**Tuesday, February 9, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

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

In his vision Daniel hears a voice proclaim:

“Those who are wise shall shine like the brightness of the sky, and those who lead many to righteousness, like the stars forever and ever.”

(Daniel 12:3)

Please join me as we pray:

Holy God, we lift up to You today every single individual who holds a leadership role within this State: those serving in our towns and cities, in our counties, and here at this State House. Indeed, may each leader be wise and caring, gloriously “shining” not for personal gain or glory but ultimately for the betterment of our citizens. And, Lord, may these servants of Yours here in the South Carolina Senate continue to guide the way for all others. This we pray in Your loving name, dear Lord. Amen.

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

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Mark C. Sanford:

**Local Appointments**

Initial Appointment, Fairfield County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Michael Paul Swearingen, Koon and Cook, PA, 229 South Congress Street, P. O. Box 488, Winnsboro, SC 29180 *VICE* William M. Estes III

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Samuel Franklin Adams, 105 Meadow Lake Drive, Inman, SC 29349

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

James B. Paslay, 803 Lucerne Dr., Spartanburg, SC 29302

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Jason Thomas Wall, 448 Old Boiling Springs Road, Spartanburg, SC 29303

**CO-SPONSORS ADDED**

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

S. 897 Sen. Bryant, Setzler

S. 1032 Sen. Land

S. 1085 Sen. Knotts

S. 1096 Sens. Campbell, Shane Martin

S. 1097 Sen. O’Dell

S. 1131 Sen. Coleman

S. 1138 Sen. Bryant

**CO-SPONSOR REMOVED**

The following co-sponsor was removed from the respective Bill: S. 1088 Sen. Campsen

**Doctor of the Day**

Senator LOURIE introduced Dr. Janice L. Bacon of Columbia, S.C., Doctor of the Day.

**Leave of Absence**

At 12:50 P.M., Senator SCOTT requested a leave of absence beginning at 1:45 P.M. and lasting until 3:30 P.M. today.

**Leave of Absence**

At 2:58 P.M., Senator LOURIE requested a leave of absence beginning at 3:35 P.M. and lasting until 11:00 A.M. on Thursday.

**Leave of Absence**

At 3:50 P.M., Senator MASSEY requested a leave of absence for the balance of the day.

**Leave of Absence**

At 4:05 P.M., Senator REESE requested a leave of absence beginning at 4:30 P.M. and lasting until Noon on Wednesday.

**Leave of Absence**

At 6:45 P.M., Senator VERDIN requested a leave of absence until 2:00 P.M. tomorrow.

**Leave of Absence**

At 5:25 P.M., Senator SHOOPMAN requested a leave of absence from 5:40 P.M. until 9:30 P.M. this evening.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1145 -- Senator Leatherman: A BILL TO AMEND SECTIONS 9-1-1540, 9-9-65, AND 9-11-80 OF THE 1976 CODE, RELATING TO THE DATE UPON WHICH AN APPLICATION FOR DISABILITY RETIREMENT MUST BE FILED WITH THE SOUTH CAROLINA RETIREMENT SYSTEM, TO PROVIDE THAT A MEMBER IS CONSIDERED TO BE IN SERVICE ON THE DATE THE APPLICATION IS FILED IF THE MEMBER IS NOT RETIRED AND THE LAST DAY THE MEMBER WAS EMPLOYED BY A COVERED EMPLOYER IN THE SYSTEM OCCURRED NOT MORE THAN NINETY DAYS PRIOR TO THE DATE OF FILING.

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

S. 1146 -- Senator Alexander: A BILL TO AMEND SECTIONS 9-1-1770, 9-1-1775, 9-8-110, 9-9-100, 9-11-120, 9-11-125, AND 9-11-140 OF THE 1976 CODE, RELATING TO THE PAYMENT OF DEATH BENEFITS IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS, TO REPEAL CERTAIN DUTIES AND RESPONSIBILITIES OF THE BOARD, TO PROVIDE THAT BENEFITS PAID PURSUANT TO THE ACCIDENTAL DEATH INSURANCE BENEFIT SHALL NOT BE TREATED AS A LIFE INSURANCE BENEFIT, AND TO PROVIDE THAT ADJUSTMENTS TO BENEFITS SHALL BE MADE IN THE MANNER PROVIDED IN SECTION 9-11-310.

