ballot at the primary election.

(2) An elector is considered to have participated in the nominating process for each partisan office for which he cast a vote at a convention described in Section 7‑11‑30.

(3) An elector otherwise qualified to sign a petition for a candidate to appear on a general election ballot may not sign more than one petition per general election per office.

The provisions of this section do not apply to nonpartisan school trustee elections in any school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.”

SECTION 2. Article 1, Chapter 11, Title 7 of the 1976 Code is amended by adding:

“Section 7‑11‑75. A person offering for election as a petition candidate in any general election must have first notified the entity to which the petition is required to be filed by the beginning date of the primary election preceding that general election of his intention to file as a petition candidate for that office. This notification shall be in writing and is considered in the public domain and not confidential. Failure to provide notification disqualifies that person as a petition candidate for the office for that general election. The petition, as required by Section 7‑11‑70, must be filed no later than July fifteenth before the general election.”

SECTION 3. Section 7‑11‑80 of the 1976 Code, as last amended by Act 510 of 1984, is further amended to read:

“Section 7‑11‑80. (A) All nominating petitions for any political office or petition of any political party seeking certification ~~as such~~ in the State of South Carolina shall be standardized as follows:

(1) shall be on good quality original bond paper sized eight and one-half by fourteen inches~~.~~;

(2) shall contain a concise statement of purpose; in the case of nomination of candidates, the name of the candidate, the office for which he offers, and the date of the election for ~~such~~ the office shall be contained in ~~such~~ the petition~~.~~;

(3) shall contain in separate columns from left to right the following:

(a) signature of voter and printed name of voter;

(b) address of residence where registered; and

(c) precinct of voter~~.~~;

(4) no single petition page shall contain the signatures of registered voters from different counties~~.~~;

(5) all signatures of registered voters shall be numbered consecutively~~.~~; and

(6) petitions with more than one page must have the pages consecutively numbered upon filing with the appropriate authority, and each subsequent page after the first must contain the statement of purpose that appears on the first page. (7) Each page of a petition must bear on the bottom or back the affidavit of the circulator of the sheet, which affidavit must be subscribed and sworn by such circulator before a notary public and shall set forth:

(a) his or her residential address;

(b) that each signer manually signed his or her own name with full knowledge of the contents of the nomination petition;

(c) that each signature was signed within one hundred eighty days of the last day on which such petition may be filed; and

(d) That, to the best of the affiant’s knowledge and belief, the signers are registered electors of the State qualified to sign the petition, that their respective residences are correctly stated in the petition, and that they all reside in the county or municipality named in the affidavit.

No notary public may sign the petition as an elector or serve as a circulator of any petition which he or she notarized. Any and all sheets of a petition that have the circulator’s affidavit notarized by a notary public who also served as a circulator of one or more sheets of the petition or who signed one of the sheets of the petition as an elector shall be disqualified and rejected.

(8) No nomination petition shall be circulated prior to one hundred eighty days before the last day on which the petition may be filed, and no signature shall be counted unless it was signed within one hundred eighty days of the last day for filing the same.

The State Election Commission may furnish petition forms to the county election officials and to interested persons.”

SECTION 4. Section 7‑11‑85 of the 1976 Code, as added by Act 263 of 1984, is further amended to read:

“Section 7‑11‑85. (A) Every signature on a petition requiring five hundred or less signatures must be checked for validity by the respective county board of voter registration against the signatures of the voters on the original applications for registration on file in the registration board office. When a petition requires more than five hundred signatures, ~~every one of the first~~ five hundred consecutive signatures chosen randomly must be checked for validity, and at least one out of every other group of ten signatures ~~thereafter beginning with the five hundred and first signature~~ appearing before and after the five hundred signature block also must be chosen randomly and ~~must be~~ checked for validity. If the projected number of valid signatures, using this percentage method for the signatures over five hundred plus the number of valid signatures in the ~~first~~ five hundred signature block, total at least the number of signatures required by law on the petition, it must be certified as a valid petition. No petition, however, may be rejected if the number of signatures over five hundred checked using the percentage method plus the number of valid signatures in the ~~first~~ five hundred signature block does not total at least the number required by law. If insufficient signatures are found using the percentage method in order to certify as a valid petition, the board of voter registration must check every signature over five hundred separately, or ~~such~~ the number over five hundred until the required number of valid signatures is found.

(B) If it is a petition seeking to certify a new political party or if the office for which the petition has been submitted comprises more than one county, and using the percentage method of checking does not result in the required number of valid signatures, the executive director of the commission shall designate which counties must check additional signatures.

(C) No signatures on a petition may be rejected if the address of a voter, registration certificate number of a voter, or the precinct of a voter, as required by Section 7‑11‑80, is missing or incorrect if the signature is otherwise valid, and if the board can otherwise verify that the voter is currently a qualified elector in that jurisdiction who registered to vote at least thirty days before submission of the petition. The signature of a voter may ~~only~~ be rejected if it is illegible and cannot be found in the records of the board of voter registration, is missing from the petition, or is not that of the voter, or if the registration of the voter has been deleted for any of the reasons named in items (2) or (3) of subsection (C) of Section 7‑3‑20.

(D) The board of voter registration shall complete a summary form containing the results of checking any petition and must give the completed form to the requesting authority. The form used for this purpose must be prescribed and provided by the executive director.

(E) In addition to all other requirements, all qualified electors signing a petition for a candidate to appear on a general election ballot for election to a particular office must have been a qualified elector who registered to vote at least thirty days before submission of the petition.”

SECTION 5. Article 1, Chapter 11, Title 7 of the 1976 Code is amended by adding:

“Section 7‑11‑95. (A) The entity to which a petition must be filed may reject an elector’s signature if, after a hearing with notice to all parties, the entity finds that fraud of any kind or degree was committed in the execution of the petition. The entity must give all parties supporting and objecting to the petition an opportunity to be heard at the hearing.

(B) The validation of the signature on a petition and the determination of whether or not fraud was committed in the execution of the petition both shall be deemed open meetings of a public body pursuant to Section 30‑4‑60 and must be conducted in public after notice requested by Section 30‑4‑80 of the Freedom of Information Act.”

SECTION 6. Article 1, Chapter 11, Title 7 of the 1976 Code is amended by adding:

“Section 7‑11‑100. Decisions of the local entity to which a petition must be filed may be appealed according to the provisions of this section. All petitions must be reviewed by August fifteenth prior to a general election. After a petition is certified, a protest against a petition must be made no later than noon on the fifth day following certification. The State Election Commission must hear the initial protest within seven days after the protest is filed. An appeal may be made to the South Carolina Supreme Court within five days following the Election Commission decision.”

SECTION 7. Section 7-11-15 of the 1976 Code is amended to read:

“In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy between noon on March sixteenth and noon on March thirtieth as provided in this section. However, if March thirtieth falls on Saturday, Sunday, or a legal holiday, the statement must be filed by noon the following business day.

(1) Candidates seeking nomination for a statewide, congressional, or district office that includes more than one county must file their statements of intention of candidacy with the state executive committee of their respective party.

(2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy with the county executive committee of their respective party in the county of their residence. The county committees must, within five days of the receipt of the statements, transmit the statements along with the applicable filing fees to the respective state executive committees. However, the county committees must report all filings to the state committees no later than five p.m. on March thirtieth, unless March thirtieth falls on Saturday, Sunday, or a legal holiday, in which case the statement must be filed by noon the following business day. The state executive committees must certify candidates pursuant to Section 7‑13‑40.

(3) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy with the county executive committee of their respective party.

Except as provided herein, the county executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all statements of intention of candidacy with the county election commission by noon on the tenth day following the deadline for filing statements by candidates. If the tenth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day. The state executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all the statements of intention of candidacy with the State Election Commission by noon on the tenth day following the deadline for filing statements by candidates. If the tenth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day. No candidate’s name may appear on a primary election ballot, convention slate of candidates, general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate’s statement of intention of candidacy has not been filed with the County Election Commission or State Election Commission, as the case may be, by the deadline and (2) the candidate has not been certified by the appropriate political party as required by Sections 7‑13‑40 and 7‑13‑350, as applicable. The candidate’s name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy.

The statement of intention of candidacy required in this section and in Section 7‑13‑190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. It must be filed in triplicate by the candidate, and the political party committee with whom it is filed must stamp it with the date and time received, sign it, keep one copy, return one copy to the candidate, and send one copy to either the county election commission or the State Election Commission, as the case may be.

If, after the closing of the time for filing statements of intention of candidacy, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee.

The provisions of this section do not apply to nonpartisan school trustee elections in any school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.”

SECTION 8. Section 7-13-45 of the 1976 Code is amended to read:

“In every general election year, the county chairman shall:

(1) designate a specified place other than a private residence where persons may file a statement of intention of candidacy;

(2) designate a specified place other than a private residence where persons may file as candidates;

(3) establish regular hours of not less than four hours a day during the final ~~seventy‑two hours~~ three business days of the filing period in which he or some person he designates must be present at the designated place to accept filings;

(4) place ~~an~~ a legal advertisement to appear two weeks before the filing period begins in a newspaper of general circulation in the county at least five by seven inches in size and on the county’s website, if applicable, and on the party’s state website that notifies the public of the dates of the filing periods, the offices which may be filed for, the place and street address where filings may be made, and the hours that an authorized person will be present to receive filings.”

SECTION 9. If any section, subsection, item, subitem, 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, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 10. This act takes effect on January 1, 2011. /

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 900 -- Senators McConnell, Knotts and Elliott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑3‑16, SO AS TO MANDATE THAT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION PROVIDE SECURITY AND PROTECTION FOR THE GOVERNOR AND LIEUTENANT GOVERNOR, WHICH MUST NOT BE DECLINED.

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

The Committee on Judiciary proposed the following amendment (JUD0900.002), which was adopted:

Amend the bill, as and if amended, page 1, by striking line 27, in Section 23-3-16, as contained in SECTION 1, and inserting therein the following:

/ protection must not be declined and must not be delineated as a line item in the annual general appropriations act.” /

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

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

READ IN FULL, READ THE SECOND TIME

**PASSED BY “AYES” AND “NAYS”**

S. 1 -- Senators McConnell, Peeler, Leatherman, Sheheen, Rose, Courson, Elliott, Massey, Hayes, Davis, Bright, Campsen, Campbell, L. Martin, Knotts, Alexander and S. Martin: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE X OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE REQUIREMENT FOR THE STATE AND ITS POLITICAL SUBDIVISIONS TO HAVE BUDGET PROCESSES DESIGNED TO KEEP REVENUES AND EXPENDITURES IN BALANCE, THE LIMITATION ON STATE APPROPRIATIONS, AND THE LIMITATIONS ON STATE EMPLOYEES, SO AS TO DELETE THE EXISTING STATE SPENDING LIMITATION AND REQUIRE THE GENERAL ASSEMBLY TO REPLACE IT BY A LAW IMPOSING AN ANNUAL LIMIT ON THE APPROPRIATION OF STATE GENERAL FUND REVENUES BY ADJUSTING SUCH REVENUES BY A ROLLING TEN‑YEAR AVERAGE IN ANNUAL CHANGES IN GENERAL FUND REVENUES; TO ALLOW THE CREATION OF A BUDGET STABILIZATION FUND IN THE STATE TREASURY TO WHICH MUST BE CREDITED ALL GENERAL FUND REVENUES IN EXCESS OF THE ANNUAL LIMIT; AND TO PROVIDE BY GENERAL LAW FOR THE APPROPRIATIONS TO WHICH THE LIMIT APPLIES, THE METHOD OF AND SOURCES FOR CALCULATING THE LIMIT; AND TO PROVIDE FOR THE DISBURSEMENTS FROM THE BUDGET STABILIZATION FUND.

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

Senator MARTIN moved that the text of the Joint Resolution be printed upon the pages of the Journal and that the Joint Resolution be ordered to receive a second reading:

S. 1 -- Senators McConnell, Peeler, Leatherman, Sheheen, Rose, Courson, Elliott, Massey, Hayes, Davis, Bright, Campsen, Campbell, L. Martin, Knotts, Alexander and S. Martin: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE X OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE REQUIREMENT FOR THE STATE AND ITS POLITICAL SUBDIVISIONS TO HAVE BUDGET PROCESSES DESIGNED TO KEEP REVENUES AND EXPENDITURES IN BALANCE, THE LIMITATION ON STATE APPROPRIATIONS, AND THE LIMITATIONS ON STATE EMPLOYEES, SO AS TO DELETE THE EXISTING STATE SPENDING LIMITATION AND REQUIRE THE GENERAL ASSEMBLY TO REPLACE IT BY A LAW IMPOSING AN ANNUAL LIMIT ON THE APPROPRIATION OF STATE GENERAL FUND REVENUES BY ADJUSTING SUCH REVENUES BY A ROLLING TEN‑YEAR AVERAGE IN ANNUAL CHANGES IN GENERAL FUND REVENUES; TO ALLOW THE CREATION OF A BUDGET STABILIZATION FUND IN THE STATE TREASURY TO WHICH MUST BE CREDITED ALL GENERAL FUND REVENUES IN EXCESS OF THE ANNUAL LIMIT; AND TO PROVIDE BY GENERAL LAW FOR THE APPROPRIATIONS TO WHICH THE LIMIT APPLIES, THE METHOD OF AND SOURCES FOR CALCULATING THE LIMIT; AND TO PROVIDE FOR THE DISBURSEMENTS FROM THE BUDGET STABILIZATION FUND.

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

SECTION 1. It is proposed that Section 7(c), Article X of the Constitution of this State be amended to read:

“(c) ~~The General Assembly shall prescribe by law a spending limitation on appropriations for the operation of state government which shall provide that annual increases in such appropriations may not exceed the average growth rate of the economy of the State as measured by a process provided for by the law which prescribes the limitations on appropriations; provided, however, the limitation may be suspended for any one fiscal year by a special vote as provided in this subsection.~~

~~During the regular session of the General Assembly in 1990 and during every fifth annual regular session thereafter, the General Assembly shall conduct and complete a review of the law implementing this subsection. During such session, only a vote of two‑thirds of the members of each branch present and voting shall be required to change the existing limitation on appropriation. Unless that is done, the existing limitations shall remain unchanged.~~

(1) The General Assembly by law shall prescribe a limitation on general fund appropriations providingthat general fund revenue available forappropriations for a fiscal year must not exceed the total of the prior year’s general fund revenue available for appropriations increased by the average of the previous ten years’ annual revenue growth rates. The revenue exceeding this limit shall be distributed to a Budget Stabilization Fund.The law implementing the limit must specify the revenues and sources of revenue to which this limit applies, specify the method and agency responsible for calculating the limit, and the sources that must be used in obtaining the information required for the calculation,provide for enacted revenue adjustments that affect the limit, and provide for emergencies and other extraordinary economic and fiscal circumstances that would require an adjustment to the limit and may be implemented as provided in general law. The law shall establish and provide for the funding of the Budget Stabilization Fund from the appropriate revenues that exceed the limitation. The law shall provide that the funds accumulated in the Budget Stabilization Fund shall not exceed a maximum of fifteen percent of the prior year’s actual general fund revenue collections. The law shall also provide for the withdrawal of funds from the Budget Stabilization Fund in accordance with the limit. Any withdrawal from the Budget Stabilization Fund other than for revenue stabilization, declared emergencies, or for use of balances greater than fifteen percent of the prior year’s actual general fund revenue collections shall be by affirmative vote in each branch of the General Assembly by two‑thirds of the members present and voting, but not less than three‑fifths of the total membership in each branch.

(2) Upon implementation of the provisions of this subsection by law, such law may be adopted by a majority vote of each branch of the General Assembly, and subsequently shall not be amended or repealed except by the special vote as provided in this subsection.

(3) The special vote referred to in this subsection means an affirmative vote in each branch of the General Assembly by two‑thirds of the members present and voting, but not less than three‑fifths of the total membership in each branch.”

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

“Must Section 7, Article X of the Constitution of this State be amended, relating to the requirement for the State and its political subdivisions to have budget processes designed to keep revenues and expenditures in balance and the limitation on state appropriations, so as to amend the existing state spending limitation and require the General Assembly to replace it by general law providing a limit on general fund appropriations so that general fund revenue available for appropriations must not exceed a total of the prior year’s general fund revenue increased by the average of the previous ten years’ annual growth rates, providing for the creation of a Budget Stabilization Fund from the revenue exceeding the limit, providing for the specification of revenues and sources of revenue to which the limit shall apply, providing for enacted revenue adjustments that affect the calculation, providing for emergencies and other extraordinary economic and fiscal circumstances that would require an adjustment to the limit, providing for procedures to implement, providing for a limit of revenues in the Budget Stabilization Fund that shall not exceed fifteen percent of that year’s actual general fund revenue collections, and providing for the withdrawal of the funds from the Budget Stabilization Fund; and to provide for the vote required for adoption of the implementing legislation and the special vote required for subsequent amendment or repeal?

Yes 

No 

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

\* \* \*

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

**RECESS**

At 11:45 A.M., on motion of Senator SETZLER, the Senate receded from business not to exceed five minutes.

At 11:50 A.M., the Senate resumed.

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

**Ayes 33; Nays 2**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Cromer Davis Elliott

Fair Grooms Hayes

Knotts Leatherman Leventis

Lourie Malloy *Martin, L.*

Massey McConnell McGill

Mulvaney Peeler Pinckney

Reese Rose Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

**Total--33**

**NAYS**

Land Matthews

**Total--2**

Having received the necessary vote, the Joint Resolution was read the second time, passed and ordered to a third reading.

**Statement by Senator SHANE MARTIN**

This morning I had leave of the Senate to attend another meeting and was out of the Chamber at the time of the vote on S. 1. I am a co‑sponsor of this constitutional amendment to limit the state’s spending and would have voted “aye” had I been present.

**RECESS**

At 12:15 P.M., on motion of Senator SETZLER, the Senate receded from business subject to the Call of the Chair.

At 1:06 P.M., the Senate resumed.

**ADOPTED**

S. 403 -- Senators Leatherman and Williams: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERCHANGE AT ASHBY ROAD AND MCIVER ROAD IN THE TOWN OF QUINBY AS “T. ASHBY GREGG, SR. INTERCHANGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERCHANGE THAT CONTAIN THE WORDS “T. ASHBY GREGG, SR. INTERCHANGE”.

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

S. 762 -- Senator Land: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 260 IN CLARENDON COUNTY FROM ITS INTERSECTION WITH THE MANNING CITY LIMITS TO OXWALI CREEK “FRED CHEWNING HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS “FRED CHEWNING HIGHWAY”.

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

S. 1036 -- Senators Hayes, Coleman and Mulvaney: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 121 IN YORK COUNTY FROM ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 901 TO ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 5 “FRANK BOBO MEMORIAL HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS “FRANK BOBO MEMORIAL HIGHWAY”.

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

S. 1038 -- Senator Knotts: A CONCURRENT RESOLUTION TO INVITE THE NATIONAL COMMANDER OF THE AMERICAN LEGION, THE HONORABLE CLARENCE HILL, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AT 12:30 P.M. ON TUESDAY, FEBRUARY 23, 2010.

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

H. 4242 -- Reps. Limehouse, Brady, Long, Wylie and Vick: A CONCURRENT RESOLUTION DECLARING WEDNESDAY, JANUARY 20, 2010, “SOUTH CAROLINA MEDAL OF HONOR DAY” AND CALLING UPON SOUTH CAROLINIANS TO ATTEND EVENTS SCHEDULED IN COLUMBIA THAT DAY AT WHICH THE WOMEN OF SOUTH CAROLINA WILL SIGN A DECLARATION OF GRATITUDE FOR THE SERVICE AND SACRIFICES OF THE HOLDERS OF THE MEDAL OF HONOR AND AT WHICH WILL BE HONORED AND RECOGNIZED LIVING SOUTH CAROLINA HOLDERS OF THE MEDAL OF HONOR.

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

H. 4290 -- Rep. Kirsh: A CONCURRENT RESOLUTION TO INVITE THE NATIONAL COMMANDER OF THE AMERICAN LEGION, THE HONORABLE CLARENCE HILL, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AT 12:30 P.M. ON TUESDAY, FEBRUARY 23, 2010.

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

**COMMITTEE AMENDMENT ADOPTED**

**CONCURRENT RESOLUTION ADOPTED, AS AMENDED**

**SENT TO THE HOUSE**

S. 1089 -- Senator Knotts: A CONCURRENT RESOLUTION TO FIX WEDNESDAY, APRIL 28, 2010, AT NOON, AS THE DATE AND TIME FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO MEET IN JOINT SESSION IN THE HALL OF THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE OF ELECTING MEMBERS OF THE BOARDS OF TRUSTEES FOR THE CITADEL, CLEMSON UNIVERSITY, COLLEGE OF CHARLESTON, COASTAL CAROLINA UNIVERSITY, FRANCIS MARION UNIVERSITY, LANDER UNIVERSITY, THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, SOUTH CAROLINA STATE UNIVERSITY, THE UNIVERSITY OF SOUTH CAROLINA, WIL LOU GRAY OPPORTUNITY SCHOOL, AND WINTHROP UNIVERSITY TO SUCCEED THOSE MEMBERS WHOSE TERMS EXPIRE IN 2010, OR WHOSE POSITIONS OTHERWISE MUST BE FILLED; AND TO ESTABLISH A PROCEDURE REGARDING NOMINATIONS AND SECONDING SPEECHES FOR THE CANDIDATES FOR THESE OFFICES DURING THE JOINT SESSION; IMMEDIATELY FOLLOWING ELECTION OF BOARDS OF TRUSTEE MEMBERS, THE HOUSE OF REPRESENTATIVES AND THE SENATE SHALL ELECT ONE MEMBER AT LARGE TO THE OLD EXCHANGE BUILDING COMMISSION TO SUCCEED THE MEMBER WHOSE TERM IS EXPIRING.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the amendment proposed by the Committee on Invitations.

The Committee on Invitations proposed the following amendment (1089R003.JMK), which was adopted:

Amend the concurrent resolution, as and if amended, by deleting / Immediately following election of boards of trustee members, the House of Representatives and the Senate shall elect one member at large to the Old Exchange Building Commission to succeed the member whose term is expiring. / after the period on line 7, page 2.

Amend the title, as and if amended, by deleting / ; IMMEDIATELY FOLLOWING ELECTION OF BOARDS OF TRUSTEE MEMBERS, THE HOUSE OF REPRESENTATIVES AND THE SENATE SHALL ELECT ONE MEMBER‑AT‑LARGE TO THE OLD EXCHANGE BUILDING COMMISSION TO SUCCEED THE MEMBER WHOSE TERM IS EXPIRING / after / SESSION / on line 28, page 1.

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

There being no further amendments, the Concurrent Resolution was adopted and ordered sent to the House with amendments.

**CARRIED OVER**

H. 3395 -- Reps. Harrell, Thompson, Cooper, Erickson, Bingham, A.D. Young, Edge, Bedingfield, J.R. Smith, G.R. Smith, D.C. Smith, Bannister, Brady, Cato, Chalk, Forrester, Gambrell, Hamilton, Hiott, Horne, Long, Nanney, Parker, E.H. Pitts, Rice, Scott, Sottile, Stewart, Viers, White, Willis, Toole, Neilson, Bales, T.R. Young and Wylie: A BILL TO AMEND SECTION 11‑11‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GENERAL RESERVE FUND, SO AS TO MAKE CONFORMING AMENDMENTS TO REFLECT ANY CHANGE IN THE AMOUNT REQUIRED TO BE HELD IN THE GENERAL RESERVE FUND PURSUANT TO THE CONSTITUTION OF THIS STATE AND THE RATE OF REPLENISHMENT OF THAT AMOUNT.

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

H. 4048 -- Reps. M.A. Pitts, Duncan and Willis: A BILL TO AMEND SECTION 22‑2‑190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COUNTY JURY AREA DESIGNATIONS FOR USE IN MAGISTRATES COURTS, SO AS TO REVISE THE JURY AREAS FOR LAURENS COUNTY TO PROVIDE FOR ONE JURY AREA COUNTYWIDE.

Senator L. MARTIN explained the Bill.

Senator VERDIN spoke on the Bill.

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

**AMENDED, CARRIED OVER**

H. 4107 -- Reps. White and Bowen: A JOINT RESOLUTION TO REQUIRE ALL ROAD IMPROVEMENTS NECESSITATED BY SCHOOL CONSTRUCTION PROJECTS IN ANDERSON COUNTY SCHOOL DISTRICT FIVE FUNDED BY THE DISTRICT’S APRIL 2007 ONE HUNDRED FORTY MILLION DOLLAR BOND ISSUE REFERENDUM TO BE PAID FOR SOLELY FROM PROCEEDS OF THAT BOND ISSUE.

Senator BRYANT asked unanimous consent to take the Joint Resolution up for immediate consideration.

There was no objection.

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

Senator BRYANT proposed the following amendment (4107R001.KLB), which was adopted:

Amend the joint resolution, as and if amended, page 1, by striking lines 21 and 22 and inserting:

/ SECTION 1. Notwithstanding another provision of law, all road, sewer, and water improvements necessitated by new school construction and /

Renumber sections to conform.