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

S. 1147 -- Senators McConnell, Rankin, Hutto and Campbell: A BILL TO AMEND SECTION 23-47-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITION OF TERMS ASSOCIATED WITH THE PUBLIC SAFETY COMMUNICATIONS CENTER, SO AS TO REVISE THE DEFINITION OF SEVERAL EXISTING TERMS AND TO PROVIDE DEFINITIONS FOR SEVERAL NEW TERMS; TO AMEND SECTION 23-47-20, AS AMENDED, RELATING TO 911 SYSTEM SERVICE REQUIREMENTS, SO AS TO DELETE "A CAPABILITY TO HAVE CELLULAR PHONES ROUTED TO 911" AS A SYSTEM REQUIREMENT AND TO ADD "ROUTING AND CAPABILITIES TO RECEIVE AND PROCESS CMRS SERVICE AND VOIP SERVICE CAPABLE OF MAKING 911 CALLS" AS A SYSTEM REQUIREMENT; TO AMEND SECTION 23-47-50, RELATING TO SUBSCRIBER BILLING OR 911 SERVICE, SO AS TO PROVIDE THAT FOR THE BILLING OF 911 CHARGES FOR LOCAL EXCHANGE ACCESS FACILITIES THAT ARE CAPABLE OF SIMULTANEOUSLY CARRYING FIVE OR MORE OUTGOING 911 VOICE CALLS, TO REVISE THE 911 CHARGE THAT PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IS SUBJECT TO AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23-47-65, RELATING TO THE CMRS EMERGENCY TELEPHONE ADVISORY COMMITTEE, SO AS TO REVISE THE NAME OF THE COMMITTEE AND ITS MEMBERSHIP, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THE COMMITTEE AND THE STATE BUDGET AND CONTROL BOARD ARE AUTHORIZED TO REGULATE PREPAID WIRELESS SELLERS; BY ADDING SECTION 23-47-67 SO AS TO IMPOSE A VOIP 911 CHARGE ON EACH LOCAL EXCHANGE ACCESS FACILITY, AND TO PROVIDE FOR THE COLLECTION OF THE CHARGE AND ITS DISTRIBUTION; BY ADDING SECTION 23-47-68 SO AS TO IMPOSE A PREPAID WIRELESS 911 CHARGE, AND TO PROVIDE FOR ITS COLLECTION AND DISTRIBUTION; BY ADDING SECTION 23-47-69 SO AS TO LIMIT THE CHARGES THAT MAY BE IMPOSED FOR 911 SERVICE; AND TO AMEND SECTION 23-47-70, RELATING TO LIABILITY FOR DAMAGES THAT MAY OCCUR FROM A GOVERNMENTAL AGENCY PROVIDING 911 SERVICE, SO AS TO PROVIDE FOR LIABILITY WHEN 911 SERVICE IS PROVIDED AND WHEN IT IS NOT PROVIDED PURSUANT TO TARIFFS ON FILE WITH THE PUBLIC SERVICE COMMISSION AND TO MAKE A TECHNICAL CHANGE.

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

S. 1148 -- Senator Cleary: A BILL TO AMEND CHAPTER 65, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LICENSURE AND REGULATION OF PROFESSIONAL SOIL CLASSIFIERS, SO AS TO CONFORM THIS CHAPTER TO THE ORGANIZATIONAL STATUTORY FRAMEWORK ESTABLISHED FOR PROFESSIONS AND OCCUPATIONS UNDER THE ADMINISTRATION OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION; TO PROVIDE THAT PERSONS ENGAGING IN PROFESSIONAL SOIL CLASSIFICATION MUST BE LICENSED, RATHER THAN REGISTERED; TO REVISE QUALIFICATIONS FOR LICENSURE; TO PROVIDE GRANDFATHERING PROVISIONS FOR REGISTERED PROFESSIONAL SOIL CLASSIFIERS TO BECOME LICENSED PROFESSIONAL SOIL CLASSIFIERS UPON THE NEXT RENEWAL OF THE PERSON'S REGISTRATION; AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PROFESSIONAL SOIL CLASSIFIERS.