Amend title to conform.

The amendment was adopted.

On motion of Senator BRYANT, the Joint Resolution was carried over, as amended.

**COMMITTEE AMENDMENT ADOPTED**

**CARRIED OVER**

S. 901 -- Senators McConnell, Elliott and Courson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑3‑630, SO AS TO DEFINE “EMERGENCY,” “FULL AUTHORITY”, AND “TEMPORARY ABSENCE” IN ORDER TO CLARIFY WHEN A LIEUTENANT GOVERNOR HAS THE FULL AUTHORITY TO ACT IN AN EMERGENCY IN THE EVENT OF THE TEMPORARY ABSENCE OF THE GOVERNOR FROM THE STATE.

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

The Committee on Judiciary proposed the following amendment (JUD0901.003), which was adopted:

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

/ A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-3-500, SO AS TO PROVIDE THAT WHEN THE GOVERNOR LEAVES THE STATE, HE MUST NOTIFY THE LIEUTENANT GOVERNOR, WHETHER OR NOT THE POWER OF THE GOVERNOR’S OFFICE IS TRANSFERRED TO THE LIEUTENANT GOVERNOR; AND BY ADDING SECTION 1‑3‑630, SO AS TO DEFINE “EMERGENCY”, “FULL AUTHORITY”, AND “TEMPORARY ABSENCE” IN ORDER TO CLARIFY WHEN A LIEUTENANT GOVERNOR HAS THE FULL AUTHORITY TO ACT IN AN EMERGENCY IN THE EVENT OF THE TEMPORARY ABSENCE OF THE GOVERNOR FROM THE STATE.

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

SECTION 1. The 1976 Code is amended by adding:

“Section 1-3-500. Whenever the Governor leaves the State, he must notify the Lieutenant Governor. This section applies whether or not the power of the Governor’s office is transferred to the Lieutenant Governor.”

SECTION 2. Chapter 3, Title 1 of the 1976 Code is amended by adding:

“Section 1‑3‑630. (A) For purposes of this section:

(1) ‘Emergency’ means:

(a) an unlawful assemblage, violence or threats of violence, or a public health emergency, as defined in Section 44‑4‑130, that warrants a gubernatorial proclamation of emergency as provided in Section 1‑3‑420; or

(b) an attack, as defined in Section 1‑9‑20(d); or

(c) a potentially destructive and life-threatening major flood, storm, nuclear accident, or other natural or man-made calamity affecting the health, welfare, and safety of the lives and property of the people of the State; or

(d) the necessary authority to conduct the affairs of the Office of the Governor that may be lost or abandoned during the temporary absence of a Governor including, but not limited to, the:

(i) veto power, and

(ii) authority to execute documents concerning extradition of fugitives from justice, and

(iii) authority to execute documents and exercise duties essential to the administration of criminal justice.

(2) ‘Full authority’ means the ability to exercise the Governor’s powers, responsibilities, obligations, and authorities as provided by general law and in the State Constitution without assuming the office of the Governor.

(3) ‘Temporary absence’ means that:

(a) the Governor is outside the boundaries of the State; and

(b) within a twelve-hour period, either by communicating in person or by telecommunications device, the Governor is not available or is unable to respond to:

(i) his staff, or

(ii) the Director of the South Carolina Law Enforcement Division or his designee.

(B) As provided in Article IV, Section 11 of the South Carolina Constitution, in the event of the temporary absence of the Governor from the State, the Lieutenant Governor has full authority to act in an emergency.

(C) Prior to assuming full authority to act in an emergency, the Lieutenant Governor must verify with the Governor’s staff and the Director of the South Carolina Law Enforcement Division or his designee that the Governor has not been in communication for a period of twelve or more hours and that attempts to contact the Governor have not received a response or indication of the Governor’s whereabouts or availability.

(D) After receiving this verification, the Lieutenant Governor must immediately file with the Office of the Secretary of State a proclamation declaring his full authority to act in the emergency. The proclamation is effective upon issuance and remains in full force and effect as provided by general law and the State Constitution.

(E) The powers that the Lieutenant Governor may exercise pursuant to Article IV, Section 11 of the South Carolina Constitution and this section in the temporary absence of the Governor cannot be restricted prior to the departure of the Governor from this State. The discretion of the Lieutenant Governor includes all of the gubernatorial powers which the Governor himself would possess were he present, limited by the terms of the constitutional provision itself, which require only that those powers may be exercised by the Lieutenant Governor during the temporary absence of the Governor and that those powers also must be of an emergency nature.”

SECTION 3. This act shall take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

On motion of Senator SCOTT, the Bill was carried over, as amended.

**COMMITTEE AMENDMENT ADOPTED**

**CARRIED OVER, AS AMENDED**

H. 3314 -- Rep. Harrison: A BILL TO AMEND SECTIONS 1‑30‑35, 44‑20‑30, 44‑20‑210, 44‑20‑220, 44‑20‑225, 44‑20‑240, 44‑20‑320, 44‑20‑350, 44‑20‑360, 44‑20‑430, 44‑20‑1120, 44‑20‑1130, 44‑20‑1140, 44‑20‑1150, 44‑20‑1160, 44‑20‑1170, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO PROVIDE THAT THE DEPARTMENT IS HEADED AND GOVERNED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS SERVES AS AN ADVISORY BOARD TO THE DIRECTOR; AND TO REPEAL SECTION 44‑20‑230 RELATING TO POWERS AND DUTIES OF THE DIRECTOR.

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

There was no objection.

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

The Committee on Medical Affairs proposed the following amendment (3314R002.HSP), which was adopted:

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

/ TO AMEND SECTION 44‑20‑210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 44‑20‑220, RELATING TO THE PROMULGATION OF REGULATIONS BY THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION REQUIRING THE COMMISSION TO CONSULT WITH THE ADVISORY COMMITTEE OF THE DIVISION TO WHICH THE REGULATIONS APPLY; TO AMEND SECTION 44‑20‑230, RELATING TO THE RESPONSIBILITIES OF THE DIRECTOR OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION AUTHORIZING THE DIRECTOR TO APPOINT AND REMOVE EMPLOYEES OF THE DEPARTMENT; TO AMEND SECTION 44‑20‑240, RELATING TO THE CREATION AND RESPONSIBILITIES OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION TRANSFERRING THE RESPONSIBILITY FOR AUTISTIC SERVICES FROM THE DEPARTMENT OF MENTAL HEALTH TO THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS; TO AMEND SECTION 44‑20‑350, RELATING TO AUTHORIZING THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS TO ESTABLISH CHARGES FOR SERVICES IN REGULATION, SO AS TO REQUIRE THESE CHARGES TO BE ESTABLISHED IN REGULATION; TO AMEND SECTION 44‑20‑430, RELATING TO THE DIRECTOR CARRYING OUT CERTAIN RESPONSIBILITIES SUBJECT TO POLICIES ADOPTED BY THE COMMISSION, SO AS TO PROVIDE THAT CARRYING OUT THESE RESPONSIBILITIES IS SUBJECT TO REGULATIONS PROMULGATED BY THE DEPARTMENT; TO AMEND SECTION 44‑7‑260, AS AMENDED, RELATING TO FACILITIES REQUIRED TO BE LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND FACILITIES THAT ARE EXEMPT FROM SUCH LICENSURE, SO AS TO REQUIRE LICENSURE FOR COMMUNITY‑BASED HOUSING AND DAY PROGRAMS OPERATED BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS AND TO REMOVE COMMUNITY‑BASED HOUSING SPONSORED, LICENSED, OR CERTIFIED BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS FROM THOSE FACILITIES THAT ARE EXEMPT FROM LICENSURE; TO AMEND ARTICLE 23, CHAPTER 7, TITLE 44, RELATING TO CRIMINAL RECORDS CHECKS OF DIRECT CARE STAFF, SO AS TO FURTHER SPECIFY THE CRIMINAL RECORDS CHECKS THAT MUST BE CONDUCTED ON DIRECT CARE STAFF, TO PROVIDE THAT A DIRECT CARE ENTITY INCLUDES A DAY PROGRAM OPERATED BY THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, TO DELETE PROVISIONS REQUIRING DIRECT CAREGIVERS TO VERIFY RESIDENCY FOR THE TWELVE MONTHS PRECEDING APPLYING FOR EMPLOYMENT, TO DELETE PROVISIONS AUTHORIZING PRIVATE BUSINESSES, ORGANIZATIONS, OR ASSOCIATIONS TO CONDUCT CRIMINAL HISTORY BACKGROUND CHECKS REQUIRED BY THIS ARTICLE, AND TO DELETE PROVISIONS RELATING TO CERTAIN FINGERPRINT FORMS AND PROCEDURES; AND TO REPEAL SECTION 44‑20‑225 RELATING TO CONSUMER ADVISORY BOARDS FOR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, MENTAL RETARDATION, AUTISM, AND HEAD AND SPINAL CORD INJURY DIVISIONS AND ARTICLE 5, CHAPTER 20, TITLE 44 RELATING TO THE LICENSURE AND REGULATION OF FACILITIES AND PROGRAMS BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS; AND BY ADDING CHAPTER 2 TO TITLE 2 SO AS TO PROVIDE THAT THE STANDING COMMITTEES OF THE GENERAL ASSEMBLY HAVE A DUTY TO REVIEW AND STUDY THE OPERATIONS OF THE STATE AGENCIES WITHIN THE COMMITTEE’S JURISDICTION, TO ESTABLISH COMMITTEE OVERSIGHT JURISDICTION, TO PROVIDE FOR THE PROCESS BY WHICH A COMMITTEE MAY INITIATE AN OVERSIGHT STUDY OR INVESTIGATION, TO PROVIDE FOR THE MANNER IN WHICH AN INVESTIGATING COMMITTEE MAY ACQUIRE EVIDENCE OR INFORMATION RELATED TO THE STUDY OR INVESTIGATION, TO PROVIDE FOR PROGRAM EVALUATION REPORTS, THE MANNER IN WHICH THEY ARE REQUESTED, AND THE CONTENTS OF THE REPORTS, TO PROVIDE THAT ALL TESTIMONY GIVEN TO AN INVESTIGATING COMMITTEE MUST BE GIVEN UNDER OATH, TO PROVIDE THAT WITNESSES TESTIFYING IN FRONT OF AN INVESTIGATING COMMITTEE MAY BE REPRESENTED BY COUNSEL, AND TO PROVIDE THAT WITNESSES ARE GIVEN THE BENEFIT OF ANY PRIVILEGE WHICH THE WITNESS COULD HAVE CLAIMED IN COURT AS A PARTY TO A CIVIL ACTION.

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

SECTION 1. Section 44‑20‑30 of the 1976 Code is amended to read:

“Section 44‑20‑30. As used in this chapter:

(1) ‘Applicant’ means a person who is believed to have mental retardation, one or more related disabilities, one or more head injuries, one or more spinal cord injuries, or an infant at high risk of a developmental disability who has applied for services of the South Carolina Department of Disabilities and Special Needs.

(2) ‘Client’ is a person who is determined by the Department of Disabilities and Special Needs to have mental retardation, a related disability, head injury, or spinal cord injury and is receiving services or is an infant at risk of having a developmental disability and is receiving services.

(3) ‘Commission’ means the South Carolina Commission on Disabilities and Special Needs, the policy‑making and governing body of the Department of Disabilities and Special Needs.

(4) ‘County disabilities and special needs boards’ means the local public body administering, planning, coordinating, or providing services within a county or combination of counties for persons with mental retardation, related disabilities, head injuries, or spinal cord injuries and recognized by the department.

(5) ‘Day programs’ are programs provided to persons with mental retardation, related disabilities, head injuries, or spinal cord injuries outside of their residences affording development, training, employment, or recreational opportunities as prescribed by the Department of Disabilities and Special Needs.

(6) ‘Department’ means the South Carolina Department of Disabilities and Special Needs.

(7) ‘Director’ means the South Carolina Director of the Department of Disabilities and Special Needs, the chief executive director appointed by the commission.

(8) ‘High risk infant’ means a child less than thirty‑six months of age whose genetic, medical, or environmental history is predictive of a substantially greater risk for a developmental disability than that ~~for~~ of the general population.

(9) ‘Least restrictive environment’ means the surrounding circumstances that provide as little intrusion and disruption from the normal pattern of living as possible.

(10) ‘Improvements’ means the construction~~,~~ and reconstruction of buildings~~,~~ and other permanent improvements for regional centers and other programs provided by the department directly or through contract with county boards of disabilities and special needs, including equipment and the cost of acquiring and improving lands for equipment.

(11) ‘Mental retardation’ means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(12) ‘Disabilities and special needs services’ ~~are~~ means activities designed to achieve the results specified in an individual ~~client”s~~ client’s plan.

(13) ‘Obligations’ means the obligations in the form of notes or bonds or contractual agreements issued or entered into by the commission pursuant to the authorization of this chapter and of Act 1377 of 1968 to provide funds with which to repay the proceeds of capital improvement bonds allocated by the State Budget and Control Board.

(14) ‘Regional residential center’ ~~is~~ means a twenty‑four hour residential facility serving a multi‑county area and designated by the department.

(15) ‘Related disability’ ~~is~~ means a severe, chronic condition found to be closely related to mental retardation or ~~to require~~ a condition that requires treatment similar to that required for persons with mental retardation and must meet the following conditions:

(a) ~~It~~ it is attributable to cerebral palsy, epilepsy, autism, or any other condition other than mental illness found to be closely related to mental retardation because ~~this~~ the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation and requires treatment or services similar to those required for these persons~~.~~;

(b) ~~It~~ it is manifested before twenty‑two years of age~~.~~;

(c) ~~It~~ it is likely to continue indefinitely~~.~~; and

(d) ~~It~~ it results in substantial functional limitations in three or more of the following areas of major life activity: self‑care, understanding and use of language, learning, mobility, self‑direction, and capacity for independent living.

(16) ‘Residential programs’ ~~are~~ means services providing dwelling places to clients for an extended period of time with assistance for activities of daily living ranging from constant to intermittent supervision as required by the individual client’s needs.

(17) ‘Revenues’ or ‘its revenues’ means revenue derived from paying clients at regional residential centers and community residences but does not include Medicaid, Medicare, or other federal funds received with the stipulation that they be used to provide services to clients.

(18) ‘State capital improvement bonds’ means bonds issued pursuant to Act 1377 of 1968.

(19) ‘State board’ s~~hall mean~~ means the State Budget and Control Board as constituted pursuant to Chapter 11, Title 1.”

SECTION 2. Section 44‑20‑210 of the 1976 Code is amended to read:

“Section 44‑20‑210. ~~(A)~~ There is created the South Carolina Commission on Disabilities and Special Needs. The commission consists of seven members. One member must be a resident of each congressional district and one must be from the State at large to be appointed by the Governor upon the advice and consent of the Senate. ~~They~~ Members shall serve for four years and until their successors are appointed and ~~qualify~~ qualified. Members of the commission are subject to removal by the Governor pursuant to the provisions of Section 1‑3‑240. A vacancy may be filled by the Governor for the unexpired portion of the term.

~~(B) On July 1, 1993, the Commission on Mental Retardation becomes the Commission on Disabilities and Special Needs. The commissioners continue to serve until their terms expire and their successors are appointed and qualify.~~”

SECTION 3. Section 44‑20‑220 of the 1976 Code is amended to read:

“Section 44‑20‑220. The commission shall determine the policy and promulgate regulations governing the operation of the department and the employment of professional staff and personnel. The members of the commission shall receive subsistence, mileage, and per diem as may be provided by law for members of state boards, committees, and commissions. The commission shall appoint and in its discretion remove a South Carolina Director of Disabilities and Special Needs who is the chief executive officer of the department. The commission may appoint advisory committees it considers necessary to assist in the effective conduct of its responsibilities. The commission may educate the public and state and local officials as to the need for the funding, development, and coordination of services for persons with mental retardation, related disabilities, head injuries, and spinal cord injuries and promote the best interest of persons with mental retardation, related disabilities, head injuries, and spinal cord injuries. The commission is authorized to promulgate regulations to carry out the provisions of this chapter and other laws related to mental retardation, related disabilities, head injuries, or spinal cord injuries. ~~In promulgating these regulations, the commission must consult with the advisory committee of the division for which the regulations shall apply.~~”

SECTION 4. Section 44‑20‑230 of the 1976 Code is amended to read:

“Section 44‑20‑230. Subject to the supervision, direction, and control of the commission, the director shall administer the policies and regulations established by the commission. ~~The director may appoint and in his discretion remove all other officers and employees of the department subject to the approval of the commission.~~

SECTION 5. Section 44‑20‑240 of the 1976 Code is amended to read:

“Section 44‑20‑240. There is created the South Carolina Department of Disabilities and Special Needs which has authority over all of the state’s services and programs for the treatment and training of persons with mental retardation, related disabilities, head injuries, and spinal cord injuries. This authority does not include services delivered by other agencies of the State as prescribed by statute. The department must be comprised of a Mental Retardation Division, an Autism Division, and a Head and Spinal Cord Injuries Division. The department may be divided into additional divisions as may be determined by the director and approved and named by the commission. ~~Responsibility for all autistic services is transferred from the Department of Mental Health to the Department of Disabilities and Special Needs.~~”

SECTION 6. Section 44‑20‑350(E) of the 1976 Code is amended to read:

“(E) The department ~~may~~ shall establish by regulation charges for other services it renders.”

SECTION 7. Section 44‑20‑430 of the 1976 Code is amended to read:

“Section 44‑20‑430. The director or his designee has the final authority over applicant eligibility, determination, or services and admission order, subject to ~~policies adopted by the commission~~ regulations promulgated by the department.”

SECTION 8. Section 44‑7‑260(A) of the 1976 Code is amended to read:

“(A) If they provide care for two or more unrelated persons, the following facilities or services may not be established, operated, or maintained in this State without first obtaining a license in the manner provided by this article and regulations promulgated by the department:

(1) hospitals, including general and specialized hospitals;

(2) nursing homes;

(3) residential treatment facilities for children and adolescents;

(4) ambulatory surgical facilities;

(5) chiropractic inpatient facilities;

(6) community residential care facilities;

(7) facilities for chemically dependent or addicted persons;

(8) end‑stage renal dialysis units;

(9) day‑care facilities for adults;

(10) any other facility operating for the diagnosis, treatment, or care of persons suffering from illness, injury, or other infirmity and for which the department has adopted standards of operation by regulation~~.~~;

(11) habilitation centers for the mentally retarded or persons with related conditions~~.~~;

(12) freestanding or mobile technology~~.~~;

(13) facilities wherein abortions are performed;

(14) community‑based housing operated or contracted for operation by the South Carolina Department of Disabilities and Special Needs. Community‑based housing operated or contracted for operation by the South Carolina Department of Disabilities and Special Needs that serves children shall be licensed under this article rather than Article 1, Chapter 11 of Title 63;

(15) day programs, as defined in Section 44‑20‑30(5), operated by or contracted for operation by the South Carolina Department of Disabilities and Special Needs.”

SECTION 9. Section 44‑7‑260(B) of the 1976 Code, as last amended by Act 233 of 2008, is further amended to read:

“(B) The licensing provisions of this article do not apply to:

(1) infirmaries for the exclusive use of the student bodies of privately‑owned educational institutions which maintain infirmaries;

(2) ~~community‑based housing sponsored, licensed, or certified by the South Carolina Department of Disabilities and Special Needs. The Department of Disabilities and Special Needs shall provide to the Department of Health and Environmental Control the names and locations of these facilities on a continuing basis; or~~

~~(3)~~ homeshare programs designated by the Department of Mental Health, provided that these programs do not serve more than two persons at each program location, the length of stay does not exceed fourteen consecutive days for one of the two persons, and the temporarily displaced person must be directly transferred from a homeshare program location. The Department of Mental Health shall provide to the Department of Health and Environmental Control the names and locations of these programs on a continuing basis.”

SECTION 10. Article 23, Chapter 7, Title 44 of the 1976 Code is amended to read:

“Article 23

Criminal ~~Record~~ Records Checks of Direct Care Staff

Section 44‑7‑2910. (A)(1) ~~A direct care entity employing or contracting with a direct caregiver shall conduct a criminal record check as provided in this section prior to employing or contracting with the direct caregiver.~~ To be employed by a direct care entity, a person shall first undergo a state criminal records check, supported by fingerprints by the State Law Enforcement Division and a national criminal records check, supported by fingerprints by the Federal Bureau of Investigation. The results of these criminal history background checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. A direct care entity may consider all information revealed by ~~a~~ criminal ~~record check~~ history background checks as a factor in evaluating a direct caregiver’s application to be employed by or contract with the entity.

(2) An employment agency may not furnish employees to a direct care entity without conducting ~~a~~ criminal ~~record check~~ history background checks on each employee. An employee who works in multiple direct care settings must have ~~a~~ criminal ~~record check~~ history background checks on file at the location of the employment agency, the home office of his employer, or at the individual’s primary place of employment.

(B) For purposes of this article:

(1) ‘Direct care entity’ means:

(a) a nursing home, as defined in Section 44‑7‑130;

(b) a daycare facility for adults, as defined in Section 44‑7‑130;

(c) a home health agency, as defined in Section 44‑69‑20;

(d) a community residential care facility, as defined in Section 44‑7‑130;

(e) a residential program or a day program operated by or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.

(2) ‘Direct caregiver’ or ‘caregiver’ means:

(a) a registered nurse, licensed practical nurse, or certified nurse assistant;

(b) any other licensed professional employed by or contracting with a direct care entity who provides to patients or clients direct care or services and includes, but is not limited to, a physical, speech, occupational, or respiratory care therapist;

(c) a person who is not licensed but provides physical assistance or care to a patient or client served by a direct care entity;

(d) a person employed by or under contract with a direct care entity who works within any building housing patients or clients;

(e) a person employed by or under contract with by a direct care entity whose duties include the possibility of patient or client contact.

For purposes of this article, a direct caregiver does not include a faculty member or student enrolled in an educational program, including clinical study in a direct care entity.

~~(C)(1)~~ ~~A direct caregiver applicant shall provide verification of residency for the twelve months preceding the date of the employment application. The direct care entity shall conduct a state criminal record check if the applicant has resided in South Carolina during that twelve‑month period and can verify residency through:~~

~~(a)~~ ~~a driver’s license or identification card issued by the State of South Carolina;~~

~~(b)~~ ~~rent, mortgage, or utility receipts in the applicant’s name for a home within South Carolina;~~

~~(c)~~ ~~pay stubs in the applicant’s name from a business located in South Carolina; or~~

~~(d)~~ ~~bank records in the applicant’s name showing a deposit or checking account held in a South Carolina branch office of a bank.~~

~~(2)~~ ~~A direct care entity unable to verify South Carolina residency for a direct care applicant for the preceding twelve months shall conduct a state criminal record check on the applicant prior to employment and shall commence a federal criminal record check after employment. However, if the direct care entity can verify residency in another state for the preceding twelve months, the direct care entity may conduct only a state criminal record check in the applicant’s resident state or jurisdiction where the applicant previously resided.~~

Section 44‑7‑2920. Criminal ~~record~~ records checks required pursuant to this article must be conducted by the State Law Enforcement Division ~~or by a private business, organization, or association which conducts background checks if that entity utilizes current criminal records obtained from the State Law Enforcement Division or the Federal Bureau of Investigation to determine any criminal record. An applicant shall submit with the application one complete set of the applicant’s fingerprints on forms specified or furnished by the State Law Enforcement Division. Fingerprint cards submitted to the State Law Enforcement Division pursuant to this section must be used to facilitate a national criminal records check, as required by this section~~. The criminal ~~record check is~~ history background checks are not required to be repeated as long as the person remains employed by or continues to contract with a direct care entity; however, if a person is not employed by or is not under contract for one year or longer with a direct care entity, the criminal ~~record check~~ history background checks must be repeated before resuming employment or contracting with a direct care entity. ~~The fee charged by the Federal Bureau of Investigation, if any, for the fingerprint review~~ Costs of conducting criminal history background checks must be paid by the individual direct caregiver or the direct care entity.

Section 44‑7‑2930. A direct care entity may furnish copies of personnel records of current or former direct caregivers to another direct care entity requesting this information. Information contained in the records may include, but is not limited to, disciplinary matters and any reasons for termination. A direct care entity releasing these records pursuant to this section is presumed to be acting in good faith and is immune from civil and criminal liability which otherwise may result by reason of releasing this information. A direct care entity receiving records pursuant to this section shall conduct its own criminal ~~record check~~ history background checks pursuant to this article.

Section 44‑7‑2940. The Department of Health and Environmental Control shall verify that a direct care entity is conducting criminal ~~record~~ history background checks as required in this article before the department issues a renewal license for the direct care entity. ~~The department shall act as the channeling agency for any federal criminal record checks required by this article.~~

Section 44‑7‑2950. An individual who violates this article, or a regulation promulgated pursuant to this article, is subject to a civil fine of one hundred dollars for the first violation and five hundred dollars for each subsequent violation. A fine imposed pursuant to this section must be paid before a direct care entity’s license is renewed. Fines collected pursuant to this section must be retained by the department to help offset the costs associated with carrying out the department’s responsibilities under this article.”