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

S. 1149 -- Senator Cleary: A BILL TO AMEND CHAPTER 28, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LICENSURE AND REGULATION OF LANDSCAPE ARCHITECTS, SO AS TO CONFORM THE CHAPTER TO THE STATUTORY ORGANIZATIONAL FRAMEWORK OF CHAPTER 1, TITLE 40 FOR BOARDS UNDER THE ADMINISTRATION OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF LANDSCAPE ARCHITECTS.

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

S. 1150 -- Senators Scott and Jackson: A SENATE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA SENATE UPON THE PASSING OF E. PERRY PALMER OF COLUMBIA, AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

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The Senate Resolution was adopted.

S. 1151 -- Senator Leventis: A BILL TO AMEND SECTION 16-25-70, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LAW ENFORCEMENT'S AUTHORITY AND RESPONSIBILITIES WITH REGARD TO ARRESTS IN AND INVESTIGATIONS OF CRIMINAL DOMESTIC VIOLENCE, SO AS TO REQUIRE THE INVESTIGATING AGENCY TO DOCUMENT THE INVESTIGATION AND TO MAINTAIN THE INVESTIGATION REPORT.

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

S. 1152 -- Senator Leventis: A BILL TO AMEND SECTION 17-21-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHANGE OF VENUE IN CRIMINAL PROCEEDINGS, SO AS TO PROVIDE THAT IF A PERSON CHARGED WITH A CRIMINAL OFFENSE IS A LAW ENFORCEMENT OFFICER, MAGISTRATE, OR CIRCUIT JUDGE, IT IS REBUTTABLY PRESUMED THAT A FAIR AND IMPARTIAL TRIAL CANNOT BE OBTAINED IN THE COUNTY IN WHICH THE DEFENDANT SERVED AND THAT THE VENUE IN SUCH A CASE MUST BE CHANGED TO ANOTHER COUNTY.

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

S. 1153 -- Senator Elliott: A BILL TO AMEND SECTIONS 50-11-2600, 50-11-2610, 50-11-2620, AND 50-11-2630, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE HUNTING OF FOXES AND COYOTE IN ENCLOSED AREAS, SO AS TO PROVIDE THAT COYOTES MAY NOT BE HUNTED IN ENCLOSED AREAS, DOGS ARE ALLOWED TO PURSUE FOXES WITHIN AN ENCLOSED AREA, THE DEPARTMENT OF NATURAL RESOURCES MAY NOT ISSUE COYOTE HUNTING ENCLOSURE PERMITS, AN ENCLOSED AREA MAY NOT BE CONSTRUCTED WITHIN TWENTY-FIVE YARDS OF A PROPERTY LINE, A COMMERCIAL FUR LICENSE DOES NOT PERMIT A TRAPPER TO POSSESS, SELL, BARTER, OR EXCHANGE LIVE COYOTES TAKEN BY A TRAPPER, AND LIVE COYOTES MAY NOT BE SOLD OR TRANSFERRED TO AN OWNER OR ENCLOSURE OPERATOR OF A PERMITTED ENCLOSURE BY THE TRAPPER WHO TOOK THE ANIMAL.

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Senator ELLIOTT spoke on the Bill.

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

S. 1154 -- Senators Malloy, Knotts, Campsen, McConnell, Fair, Cromer, Ford, Elliott, Scott, Nicholson, Coleman, Massey, Cleary, Hutto, Peeler, Williams, Land, Rose, Campbell, L. Martin, Leventis, Leatherman, Setzler, O'Dell and Hayes: A BILL TO ENACT THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT OF 2010, RELATING TO CRIMINAL OFFENSES, CORRECTIONS, PROBATION, AND PAROLE PROVISIONS, SO AS TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT RECOMMENDATIONS PROPOSED BY THE SENTENCING REFORM COMMISSION REPORT OF FEBRUARY 2010.

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Senator MALLOY spoke on the Bill.

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

S. 1155 -- Senator Sheheen: A CONCURRENT RESOLUTION TO HONOR AND RECOGNIZE DIMETRY GIOVONNI "VONNIE" HOLLIDAY FOR HIS CELEBRATED CAREER AS A PROFESSIONAL FOOTBALL PLAYER AND FOR HIS OUTSTANDING CONTRIBUTIONS TO THE BETTERMENT OF KERSHAW COUNTY.