SECTION 11. Section 44‑20‑225 and Article 5, Chapter 20, Title 44 of the 1976 Code are repealed.

SECTION 12. A. Title 2 of the 1976 Code is amended by adding:

“CHAPTER 2

Legislative Oversight of Executive Departments

Section 2‑2‑5. The General Assembly finds and declares the following to be the public policy of the State of South Carolina:

(1) Section 1 of Article XII of the Constitution of this State requires the General Assembly to provide for appropriate agencies to function in the areas of health, welfare, and safety and to determine the activities, powers, and duties of these agencies and departments.

(2) This constitutional duty is a continuing and ongoing obligation of the General Assembly that is best addressed by periodic review of the programs of the agencies and departments and their responsiveness to the needs of the state’s citizens by the standing committees of the State Senate or House of Representatives.

Section 2‑2‑10. As used in this chapter:

(1) ‘Agency’ means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive or judicial departments of state government, including administrative bodies. ‘Agency’ includes a body corporate and politic established as an instrumentality of the State. ‘Agency’ does not include:

(a) the legislative department of state government; or

(b) a political subdivision.

(2) ‘Investigating committee’ means any standing committee or subcommittee of a standing committee exercising its authority to conduct an oversight study and investigation of an agency within the standing committee’s subject matter jurisdiction.

(3) ‘Program evaluation report’ means a report compiled by an agency at the request of an investigating committee that may include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, compliance with its statutory mandate, and fiscal accountability.

(4) ‘Request for information’ means a list of questions that an investigating committee serves on a department or agency under investigation. The questions may relate to any matters concerning the department or agency’s actions that are the subject of the investigation.

(5) ‘Standing committee’ means a permanent committee with a regular meeting schedule and designated subject matter jurisdiction that is authorized by the Rules of the Senate or the Rules of the House of Representatives.

Section 2‑2‑20. (A) Beginning January 1, 2011, each standing committee shall conduct oversight studies and investigations on all agencies within the standing committee’s subject matter jurisdiction at least once every five years in accordance with a schedule adopted as provided in this chapter.

(B) The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee:

(1) are being implemented and carried out in accordance with the intent of the General Assembly; and

(2) should be continued, curtailed, or eliminated.

(C) The oversight studies and investigations must consider:

(1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction;

(2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee’s subject matter jurisdiction; and

(3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee’s subject matter jurisdiction.

Section 2‑2‑30. (A) The procedure for conducting the oversight studies and investigations is provided in this section.

(B)(1) The Rules of the Senate shall determine the agencies for which each standing committee shall conduct oversight studies and investigations. A proposed five‑year review schedule must be published in the Senate Journal on the first day of session each year.

(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee shall schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for an agency.

(C)(1) The Speaker of the House of Representatives, upon consulting with the chairmen of the standing committees in the House of Representatives and the Clerk of the House of Representatives, shall determine the agencies for which each standing committee shall conduct oversight studies and investigations. A proposed five‑year review schedule must be published in the House Journal on the first day of session each year.

(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee shall schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for the agency.

(D) The chairman of an investigating committee may vest the standing committee’s full investigative power and authority in a subcommittee. A subcommittee conducting an oversight study and investigation of an agency:

(1) shall make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation, and

(2) shall not consist of fewer than three members.

Section 2‑2‑40. (A) In addition to the scheduled five‑year oversight studies and investigations, a standing committee of the Senate or the House of Representatives may by one‑third vote of the standing committee’s membership initiate an oversight study and investigation of an agency within its subject matter jurisdiction. The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.

(B) Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by authorizing and conducting legislative investigations into agencies’ functions, duties, and activities.

Section 2‑2‑50. When an investigating committee conducts an oversight study and investigation or a legislative investigation is conducted pursuant to Section 2‑2‑40(B), evidence or information related to the investigation may be acquired by any lawful means, including, but not limited to:

(A) serving a request for information on the agency being studied or investigated. The request for information must be answered separately and fully in writing under oath and returned to the investigating committee within forty‑five days after being served upon the department or agency. The time for answering a request for information may be extended for a period to be agreed upon by the investigating committee and the agency for good cause shown. The head of the department or agency shall sign the answers verifying them as true and correct. If any question contains a request for records, policies, audio or video recordings, or other documents, the question is not considered to have been answered unless a complete set of records, policies, audio, or video recordings, or other documents is included with the answer;

(B) deposing witnesses upon oral examination. A deposition upon oral examination may be taken from any person that the investigating committee has reason to believe has knowledge of the activities under investigation. The investigating committee shall provide the person being deposed and the agency under investigation with no less than ten days' notice of the deposition. The notice to the agency shall state the time and place for taking the deposition and name and address of each person to be examined. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena must be attached to or included in the notice. The deposition must be taken under oath administered by the chairman of the investigating committee or his designee. The testimony must be taken stenographically or recorded by some other means and may be videotaped. A person may be compelled to attend a deposition in the county in which he resides or in Richland County;

(C) issuing subpoenas and subpoenas duces tecum pursuant to Chapter 69 of this title; and

(D) requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee. The investigating committee shall specify the agency program or programs or agency operations that it is studying or investigating and the information to be contained in the program evaluation report.

Section 2‑2‑60. (A) An investigating committee’s request for a program evaluation report must contain:

(1) the agency program or operations that it intends to investigate;

(2) the information that must be included in the report; and

(3) the date that the report must be submitted to the committee.

(B) An investigating committee may request that the program evaluation report contain any of the following information:

(1) enabling or authorizing law or other relevant mandate, including any federal mandates;

(2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:

(a) established priorities, including goals and objectives in meeting each priority;

(b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;

(c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;

(3) organizational structure, including a position count, job classification, and organization flow chart indicating lines of responsibility;

(4) financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the last ten years;

(5) identification of areas where the agency has coordinated efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;

(6) identification of the constituencies served by the agency or program, noting any changes or projected changes in the constituencies;

(7) a summary of efforts by the agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;

(8) identification of emerging issues for the agency;

(9) a comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;

(10) agency policies for collecting, managing, and using personal information over the Internet and nonelectronically, information on the agency’s implementation of information technologies;

(11) a list of reports, applications, and other similar paperwork required to be filed with the agency by the public. The list must include:

(a) the statutory authority for each filing requirement;

(b) the date each filing requirement was adopted or last amended by the agency;

(c) the frequency that filing is required;

(d) the number of filings received annually for the last five years and the number of anticipated filings for the next five years;

(e) a description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;

(12) any other relevant information specifically requested by the investigating committee.

(C) All information contained in a program evaluation report must be presented in a concise and complete manner.

(D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.

(E) A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report.

Section 2‑2‑70. All testimony given to the investigating committee must be under oath.

Section 2‑2‑80. Any witness testifying before or deposed by the investigating committee may have counsel present to advise him. The witness or his counsel may, during the time of testimony or deposition, object to any question detrimental to the witness’ interests and is entitled to have a ruling by the chairman on any objection. In making his ruling, the chairman of the investigating committee shall follow as closely as possible the procedures and rules of evidence observed by the circuit courts of this State.

Section 2‑2‑90. A witness shall be given the benefit of any privilege which he may have claimed in court as a party to a civil action.

Section 2‑2‑100. A person who appears before a committee or subcommittee of either house, pursuant to this chapter, and wilfully gives false, misleading, or incomplete testimony under oath is guilty of a felony punishable by a fine within the discretion of the court or for a term of imprisonment of not more than five years, or both.

Section 2‑2‑110. If a person violates Section 2‑2‑100, it is the duty of the chair of the committee or subcommittee before which the false, misleading, or incomplete testimony was given, to notify the Attorney General of South Carolina who shall cause charges to be filed in the appropriate county.”

B. This SECTION takes effect January 1, 2011.

SECTION 13. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the committee amendment.

The committee amendment was adopted.

On motion of Senator SETZLER, the Bill was carried over, as amended.

**COMMITTEE AMENDMENT ADOPTED**

**AMENDMENT PROPOSED**

**CARRIED OVER, AS AMENDED**

S. 1085 -- Senators Leatherman, Leventis, Massey, Ford, Ryberg, Setzler, Nicholson, Fair, Bryant, Alexander, Cromer, Land, Rankin, McConnell, O’Dell, Thomas, Courson, L. Martin, Campbell, Matthews, McGill, Hayes and Rose: A BILL TO AMEND SECTION 11‑11‑310 OF THE 1976 CODE, RELATING TO THE GENERAL RESERVE FUND, TO INCREASE THE PERCENTAGE AMOUNT REQUIRED TO BE DEPOSITED IN THE GENERAL RESERVE FUND FROM THREE TO FIVE PERCENT OF THE GENERAL FUND REVENUE OF THE LATEST COMPLETED FISCAL YEAR, AND TO PROVIDE THAT THE PERCENTAGE AMOUNT MAY BE INCREASED OR DECREASED BY A TWO‑THIRDS VOTE OF EACH HOUSE; TO AMEND SECTION 11‑11‑320, RELATING TO THE CAPITAL RESERVE FUND, TO PROVIDE THAT IF IN ANY FISCAL YEAR IN WHICH THE GENERAL RESERVE FUND DOES NOT MAINTAIN THE APPLICABLE PERCENTAGE AMOUNT, MONIES FROM THE CAPITAL RESERVE FUND FIRST MUST BE USED, TO THE EXTENT NECESSARY, TO FULLY REPLENISH THE REQUISITE PERCENTAGE AMOUNT IN THE GENERAL RESERVE FUND; TO REPEAL SECTION 11‑11‑325; TO AMEND SECTION 11‑9‑890, RELATING TO ACTIONS TO AVOID A YEAR‑END DEFICIT, TO EXTEND THE TIME PERIOD IN WHICH ACTION MAY BE TAKEN INTO THE THIRD QUARTER, TO REDUCE THE PERCENTAGE BELOW THE PROJECTED AMOUNT THAT IS REQUIRED TO TAKE ACTION FROM FOUR TO TWO PERCENT, TO REDUCE THE TIME IN WHICH THE BUDGET AND CONTROL BOARD MUST TAKE ACTION FROM FIFTEEN TO SEVEN DAYS, AND TO PROVIDE THAT IF NO ACTION IS TAKEN, THE DIRECTOR OF THE OFFICE OF STATE BUDGET MUST REDUCE GENERAL FUND APPROPRIATIONS BY THE REQUISITE AMOUNT; AND TO AMEND SECTION 1‑11‑495, RELATING TO A REDUCTION IN THE RATE OF EXPENDITURE, TO PROVIDE THAT ANY CUT IS SUBJECT TO ANY BILL OR RESOLUTION ENACTED BY THE GENERAL ASSEMBLY.

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

The Committee on Finance proposed the following amendment (1085FIN001), which was adopted:

Amend the bill, as and if amended, page 2, by striking line 17 and inserting:

/ completed fiscal year. If on September first of any fiscal year the accumulated total in the General Reserve Fund exceeds the fully implemented applicable percentage amount as defined in subsection (E)(1) or the percentage amount enacted by the General Assembly pursuant to subsection (E)(2), any excess amount in the General Reserve Fund shall lapse to the general fund. /

Amend the bill further, as and if amended, page 3, by striking line 41 and inserting:

/ addition to the replenishment requirement provided in Section 36(A) /

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER explained the committee amendment.

The committee amendment was adopted.

Senators LEATHERMAN, LAND and SETZLER proposed the following amendment (1085R001.HKL):

Amend the bill, as and if amended, page 5, by striking line 9 and inserting:

/ SECTION 4. Section 1‑11‑495(A) and (B) of the 1976 Code is amended /

Amend the bill further, as and if amended, page 5, by striking line 34 and inserting:

/ any bill or resolution enacted by the General Assembly.

(B) As far as practicable, all agencies, departments, and institutions of the State are directed to budget and allocate appropriations as a quarterly allocation so as to provide for operation on uniform standards throughout the fiscal year and in order to avoid an operating deficit for the fiscal year. It is recognized that academic year calendars of state institutions affect the uniformity of the receipt and distribution of funds during the years. The Comptroller General or the Office of State Budget shall make reports to the board as they consider advisable on an agency, department, or institution that is expending authorized appropriations at a rate which predicts or projects a general fund deficit for the agency, department, or institution. The board is directed to require the agency, department, or institution to file a quarterly allocations plan and is further authorized to restrict the rate of expenditures of the agency, department, or institution if the board determines that a deficit may occur. It is the responsibility of the agency, department, or institution to develop a plan, in consultation with the board, which eliminates or reduces a deficit. If the board makes a finding that the cause of or likelihood of a deficit is unavoidable due to factors which are outside the control of the agency, department, or institution, then the board may determine that the recognition of the agency, department, or institution is appropriate and shall notify the General Assembly of this action or the presiding officer of the House and Senate if the General Assembly is not in session. The board may only recognize a deficit by a vote of at least four members of the board.” /

Renumber sections to conform.

Amend title to conform.

Senator SETZLER explained the amendment.

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

**COMMITTEE AMENDMENT ADOPTED**

**CARRIED OVER**

H. 3396 -- Reps. Harrell, Thompson, Scott, Cooper, Erickson, Bingham, A.D. Young, Edge, J.R. Smith, G.R. Smith, Bedingfield, Whitmire, Hiott, D.C. Smith, Bannister, Brady, Cato, Chalk, Forrester, Gambrell, Hamilton, Horne, Long, Nanney, Parker, E.H. Pitts, Rice, Sottile, Stewart, Viers, White, Willis, Toole, Neilson, Bales, T.R. Young and Wylie: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 36, ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE GENERAL RESERVE FUND AND THE CAPITAL RESERVE FUND, SO AS TO INCREASE FROM THREE TO FIVE PERCENT THE AMOUNT OF STATE GENERAL FUND REVENUE IN THE LATEST COMPLETED FISCAL YEAR REQUIRED TO BE HELD IN THE GENERAL RESERVE FUND.

The Senate proceeded to a consideration of the Joint Resolution, the question being the adoption of the amendment proposed by the Committee on Judiciary.

The Judiciary Committee proposed the following amendment (JUD3396.002), which was adopted:

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

/ SECTION 1. It is proposed that Section 36(A), Article III of the Constitution of this State be amended to read:

“(A) The General Assembly shall provide for a General Reserve Fund of ~~three~~ five percent of the general fund revenue of the latest completed fiscal year. The five percent requirement shall be achieved by increasing the percentage requirement by a cumulative one‑half of one percent of general fund revenue in each fiscal year succeeding the last fiscal year to which the three percent requirement applied until the percentage of revenue in the General Reserve Fund equals the five percent requirement, which shall thereafter be maintained unless adjusted as provided in this subsection. The percentage of general fund revenue maintained in the General Reserve Fund may be increased or decreased by legislative enactment passed by a two‑thirds vote of the total membership of the Senate and a two‑thirds vote of the total membership of the House of Representatives, with the yeas and nays recorded in the respective journal of each house. The legislation must be separate and enacted solely for the purpose of increasing or decreasing the percentage amount. Funds may be withdrawn from the reserve only for the purpose of covering operating deficits of state government. The General Assembly must provide for the orderly restoration of funds withdrawn from the reserve from future revenues and out of funds accumulating in excess of annual operating expenditures.

(1) The General Assembly shall provide by law for a procedure to survey the progress of the collection of revenue and the expenditure of funds and to authorize and direct reduction of appropriations as may be necessary to prevent a deficit.

(2) In the event of a year‑end operating deficit, so much of the reserve fund as may be necessary must be used to cover the deficit; and the amount must be restored to the reserve fund within ~~three~~ five fiscal years out of future revenues until the ~~three~~ five percent, or the applicable percentage amount required to be transferred to the General Reserve Fund, is again reached and maintained. Provided that a minimum of one percent of the general fund revenue of the latest completed fiscal year, if so much is necessary, must be restored to the reserve fund each year following the deficit until the ~~three~~ five percent, or the applicable percentage amount required by general law to be transferred to the General Reserve Fund is restored.”

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

“Must Section 36(A), Article III of the Constitution of this State be amended so as to increase from three to five percent in increments of one‑half of one percent over four fiscal years the amount of state general fund revenue in the latest completed fiscal year required to be held in the General Reserve Fund and to allow the percentage amount to be subsequently increased or decreased by separate legislative enactment passed by a two‑thirds vote of the total membership of the Senate and a two‑thirds vote of the total membership of the House of Representatives?

Yes 

No 

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

SECTION 3. It is proposed that Section 36(B), Article III of the Constitution of this State be amended to read:

“(B) The General Assembly, in the annual general appropriations act, shall appropriate, out of the estimated revenue of the general fund for the fiscal year for which the appropriations are made, into a Capital Reserve Fund, which is separate and distinct from the General Reserve Fund, an amount equal to two percent of the general fund revenue of the latest completed fiscal year.

(1) ~~The General Assembly must provide by law that if before March first the revenue forecast for the current fiscal year projects that revenues at the end of the fiscal year will be less than expenditures authorized by appropriation for that year, then the current year’s appropriation to the Capital Reserve Fund first must be reduced to the extent necessary before mandating any reductions in operating appropriations~~ In any fiscal year in which the General Reserve Fund does not maintain the required percentage of general fund revenue, monies from the Capital Reserve Fund first must be used, to the extent necessary, to fully replenish the General Reserve Fund. The Capital Reserve Fund’s replenishment of the General Reserve Fund is in addition to the replenishment requirement provided in subsection (A)(2) of this section. After the General Reserve Fund is fully replenished to the required percentage, the monies in the Capital Reserve Fund may be appropriated, except that the Capital Reserve Fund must not be used to offset a mid‑year budget reduction.

(2) ~~After March first of a fiscal year,~~ Subsequent to appropriations required by item (1) of this subsection, monies from the Capital Reserve Fund may be appropriated by the General Assembly in separate legislation upon an affirmative vote in each branch of the General Assembly by two‑thirds of the members present and voting, but not less than three‑fifths of the total membership in each branch for the following purposes:

(a) to finance in cash previously authorized capital improvement bond projects;

(b) to retire interest or principal on bonds previously issued;

(c) for capital improvements or other nonrecurring purposes.

(3)(a) Any appropriation of monies from the Capital Reserve Fund as provided in this subsection must be ranked in priority of expenditure and is effective thirty days after completion of the fiscal year. If it is determined that the fiscal year has ended with an operating deficit, then the monies appropriated from the Capital Reserve Fund must be reduced based on the rank of priority, beginning with the lowest priority, to the extent necessary and applied to the year‑end operating deficit before withdrawing monies from the General Reserve Fund.

(b) At the end of the fiscal year, any monies in the Capital Reserve Fund that are not appropriated as provided in this subsection or any appropriation for a particular project or item which has been reduced due to application of the monies to a year‑end deficit must lapse and be credited to the General Fund.”

SECTION 4. The proposed amendment must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 36(B), Article III of the Constitution of this State be amended so as to provide that monies from the Capital Reserve Fund first must be used, to the extent necessary, to fully replenish the applicable percentage amount in the General Reserve Fund?

Yes 

No 

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

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the committee amendment.

The committee amendment was adopted.

On motion of Senator MALLOY, the Joint Resolution was carried over, as amended.

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

**MOTION ADOPTED**

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

**NONCONCURRENCE**

H. 4087 -- Rep. Bedingfield: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 4 TO CHAPTER 53, TITLE 59 SO AS TO CREATE THE GREENVILLE TECHNICAL COLLEGE AREA COMMISSION AND TO PROVIDE FOR ITS MEMBERSHIP.

The House returned the Bill with amendments.

On motion of Senator SHOOPMAN, the Senate nonconcurred in the House amendments and a message was sent to the House accordingly.

**RECALLED**

S. 624 -- Senator Setzler: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE THAT CROSSES THE NORTH EDISTO RIVER ALONG SOUTH CAROLINA HIGHWAY 302 AT THE AIKEN/LEXINGTON COUNTY LINE “HARSEY’S BRIDGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THE WORDS “HARSEY’S BRIDGE”.

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

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

**RECALLED**

H. 3907 -- Reps. Ott, Cobb‑Hunter, Sellers and Govan: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERCHANGE LOCATED AT EXIT 149 ALONG INTERSTATE HIGHWAY 26 IN ORANGEBURG COUNTY THE “LANCE CORPORAL JAMES D. HAYNES INTERCHANGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERCHANGE THAT CONTAIN THE WORDS “LANCE CORPORAL JAMES D. HAYNES INTERCHANGE”.

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

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

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

**AMENDED, READ THE SECOND TIME**

**RETURNED TO THE STATUS OF SPECIAL ORDER**

H. 3418 -- Reps. Harrell, Simrill, Crawford, Huggins, Bedingfield, Merrill, G.R. Smith, Erickson, Ballentine, Brady, Chalk, Daning, Delleney, Frye, Gambrell, Hamilton, Harrison, Hearn, Herbkersman, Loftis, Long, Lucas, Nanney, Pinson, Rice, G.M. Smith, Spires, Stringer, Thompson, Viers, Willis, Wylie, T.R. Young, Clemmons, Owens, Parker, Toole, M.A. Pitts, Lowe, Bingham, Umphlett, Sandifer and Edge: A BILL TO AMEND SECTION 7‑13‑710, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PRESENTATION OF A PERSON’S PROOF OF HIS RIGHT TO VOTE, SO AS TO REQUIRE THE ELECTOR TO PRODUCE A VALID PHOTO IDENTIFICATION CARD AT THE TIME OF CASTING HIS BALLOT, TO REQUIRE A POLL MANAGER TO COMPARE THE PHOTOGRAPH ON THE REQUIRED IDENTIFICATION WITH THE PERSON PRESENTING HIMSELF TO VOTE AND VERIFY THAT THE PHOTOGRAPH IS THAT OF THE PERSON SEEKING TO VOTE.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the Amendment P-1A (BBM\9521AB10.DOCX) proposed by Senator FORD and previously printed in the Journal of January 27, 2010.

Senator THOMAS was recognized to speak on the amendment.

**ACTING PRESIDENT PRESIDES**

At 1:24 P.M., Senator LARRY MARTIN assumed the Chair.

Senator GROOMS was recognized to speak on the amendment.

Senator NICHOLSON was recognized to speak on the amendment.

**Parliamentary Inquiry**

Senator KNOTTS made a Parliamentary Inquiry as to whether a Senator could, from his seat, debate a measure or ask questions of the speaker.

The ACTING PRESIDENT stated that Rule 6 provides that a Senator may ask questions, but not enter into a debate, from his seat.

Senator NICHOLSON spoke on the amendment.

Senator McGILL was recognized to speak on the amendment.

**RECESS**

At 2:36 P.M., with Senator McGILL retaining the floor, on motion of Senator SETZLER, the Senate receded from business subject to the call of the Chair.

The Senate reassembled at 5:37 P.M. and was called to order by the ACTING PRESIDENT Senator LARRY MARTIN.

The Senate resumed consideration of the Bill, the question being the adoption of the Amendment P-1A (BBM\9521AB10.DOCX) proposed by Senator FORD and previously printed in the Journal of January 27, 2010.

Senator McGILL was recognized to speak on the amendment.

Senator McCONNELL spoke on the Bill.

Senator McCONNELL asked unanimous consent to make a motion to carry over Amendment No. P-1A.

Amendment No. P-1A was carried over and subsequently withdrawn.

Senator McCONNELL asked unanimous consent to make a motion to take up Amendment No. 8 for immediate consideration.

There was no objection.

**Amendment No. 8**

Senators McCONNELL, MALLOY, CAMPSEN, SCOTT, CLEARY, DAVIS, ALEXANDER, ANDERSON, BRIGHT, BRYANT, CAMPBELL, COLEMAN, COURSON, CROMER, ELLIOTT, FAIR, FORD, GROOMS, HAYES, HUTTO, JACKSON, KNOTTS, LAND, LEATHERMAN, LEVENTIS, LOURIE, L. MARTIN, S. MARTIN, MASSEY, MATTHEWS, McGILL, MULVANEY, NICHOLSON, O'DELL, PEELER, PINCKNEY, RANKIN, REESE, ROSE, RYBERG, SETZLER, SHOOPMAN, THOMAS, VERDIN and WILLIAMS proposed the following amendment (JUD0590.008), which was adopted:

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

/ RELATING TO REFORM OF THE SOUTH CAROLINA ELECTION LAWS BY ENACTING THE “SOUTH CAROLINA ELECTION REFORM ACT”; TO AMEND SECTION 7‑13‑710 OF THE 1976 CODE TO REQUIRE PHOTOGRAPH IDENTIFICATION TO VOTE, PERMITTING FOR PROVISIONAL BALLOTS IF THE IDENTIFICATION CANNOT BE PRODUCED AND PROVIDE AN EXCEPTION FOR A RELIGIOUS OBJECTION TO BEING PHOTOGRAPHED; TO AMEND SECTION 56‑1‑3350 TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO PROVIDE FREE IDENTIFICATION CARDS UPON REQUEST; TO AMEND SECTION 7‑13‑25 TO PROVIDE FOR AN EARLY VOTING PERIOD BEGINNING SIXTEEN DAYS BEFORE A STATEWIDE PRIMARY OR GENERAL ELECTION AND TO PROVIDE FOR THE HOURS AND EARLY VOTING LOCATION; TO AMEND SECTION 7‑3‑20(C) TO REQUIRE THE EXECUTIVE DIRECTOR OF THE STATE ELECTIONS COMMISSION TO MAINTAIN IN THE MASTER FILE A SEPARATE DESIGNATION FOR ABSENTEE AND EARLY VOTERS IN A GENERAL ELECTION; TO AMEND SECTION 7‑15‑30 TO ADD STATUTORY CITES REGARDING THE REQUEST OF AN ABSENTEE BALLOT; TO AMEND SECTION 7‑15‑470 TO PROVIDE FOR EARLY VOTING ON MACHINES DURING THE EARLY VOTING PERIOD ONLY AND DELETE THE REFERENCE TO ABSENTEE VOTING; TO AMEND SECTION 7‑1‑25 TO LIST FACTORS TO CONSIDER FOR DOMICILE; AND TO AMEND SECTION 7‑5‑230 TO REFERENCE REVISIONS TO SECTION 7‑1‑25.