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

H. 3746 -- Reps. Clemmons and Viers: 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.

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

H. 4172 -- Reps. Forrester and Wylie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 4-1-180 SO AS TO PROVIDE FOR THE MANNER IN WHICH A COUNTY GOVERNING BODY MAY INSTITUTE AN EMPLOYEE FURLOUGH PROGRAM, AND TO PROVIDE THAT THE PROVISIONS OF THIS SECTION DO NOT PRECLUDE A COUNTY FROM IMPLEMENTING OTHER FURLOUGH PROGRAMS NOT IN CONFORMITY WITH THE REQUIREMENTS OF THIS SECTION.

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

H. 4316 -- Reps. R. L. Brown, Gilliard, Stavrinakis, Mack, Jefferson, Scott, Whipper and Daning: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERSECTION OF UNITED STATES HIGHWAY 17 AND DAVIDSON ROAD IN CHARLESTON COUNTY "WILLIE FRAZIER, SR. INTERSECTION" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERSECTION THAT CONTAIN THE WORDS "WILLIE FRAZIER, SR. INTERSECTION".

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

H. 4485 -- Reps. A. D. Young, Horne, Knight and Harrell: A JOINT RESOLUTION TO AUTHORIZE THE STATE BUDGET AND CONTROL BOARD TO TRANSFER OWNERSHIP OF SUMMERVILLE NATIONAL GUARD ARMORY IN SUMMERVILLE, SOUTH CAROLINA, TO THE TOWN OF SUMMERVILLE.

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

H. 4511 -- Reps. Clyburn, Harrison, Wylie, Bales, Brantley, Cobb-Hunter, Ott, Hosey, Hodges, Battle, Whipper, Alexander, Gilliard, Kennedy, Skelton, Jefferson, Merrill, Frye, King, Anderson, J. R. Smith, McEachern, Mitchell, Rice, A. D. Young, J. H. Neal, Allen, Hardwick, Williams, Harrell, Clemmons, G. M. Smith, Vick, Bingham, Branham, H. B. Brown, R. L. Brown, Cooper, Dillard, Duncan, Gunn, Hart, Hayes, Hearn, Littlejohn, V. S. Moss, J. M. Neal, Neilson, Rutherford, Thompson, Weeks, White, Willis, T. R. Young and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 50 TO TITLE 11 SO AS TO ENACT THE "SOUTH CAROLINA RURAL INFRASTRUCTURE ACT", TO ESTABLISH THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, AND TO PROVIDE FOR ITS GOVERNANCE, POWERS, AND DUTIES; TO AUTHORIZE THE AUTHORITY TO PROVIDE LOANS AND OTHER FINANCIAL ASSISTANCE TO A MUNICIPALITY, COUNTY, SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICT, AND A PUBLIC WORKS COMMISSION TO FINANCE RURAL INFRASTRUCTURE FACILITIES; TO ALLOW STATE APPROPRIATIONS, GRANTS, LOAN REPAYMENTS, AND OTHER AVAILABLE AMOUNTS TO BE CREDITED TO THE FUND OF THE AUTHORITY; TO AUTHORIZE LENDING TO AND BORROWING BY ELIGIBLE ENTITIES THROUGH THE AUTHORITY.

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

**REPORTS OF STANDING COMMITTEES**

Senator PEELER from the Committee on Medical Affairs submitted a favorable with amendment report on:

S. 384 -- Senators Leventis, Courson, Sheheen, Reese, Matthews, Thomas and Davis: A BILL TO AMEND SECTION 1‑23‑600, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEARINGS AND PROCEEDINGS OF THE ADMINISTRATIVE LAW COURT, SO AS TO REORGANIZE THE SECTION AND PROVIDE THAT IT IS APPLICABLE TO THE STATE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO AMEND SECTION 1‑23‑610, AS AMENDED, RELATING TO REVIEW OF DECISIONS OF THE ADMINISTRATIVE LAW COURT, SO AS TO DEFINE THE PROCEDURES FOR OBTAINING JUDICIAL REVIEW OF A FINAL DECISION OF AN ADMINISTRATIVE LAW JUDGE IN A CASE INVOLVING THE STATE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO AMEND SECTION 1‑30‑45, RELATING TO THE COMPOSITION OF THE FORMER SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO DEVOLVE AND TRANSFER ALL OF THESE COMPONENTS TO THE STATE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AS PROVIDED FOR IN THIS ACT; TO AMEND SECTION 44‑1‑20, RELATING TO THE CREATION AND SUPERVISION OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO RESTRUCTURE THE DEPARTMENT UNDER THE SUPERVISION OF A SECRETARY APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE; TO AMEND SECTION 44‑1‑30, RELATING TO BOARD MEETINGS AND COMPENSATION OF MEMBERS, SO AS TO PROVIDE FOR THE COMPENSATION AND DUTIES OF THE SECRETARY OF THE STATE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO AMEND SECTION 44‑1‑40, RELATING TO THE SELECTION, TERM, AND SALARY OF THE DEPARTMENT DIRECTOR, SO AS TO CREATE A BOARD OF HEALTH AND A BOARD OF ENVIRONMENTAL CONTROL AND TO PROVIDE FOR THEIR MEMBERSHIP; TO AMEND SECTION 44‑1‑50, AS AMENDED, RELATING TO BOARD ADMINISTRATIVE REVIEWS, SO AS TO AUTHORIZE THE BOARD OF HEALTH AND THE BOARD OF ENVIRONMENTAL CONTROL TO CONDUCT ADMINISTRATIVE REVIEWS AND TO AUTHORIZE THE SECRETARY TO ORGANIZE THE DEPARTMENT AS NECESSARY; TO AMEND SECTION 44‑1‑60, RELATING TO APPEALS FROM DEPARTMENT DECISIONS, SO AS TO PROVIDE THAT A DEPARTMENT DECISION BECOMES FINAL THIRTY DAYS AFTER THE APPROPRIATE NOTICE IS RECEIVED BY A PERSON ENTITLED TO NOTICE; TO AMEND SECTION 44‑1‑70, RELATING TO BOARD RULES AND REGULATIONS, SO AS TO PROVIDE THAT THE DEPARTMENT SECRETARY MAY PROMULGATE RULES AND REGULATIONS; TO AMEND SECTION 44‑1‑80, AS AMENDED, RELATING TO THE BOARD’S DUTIES AND POWERS AS TO COMMUNICABLE OR EPIDEMIC DISEASES, SO AS TO TRANSFER THESE DUTIES AND POWERS TO THE DEPARTMENT SECRETARY; TO AMEND SECTION 44‑1‑90, RELATING TO CIRCUMSTANCES WHEN THE BOARD MUST ADVISE LOCAL AUTHORITIES, SO AS TO TRANSFER THESE RESPONSIBILITIES TO THE DEPARTMENT SECRETARY; TO AMEND SECTION 44‑1‑100, AS AMENDED, RELATING TO ASSISTANCE FROM LOCAL HEALTH OFFICERS, SO AS TO REQUIRE LOCAL HEALTH OFFICERS TO ASSIST THE DEPARTMENT SECRETARY; AND TO AMEND SECTION 44‑1‑280, RELATING TO COORDINATION WITH FIRST STEPS, SO AS TO REQUIRE THE DEPARTMENT SECRETARY TO COORDINATE WITH FIRST STEPS TO SCHOOL READINESS UNDER CERTAIN CIRCUMSTANCES.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Medical Affairs submitted a favorable report on:

S. 613 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑732 SO AS TO REQUIRE HEALTH INSURANCE COVERAGE, INCLUDING COVERAGE UNDER THE STATE HEALTH PLAN, FOR AN INSURED WHO PARTICIPATES IN AN APPROVED CANCER CLINICAL TRIAL.

Ordered for consideration tomorrow.

**S. 613--Recommitted**

Senator PEELER spoke on the Bill.

By prior motion of Senator THOMAS adopted on April 23, 2009, with unanimous consent, the Bill was recommitted to the Committee on Banking and Insurance.

Senator CROMER from the Committee on Fish, Game and Forestry submitted a favorable with amendment report on:

S. 783 -- Senator McConnell: A BILL TO AMEND SECTION 51‑13‑720, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE GOVERNING BOARD OF THE PATRIOTS POINT DEVELOPMENT AUTHORITY, SO AS TO PROVIDE FOR THREE ADDITIONAL MEMBERS OF THE BOARD AND THE MANNER OF THEIR TERMS AND APPOINTMENT.

Ordered for consideration tomorrow.