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

SECTION 1. Section 7‑13‑710 of the 1976 Code, as last amended by Act 459 of 1996, is further amended to read:

“Section 7‑13‑710. (A) When ~~any~~ a person presents himself to vote, he shall produce ~~his~~ a valid and current:

(1) South Carolina driver’s license; ~~or~~

(2) other form of identification containing a photograph issued by the Department of Motor Vehicles; ~~,if he is not licensed to drive, or the written notification of registration provided for by Sections 7‑5‑125 and 7‑5‑180 if the notification has been signed by the elector~~

(3) passport;

(4) military identification containing a photograph issued by the federal government;

(5) employee identification card containing a photograph of the voter, which is issued by the federal government, this State, or a political subdivision of this State; or

(6) South Carolina voter registration card containing a photograph of the voter pursuant to Section 7-5-675.

~~If the elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of registration upon request in person, or by telephone or mail.~~

(B) After presentation of the required identification described in subsection (A), ~~his~~ the elector’s name must be checked by one of the managers on the margin of the page opposite his name upon the registration books, or copy of the books, furnished by the board of registration. One of the managers also shall compare the photograph contained on the required identification with the person presenting himself to vote. The manager shall verify that the photograph is that of the person seeking to vote. The managers shall keep a poll list which must contain one column headed ‘Names of Voters’. Before ~~any~~ a ballot is delivered to a voter, the voter shall sign his name on the poll list, which must be furnished to the appropriate election officials by the State Election Commission. At the top of each page the voter’s oath appropriate to the election must be printed. The signing of the poll list or the marking of the poll list is considered to be an affirmation of the oath by the voter. One of the managers shall compare the signature on the poll list with the signature on the voter’s driver’s license, registration notification, or other identification and may require further identification of the voter and proof of his right to vote under this title as he considers necessary. If the voter is unable to write or if the voter is prevented from signing by physical handicap, he may sign his name to the poll list by mark with the assistance of one of the managers.

(C)(1) If the elector cannot produce the identification as required in subsection (A), he may cast a provisional ballot that is counted only if the elector brings a valid and current photo identification to the county board of registration and elections prior to certification of the election by the county board of canvassers.

(2) If the manager disputes that the photograph contained on the required identification is the person presenting himself to vote, the elector may cast a provisional ballot. A determination of that provisional ballot must be made in accordance with Section 7‑13‑830.

(D)(1)(a) If an elector does not produce a valid and current photograph identification due to a religious objection to being photographed, he may complete an affidavit under penalty of perjury at the polling precinct and affirm that: (i) the elector is the same individual who personally appeared before the polling precinct; (ii) cast the provisional ballot on election day; and (iii) has a religious objection to being photographed. This affidavit must be included in the provisional ballot envelope and be filed with the county board of registration and elections prior to certification of the election by the county board of canvassers.

(b) If an elector does not produce a valid and current photograph identification because the elector suffers from a reasonable impediment that prevents the elector from obtaining photograph identification, he may complete an affidavit under the penalty of perjury at the polling precinct and affirm that: (i) the elector is the same individual who personally appeared before the polling precinct, (ii) cast the provisional ballot on election day, and (iii) the elector suffers from a reasonable impediment that prevents him from obtaining photograph identification. The elector must also list the impediment, unless otherwise prohbited by state and federal law. The affidavit must be included in the provisional ballot envelope and be filed with the county board of registration and elections prior to certification of the election by the county board of canvassers.

(2) If the county board of registration and elections determines that the voter was challenged solely for the inability to provide proof of identification and the required affidavit is submitted, the county board of registration and elections shall find that the provisional ballot is valid unless the board finds the affidacit to has grounds to believe the affidavit is false.

(3) If the county board of registration and elections determines that the voter has been challenged for a cause other than the inability to provide proof of identification as required by subsection (A), the county board of registration and elections shall:

(a) note on the envelope containing the provisional ballot that the voter complied with the proof of identification requirement; and

(b) proceed to determine the validity of the remaining challenges before ruling on the validity of the provisional ballot.”

SECTION 2. Section 7‑5‑125 of the 1976 Code is amended to read:

“Section 7-15-125 (A) Any person who applies for registration to vote and is found to be qualified by the county board of registration to whom application is made must be issued a written notification of registration. This notification must be on a form prescribed and provided by the State Election Commission.

(B) If an elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of registration upon request in person, or by telephone or mail.”

SECTION 3. Section 56‑1‑3350 of the 1976 Code, as last amended by Act 176 of 2005, is further amended to read:

“Section 56‑1‑3350. (A) Upon application by any person five years of age or older who is a resident of South Carolina, the Department of Motor Vehicles shall issue a special identification card, as long as:

(1) the application is made on a form approved and furnished by the department; and

(2) the applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth.

(B)(1) The fee for the issuance and renewal of the special identification card is five dollars for a person between the ages of five and sixteen years.

(2) An identification card must be free to a person aged seventeen years or older.

(C)  ~~and the~~ The identification card expires five years from the date of issuance.  ~~The renewal fee is also five dollars. Issuance and renewal fees are waived for indigent persons who are mentally ill, mentally retarded, homeless, or who are on public assistance as the sole source of income. As used in this section “indigent” means a person who is qualified for legal assistance which is paid for with public funds. For purposes of this section, a homeless person is an individual who lacks a fixed and regular nighttime residence or an individual who has a primary nighttime residence that is:~~

~~(a)~~ ~~a supervised publicly or privately operated shelter designed to provide temporary living accommodations, including congregated shelters and transitional housing;~~

~~(b)~~ ~~an institution that provides a temporary residence for individuals intended to be institutionalized; or~~

~~(c)~~ ~~a public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings.~~

~~The term does not include any individual imprisoned or otherwise detained pursuant to an act of Congress. Annually, the director of a facility which provides care or shelter to homeless persons must certify this fact to the department. The department must maintain a list of facilities which are approved by the department, and only letters from the directors of these approved facilities are considered to comply with the provisions of this section. To have the issuance or renewal fee waived for an identification card, a homeless person must present a letter to the department from the director of a facility that provides care or shelter to homeless persons certifying that the person named in the letter is homeless. The letter may not be older than thirty days.~~

(D) Special identification cards issued to persons under the age of twenty‑one must be marked, stamped, or printed to readily indicate that the person to whom the card is issued is under the age of twenty‑one.

(E) The fees collected pursuant to this section must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund ~~as provided in the following schedule based on the actual date of receipt by the Department of Motor Vehicles:~~

~~Fees and Penalties~~ ~~General Fund~~ ~~Department of~~

~~Collected After~~ ~~of the State~~ ~~Transportation~~

~~State Non‑Federal Aid~~

~~Highway Fund~~

~~June 30, 2005~~ ~~60 percent~~ ~~40 percent~~

~~June 30, 2006~~ ~~20 percent~~ ~~80 percent~~

~~June 30, 2007~~ ~~0 percent~~ ~~100 percent~~.”

SECTION 4. Article 1, Chapter 13, Title 7 of the 1976 Code is amended by adding:

“Section 7‑13‑25. (A) Notwithstanding the provision of this chapter or Chapter 5 of this title, the authority charged by law with conducting an election shall establish a procedure by which a qualified elector may cast his ballot, without excuse, during an early voting period for all elections. The qualified elector may cast a ballot during an early voting period pursuant to this section.

(B) Early voting centers must be established and maintained to ensure that voters may cast only one ballot.

(C) A qualified elector may cast his ballot at an early voting center in the county in which he resides.

(D) Each county board of registration and elections must establish at least one early voting center. The early voting center must be supervised by election commission employees who will serve as poll managers.

(E) The early voting period begins fifteen days before an election and ends three days prior to the election.

(F) The county board of registration and elections must determine the hours of operation and location for an early voting center. However, the early voting center must be open at least one Saturday within the early voting period for statewide primaries and general elections.

(G) A sign must be posted prominently in an early voting center and must have printed on it ‘VOTING MORE THAN ONCE IS A MISDEMEANOR AND, UPON CONVICTION, MUST BE FINED IN THE DISCRETION OF THE COURT OR IMPRISONED NOT MORE THAN THREE YEARS.’ ”

SECTION 5. Section 7‑3‑20(C) of the 1976 Code, as last amended by Act 253 of 2006, is further amended to read:

“(C) The executive director shall:

(1) maintain a complete master file of all qualified electors by county and by precincts;

(2) delete the name of any elector:

(a) who is deceased;

(b) who is no longer qualified to vote in the precinct where currently registered;

(c) who has been convicted of a disqualifying crime;

(d) who is otherwise no longer qualified to vote as may be provided by law; or

(e) who requests in writing that his name be removed;

(3) enter names on the master file as they are reported by the county registration boards;

(4) furnish each county registration board with a master list of all registered voters in the county, together with a copy of all registered voters in each precinct of the county, at least ten days prior to each election. The precinct copies shall be used as the official list of voters;

(5) maintain all information furnished his office relating to the inclusion or deletion of names from the master file for four years;

(6) purchase, lease, or contract for the use of such equipment as may be necessary to properly execute the duties of his office, subject to the approval of the State Election Commission;

(7) secure from the United States courts and federal and state agencies available information as to persons convicted of disqualifying crimes;

(8) obtain information from any other source which may assist him in carrying out the purposes of this section;

(9) perform such other duties relating to elections as may be assigned him by the State Election Commission;

(10) furnish at reasonable price any precinct lists to a qualified elector requesting them;

(11) serve as the chief state election official responsible for implementing and coordinating the state’s responsibilities under the National Voter Registration Act of 1993; ~~and~~

(12) serve as the chief state election official responsible for implementing and enforcing the state’s responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as set forth in the United States Code, Title 42, Section 1973ff, et seq; and

(13) enter into the master file a separate designation each for voters casting absentee ballots and early ballots in a general election.”

SECTION 6. Section 7‑15‑320 of the 1976 Code is amended to read:

“Section 7-15-320. (A) Any qualified elector may vote during the early voting period pursuant to Section 7‑13‑25.

(B) A qualified elector ~~in any of the following categories~~ must be permitted to vote by absentee ballot in all elections when he is absent from his county of residence on election day during the hours the polls are open, to an extent that it prevents him from voting in person in any of the following categories ~~except that physically disabled persons, certified poll watchers, poll managers, county voter registration board members and staff, and county election commission members and staff working on election day, a person admitted to a hospital as an emergency patient on the day of an election or within a four‑day period before an election, and persons whose employment obligations required that they be at their place of employment during the hours that the polls are open and present written certification of that obligation to the county registration board, and persons confined to a jail or pre‑trial facility pending disposition of arrest or trial may vote by absentee ballot whether or not absent from their county of residence~~:

(1) students, their spouses, and dependents residing with them;

(2) members of the Armed Forces and Merchant Marines of the United States, their spouses, and dependents residing with them;

(3) persons serving with the American Red Cross or with the United Service Organizations (USO) who are attached to and serving with the Armed Forces of the United States, their spouses, and dependents residing with them;

(4) persons in employment;

(5) physically disabled persons;

(6) governmental employees, their spouses, and dependents residing with them;

(7) ~~electors with a death or funeral in the family within a three day period before the election;~~

(~~8~~) persons on vacation (who by virtue of vacation plans will be absent from their county of residence on election day);

(~~9~~8) certified poll watchers, poll managers, county voter registration board members and staff, countyand state election commission members and staff working on election day;

(~~10~~9) overseas citizens;

(~~11~~10) persons attending sick or physically disabled persons;

(~~12~~11) ~~persons admitted to hospitals as emergency patients on the day of an election or within a four‑day period before the election;~~

persons who will be serving as jurors in a state or federal court on election day;

(~~14~~12) persons sixty‑five years of age or older;

(~~15~~13) persons confined to a jail or pre‑trial facility pending disposition of ~~arrest or~~ trial.