Senator PEELER from the Committee on Medical Affairs submitted a favorable with amendment report on:

H. 3358 -- Reps. Harrison, Weeks, Horne, Hutto and Whipper: A BILL TO AMEND SECTION 43‑35‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN THE OMNIBUS ADULT PROTECTION ACT, SO AS TO REVISE THE DEFINITIONS OF “INVESTIGATIVE ENTITY” AND “NEGLECT”; TO AMEND SECTION 43‑35‑40, AS AMENDED, RELATING TO REQUIREMENTS OF AN INVESTIGATIVE ENTITY UPON RECEIVING A REPORT OF ADULT ABUSE, SO AS TO FURTHER SPECIFY AND CLARIFY PROCEDURES FOR REPORTING CASES IN WHICH THERE IS A REASONABLE SUSPICION OF CRIMINAL CONDUCT; AND TO AMEND SECTION 43‑35‑85, AS AMENDED, RELATING TO CRIMINAL PENALTIES FOR FAILING TO REPORT ADULT ABUSE WHEN REQUIRED TO REPORT, SO AS TO DELETE PROVISIONS AUTHORIZING DISCIPLINARY ACTION WHEN A PERSON WHO HAS REASON TO BELIEVE THAT ABUSE OCCURRED FAILS TO REPORT AND TO ESTABLISH CRIMINAL PENALTIES IF A CAREGIVER, DUE TO RECKLESS DISREGARD FOR THE HEALTH OR SAFETY OF A VULNERABLE ADULT, NEGLECTS OR CAUSES GREAT BODILY INJURY OR DEATH TO A VULNERABLE ADULT.

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Invitations polled out H. 4499 favorable:

H. 4499 -- Rep. Duncan: A CONCURRENT RESOLUTION TO DECLARE THAT THE MEMBERS OF THE SOUTH CAROLINA GENERAL ASSEMBLY HEREBY JOIN THE CELEBRATION OF NATIONAL FUTURE FARMERS OF AMERICA (FFA) WEEK, FEBRUARY 20‑27, 2010, BY COMMENDING ALL FFA MEMBERS AND ALUMNI FOR THEIR DEDICATION TO MAINTAINING A STRONG AND VIABLE AGRICULTURAL INDUSTRY THROUGH EDUCATION, LEADERSHIP, AND SERVICE.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Alexander Campsen Cromer

Elliott Ford Knotts

Malloy McGill O’Dell

Reese Verdin

**Total-- 11**

**NAYS**

**Total-- 0**

Ordered for consideration tomorrow.

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

**HOUSE BILL RETURNED**

The following House Bill was read the third time and ordered returned to the House with amendments:

H. 4310 -- Reps. Clemmons, Edge and Barfield: A BILL TO AMEND SECTION 4‑10‑970, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO USES ALLOWED FOR REVENUES OF THE LOCAL OPTION TOURISM DEVELOPMENT FEE, SO AS TO ALLOW AMOUNTS UP TO TWENTY PERCENT OF THE REVENUE TO BE USED FOR PROPERTY TAX RELIEF FOR OWNER‑OCCUPIED RESIDENTIAL PROPERTY AND FOR TOURISM‑RELATED CAPITAL PROJECTS BEGINNING IN THE SECOND RATHER THAN THE THIRD YEAR OF IMPOSITION OF THE FEE, TO REQUIRE THE AMOUNTS USED FOR THESE PURPOSES TO BE RETAINED BY THE MUNICIPALITY WITH AT LEAST TWENTY PERCENT OF THE AMOUNT RETURNED USED AS A CREDIT AGAINST THE PROPERTY TAX LIABILITY OF OWNER‑OCCUPIED RESIDENTIAL PROPERTY AND PROVIDE FOR THE CALCULATION OF THE CREDIT, AND TO PROVIDE FOR THE USE OF CREDITS IN EXCESS OF THE MUNICIPAL PROPERTY TAX LIABILITY.

**H. 4310--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

**THIRD READING BILLS**

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

S. 717 -- Senators Coleman, Setzler, Land, Campbell and Hayes: A BILL TO AMEND SECTIONS 12‑36‑2120 AND 12‑37‑220, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SALES TAX EXEMPTIONS AND PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT MACHINERY, EQUIPMENT, BUILDING AND OTHER RAW MATERIALS, AND ELECTRICITY USED BY A FACILITY OWNED BY A TAX EXEMPT ORGANIZATION INVESTING AT LEAST TWENTY MILLION DOLLARS OVER THREE YEARS IN THE FACILITY WHEN THAT FACILITY IS USED PRINCIPALLY FOR RESEARCHING AND TESTING THE IMPACT OF NATURAL HAZARDS SUCH AS WIND, FIRE, EARTHQUAKE, AND HAIL ON BUILDING MATERIALS USED IN RESIDENTIAL, COMMERCIAL, AND AGRICULTURAL BUILDINGS.

Senator DAVIS spoke on the Bill.

**S. 717--Recorded Vote**

Senator DAVIS desired to be recorded as voting against the third reading of the Bill.

**S. 717--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

S. 914 -- Senator Land: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑13‑120, TO SET THE SIZE LIMITS AT FOURTEEN INCHES TOTAL LENGTH AND THE CATCH LIMIT AT FIVE PER DAY FOR BLACK BASS IN LAKES MARION AND MOULTRIE AND THE UPPER SANTEE RIVER.

**S. 914--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

S. 975 -- Senator Campsen: A BILL TO AMEND SECTION 50‑11‑65 OF THE 1976 CODE, RELATING TO THE TRAINING OF BIRD DOGS, TO DEFINE “TRAINING BIRDS”, TO PROVIDE FOR THE USE OF TRAINING BIRDS DURING THE CLOSED SEASON, AND TO PROVIDE THAT TRAINING MUST HAVE MINIMAL DISTURBANCE ON WILD BIRDS.

**S. 975--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

S. 1043 -- Senator Cleary: A BILL TO AMEND CHAPTER 5, TITLE 50 OF THE 1976 CODE, RELATING TO THE MARINE RESOURCES ACT, BY ADDING SECTION 50‑5‑17 TO ESTABLISH THE FLOUNDER POPULATION STUDY PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES TO CLARIFY THE LOCATION IN WHICH THE PROGRAM WILL OPERATE, TO CLARIFY THAT PROHIBITED ARTIFICIAL ILLUMINATION IS GENERATED BY MOTOR FUEL POWERED GENERATORS, AND TO PROVIDE THAT THE PROGRAM WILL END ON JUNE 30, 2014; AND TO REPEAL SECTION 50‑5‑2017 OF THE 1976 CODE, AS ADDED BY ACT 47 OF 2009.

Senator CROMER explained the Bill.

**S. 1043--Recorded Vote**

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

S. 1066 -- Senators O’Dell and Sheheen: A BILL TO AMEND CHAPTER 6, TITLE 12 OF THE 1976 CODE, BY ADDING SECTION 12‑6‑3595 TO PROVIDE A TAX CREDIT EQUAL TO ONE HUNDRED PERCENT OF AN AMOUNT CONTRIBUTED TO THE SOUTH CAROLINA EXISTING MANUFACTURERS’ RETENTION AND GROWTH FUND, TO PROVIDE THAT THE CREDIT MAY NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS FOR A SINGLE TAXPAYER AND NOT TO EXCEED AN AGGREGATE OF FOUR MILLION DOLLARS FOR EACH TAX YEAR, AND TO PROVIDE THE PROCESS AND REQUIREMENTS FOR CLAIMING THE CREDIT.

Senator O'DELL explained the Bill.

**S. 1066--Recorded Vote**

Senator RYBERG desired to be recorded as voting in favor of the third reading of the Bill.

**S. 1066--Recorded Vote**

Senator BRYANT desired to be recorded as voting against the third reading of the Bill.

**SECOND READING BILL**

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

S. 1142 -- Judiciary Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE SECRETARY OF STATE, RELATING TO UNIFORM REAL PROPERTY RECORDING ACT, DESIGNATED AS REGULATION DOCUMENT NUMBER 4078, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**AMENDED, READ THE SECOND TIME**

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, Rose and Campsen: 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 previously proposed amendment.

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

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 LEATHERMAN explained the amendment.

The amendment was adopted.

**S. 1085--Recorded Vote**

Senators McCONNELL, ROSE and DAVIS desired to be recorded as voting against the adoption of the amendment.

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

**Statement by Senators McCONNELL and DAVIS**

We voted against the amendment because we have concerns that increasing the vote requirement from a simple majority to 4 of the 5 members raises constitutional concerns and may inadvertently invite legal challenge.

The constitutionality of the Budget and Control Board has hinged on the legislative members of the board constituting a minority. Our concern is that an increased vote requirement may equate to a *de facto* change in constitution of the legislative strength on the board and may change the balance of power by which the board has been found constitutional.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

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.