(C) A person with the following circumstances must be permitted to vote by absentee ballot pursuant to Section 7-15-330(D):

(1) admission to a hospital as an emergency patient on the day of an election or within a four day period before an election;

(2) discovery within a four day period before an election that unanticipated employment obligations require the person to be at his place of employment on election day;

(3) death or funeral in the family within a four day period before the election;

(4) confinement in a jail or other correctional facility pending disposition of arrest.”

(D) A person may vote by a paper absentee ballot at any time during the absentee ballot period. Alternatively, a person may cast an absentee ballot by a voting machine in the county in which he resides thirty to sixteen days before an election. Each county board of registration must establish the location of one absentee ballot center. Absentee ballots centers must be maintained to ensure that voters may cast only one ballot. The absentee ballot center must be supervised by election commission employees who will serve as poll managers.”

SECTION 7. Section 7‑15‑330 of the 1976 Code of Laws is amended to read:

“Section 7-15-330. (A) To vote by paper absentee ballot, a qualified elector or a member of his immediate family as defined by Section 7‑15‑310(8), must request an application to vote by absentee ballot in person, by telephone, or by mail from the county registration board, or at an extension office of the board of registration as established by the county governing body, for the county of the voter’s residence. A person who is an authorized representative of a qualified elector, as defined by Section 7‑15‑310(7), may request~~ing~~ an application for a qualified elector ~~as the qualified elector’s authorized representative must request~~ ~~an application~~ to vote by absentee ballot in person or by mail only ~~and must himself be a registered voter~~ and must sign an oath to the effect that he fits the statutory definition of a representative. This signed oath must be kept on file with the board of registration until the end of the calendar year or until all contests concerning a particular election have been finally determined, whichever is later.

(B) A candidate or a member of a candidate’s paid campaign staff, including volunteers reimbursed for time expended on campaign activity, is not allowed to request applications for absentee voting for any person designated in this section unless the person is a member of the immediate family.

(C) A request for an application to vote by absentee ballot may be made anytime during the calendar year in which the election in which the qualified elector desires to be permitted to vote by absentee ballot is being held. However, completed applications must be returned to the county registration board in person or by mail before ~~five P.M.~~5:00 p.m. on the fourth day before the day of the election. ~~Applications must be accepted by the county board of registration until 5:00 p.m. on the day immediately preceding the election for those who appear in person and are qualified to vote absentee pursuant to Section 7‑15‑320~~. ~~A member of the immediate family of a person who is admitted to a hospital as an emergency patient on the day of an election or within a four‑day period before the election may obtain an application from the registration board on the day of an election, complete it, receive the ballot, deliver it personally to the patient who shall vote, and personally carry the ballot back to the board of registration.~~

(D) Notwithstanding the provisions of subsection (A), if an elector meets the requirements of Section 7‑15‑320(C), the elector, a member of the elector’s immediate family, as defined by Section 7‑15‑310(8) or authorized representative, as defined by Section 7‑15‑310(7), may obtain an application from the registration board on the day before the election. If an immediate family member or authorized representative receives the ballot, he must deliver it personally to the elector and the immediate family member or authorized representative must return the completed absentee ballot to the board of registration by the time the polls close on election day.

(E) The board of registration shall serially number each absentee ballot application form and keep a record ~~book~~ ~~in which must be recorded~~ of the number of the form, the name, home address, and absentee mailing address of the person for whom the absentee ballot application form is requested; the name, address, voter registration number, and relationship of the person requesting the form, if other than the applicant; the date upon which the form is requested; and the date upon which the form is issued. This information becomes ~~a~~ public record at ~~nine A.M.~~9:00 a.m. on the day immediately preceding the election~~, except that forms issued for emergency hospital patients must be made public by 9:00 a.m. on the day following an election~~.

(F) A person who violates the provisions of this section is subject to the penalties provided in Section 7‑25‑170.

SECTION 8. Section 7‑15‑340 of the 1976 Code of Laws is amended to read:

“Section 7-15-340. The application required in Section 7‑15‑330 to be submitted to these election officials must be in a form prescribed and distributed by the State Election Commission; except that persons listed in Section 7‑15‑320(2), (3), (6), and ~~(10)~~ (9) may use Standard Form 76, or any subsequent form replacing it, provided by the federal government as a simultaneous request for registration and an absentee ballot or a request for an absentee ballot if already registered.

The application must contain the following information: name, registration certificate number, address, absentee address, election of ballot request, election date, runoff preference, party preference, reason for request, oath of voter, and voter’s signature.

The oath must be as follows: ‘I do swear or affirm that I am a qualified elector, that I am entitled to vote in this election, and that I will not vote again during this election. The information above is true in all respects, and I hereby apply for an absentee ballot for the reason indicated above.’ Any person who fraudulently applies for an absentee ballot in violation of this section, upon conviction, must be punished in accordance with Section 7‑25‑20.”

SECTION 9. Section 7‑15‑385 of the 1976 Code is amended to read:

“Section 7-15-385. (A) Upon receipt of the ballot or ballots, the absentee ballot applicant must mark each ballot on which he wishes to vote and place each ballot in the single envelope marked ‘Ballot Herein’, which in turn must be placed in the return‑addressed envelope. The applicant must then return the return‑addressed envelope to the board of registration by mail if the absentee ballot was obtained pursuant to Section 7‑15‑330(A) or by personal delivery or by authorizing another person to return the envelope for him if the absentee ballot was obtained pursuant to Section 7‑15‑330(C)~~, by personal delivery, or by authorizing another person to return the envelope for him~~. The authorization must be given in writing on a form prescribed by the State Election Commission and must be turned in to the board of registration at the time the envelope is returned. The voter must sign the form, or in the event the voter cannot write because of a physical handicap or illiteracy, the voter must make his mark and have the mark witnessed by someone designated by the voter. The authorization must be preserved as part of the record of the election, and the board of registration must ~~note~~ record the authorization and the name of the authorized returnee ~~in the record book~~ as required by Section 7‑15‑330.

(B) A candidate or a member of a candidate’s paid campaign staff including volunteers reimbursed for time expended on campaign activity is not permitted to serve as an authorized returnee for any person unless the person is a member of the voter’s immediate family as defined in Section 7‑15‑310.

(C) The oath set forth in Section 7‑15‑380 must be signed and witnessed on each returned envelope. The board of registration must record, ~~in the record book~~ as required by Section 7‑15‑330, the date the return‑addressed envelope with witnessed oath and enclosed ballot or ballots is received by the board.

(D) The board must securely store the envelopes in a locked box within the office of the registration board.”

SECTION 10. Section 7‑15‑470 of the 1976 Code is hereby repealed.

SECTION 11. Section 7‑1‑25 of the 1976 Code is amended to read:

“Section 7-1-25. (A) A person’s residence is his domicile. ‘Domicile’ means a person’s fixed home where he has an intention of returning when he is absent. A person has only one domicile.

(B) For voting purposes, a person has changed his domicile if he (1) has abandoned his prior home and (2) has established a new home, has a present intention to make that place his home, and has no present intention to leave that place.

(C) For voting purposes, a spouse may establish a separate domicile.

(D) For voting purposes*,* factors to consider in determining a person’s intention regarding his domicile include, but are not limited to:

(1) a voter’s address reported on income tax returns;

(2) a voter’s real estate interests, including the address for which the legal residence tax assessment ratio is claimed pursuant to Section 12‑43‑220(C);

(3) a voter’s physical mailing address;

(4) a voter’s address on driver’s license or other identification issued by the Department of Motor Vehicles;

(5) a voter’s address on legal and financial documents;

(6) a voter’s address utilized for educational purposes, such as public school assignment and determination of tuition at institutions of higher education;

(7) a voter’s address on automobile registration;

(8) a voter’s address utilized for membership in clubs and organizations;

(9) the location of a voter’s personal property;

(10) residence of a voter’s parents, spouse, and children; and

(11) whether a voter temporarily relocated due to medical care for the voter or for a member of the voter’s immediate family.”

SECTION 12. Section 7‑5‑230 of the 1976 Code of Laws is amended to read:

“Section 7-5-230. (A) The boards of registration to be appointed under Section 7‑5‑10 shall be the judges of the legal qualifications of all applicants for registration. The board is empowered to require proof of these qualifications as it considers necessary.

Once a person is registered, challenges of the qualifications of any elector, except for challenges issued at the polls pursuant to Sections 7‑13‑810, 7‑13‑820, and 7‑15‑420 must be made in writing to the board of registration in the county of registration. The board must, within ten days following the challenge and after first giving notice to the elector and the challenger, hold a hearing, accept evidence, and rule upon whether the elector meets or fails to meet the qualifications set forth in Section 7‑5‑120.

(B) When a challenge is made regarding the residence or domicile of an elector, the board ~~may~~ must consider the provisions of Section 7‑1‑25(D) ~~following proof to establish residence including, but not limited to, income tax returns; real estate interests; mailing address; address on driver’s license; official papers and documents requiring the statement of residence address; automobile registration; checking and savings accounts; past voting record; membership in clubs and organizations; location of personal property; and the elector’s statements as to his intent~~.

(C) Any person denied registration or restoration of his name on the registration books shall have the right of appeal from the decision of the board of registration denying him registration or such restoration to the court of common pleas of the county or any judge thereof and subsequently to the Supreme Court.”

SECTION 13. To amend the Code of Laws by adding Section 7-5-675 to read:

Section 7-5-675. The State Elections Commission will implement a system in order to issue voter registration cards with a photograph of the elector.

SECTION 14. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held after September 30, 2010.

(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to October 15, 2011.

(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than October 15, 2011.

(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

(8) Notify each registered elector who does not have a South Carolina issued driver’s license or identification card a notice of the provisions of this act by no later than October 15, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It must also state the availability of a free South Carolina identification card pursuant to Section 56-1-3350.

In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

SECTION 15. The General Assembly finds that all the provisions contained in this act related to one subject as required by Article III, Section 17 of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of election reform as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 16. The provisions of this act are not severable. If any section, subsection, item, subitem, paragraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, it is to be conclusively presumed that the General Assembly would not have enacted any section, subsection, item, subitem, paragraph, sentence, clause, phrase or word of this act without the other provisions in this act and therefore this act in its entirety will be deemed invalid.

SECTION 17. SECTIONS 2, 10, 11, 12, and 14 are effective upon preclearance approval by the United States Department of Justice.

SECTION 18. SECTION 3 is effective on January 2, 2011.

SECTION 19. SECTIONS 1, 4, 5, 6, 7, 8, and 9 are effective on January 2, 2012.

SECTION 20. SECTION 13 takes effect on July 1, 2011.  However, the implementation of the procedures provided for in this SECTION is contingent upon the State Election Commission’s receipt of funds necessary to implement these provisions.  Until the provisions of this SECTION are fully funded and executed, implementation of the provisions of this SECTION shall not prohibit the State Election Commission to issue voter registration cards by the methods allowed prior to the implementation of this SECTION.

Renumber sections to conform.

Amend title to conform.

The amendment was unanimously adopted.

On motion of Senator McCONNELL, with unanimous consent, the committee amendment and all perfecting amendments were withdrawn.

The question then was the second reading of the Bill.

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

**Ayes 36; Nays 2**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Courson Cromer Davis

Fair Grooms Hayes

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, L. Martin, S.*

Massey Matthews McConnell

McGill Mulvaney Nicholson

O’Dell Peeler Reese

Rose Scott Setzler

Thomas Verdin Williams

**Total--36**

**NAYS**

Pinckney Sheheen

**Total--2**

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

The Bill was returned to the status of Special Order.

**Statement by Senator SHOOPMAN**

Unfortunately, I was not in the Chamber during the votes on the compromise amendment and the Bill, due to an important meeting with several constituents. Had I been in the Chamber, I would have voted “aye” on both measures.

**Statement by Senator THOMAS**

I voted for the Election Reform Bill but was unhappy with the effective date beginning in 2012. I believe the Bill could be effective for the 2010 General Election. Proponents of the 2012 date argued that such a later date provided an opportunity for full voter information to be given to the public. I believed that could have been accomplished within the next nine months.

**MOTION ADOPTED**

On motion of Senator SETZLER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Rebecca Bateman Kirby of Irmo, S.C., beloved wife of Charles A. Kirby and devoted mother to Katherine Anne Kirby.

**ADJOURNMENT**

At 5:58 P.M., on motion of Senator McCONNELL, 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.

**Recorded Vote**

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

\* \* \*