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

Senators LEATHERMAN, LAND and SETZLER proposed the following amendment (3395FIN003), which was adopted:

Amend the committee report, as and if amended, page [3395-4], by striking line 31 and inserting:

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

Amend the committee report further, as and if amended, page [3395-5], by striking line 12 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.

The perfecting amendment was adopted.

**H. 3395--Recorded Vote**

Senators McCONNELL, ROSE and DAVIS desired to be recorded as voting against the adoption of the amendment.

The Committee on Finance proposed the following amendment (3395FIN001), which was adopted:

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

/ SECTION 1. A. Section 11‑11‑310 of the 1976 Code is amended to read:

“Section 11‑11‑310. (A) The State Budget and Control Board shall provide for a General Reserve Fund. Funds accumulating in excess of the annual operating expenditures must be transferred to the General Reserve Fund and the transfer must continue to be made in succeeding fiscal years until the accumulated total in this reserve reaches an amount equal to ~~three percent~~ the applicable percentage amount of the general fund revenue of the latest 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.

(B) If there is a year‑end operating deficit, so much of the General Reserve Fund as is necessary must be used to cover the deficit. The amount so applied must be restored to the General Reserve Fund out of future revenues as provided in Section 36 of Article III of the Constitution of this State and out of funds accumulating in excess of annual operating expenditures as provided in this section until the ~~three percent maximum~~ the applicable percentage amount is ~~again~~ reached and actually maintained.

(C) 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 five fiscal years out of future revenues until the applicable percentage amount required to be transferred to the General Reserve Fund, is 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 applicable percentage amount required by general law to be transferred to the General Reserve Fund is restored.

(D) The applicable percentage amount required to be transferred to the General Reserve Fund in this section 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. Any vote taken to increase or decrease the percentage amount must be taken by roll call vote with yeas and nays recorded in the journal.

(E) For purposes of this section ‘applicable percentage amount’ means:

(1) five percent of general fund revenue of the latest completed fiscal year. The five percent requirement shall be reached by adding a cumulative one‑half of one percent of such revenue in each fiscal year succeeding the last fiscal year to which the three percent limit applied until the percentage of such revenue equals five percent which then and thereafter shall apply; or

(2) the percentage amount subsequently enacted by the General Assembly pursuant to subsection (C).”

B. This section takes effect upon ratification of an amendment to Section 36, Article III of the Constitution of this State authorizing its terms submitted to the electors of this State at the general election of 2010 and first applies for the state fiscal year beginning after that date.

SECTION 2. A. Section 11‑11‑320(C) of the 1976 Code is amended to read:

“(C) Revenues in the Capital Reserve Fund only may be used in the following manner:

(1) ~~If, before March first, the Board of Economic Advisors’ revenue forecast to the State Budget and Control Board for the current fiscal year projects that revenues at the end of the fiscal year will be less than expenditures authorized by appropriations for that year, then the current year’s appropriation to the Capital Reserve Fund first must be reduced by the Board 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 percentage amount required by Section 11‑11‑310, 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. The Capital Reserve Fund’s replenishment of the General Reserve Fund is in addition to the replenishment requirement provided in Section 36(A) of Article III of the Constitution of this State. After the General Reserve Fund is fully restored to the requisite percentage, the monies in the Capital Reserve Fund may be appropriated pursuant to item (2) of this subsection. The Capital Reserve Fund may 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), 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.”

B. Section 11‑11‑325 of the 1976 Code is repealed.

C. This section takes effect upon ratification of an amendment to Section 36, Article III of the Constitution of this State authorizing its terms submitted to the electors of this State at the 2010 general election and first applies for the state fiscal year beginning after that date.

SECTION 3. Section 11‑9‑890 B of the 1976 Code is amended to read:

“B. If at the end of the first, ~~or~~ second, or third quarter of any fiscal year quarterly revenue collections are ~~four~~ two percent or more below the amount projected for that quarter by the Board of Economic Advisors, the Budget and Control Board, within ~~fifteen~~ seven days of that determination, shall take action to avoid a year‑end deficit. Notwithstanding Section 1‑11‑495, if the Budget and Control Board does not take unanimous action within seven days, the Director of the Office of State Budget must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Office of State Budget immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Office of State Budget. A reduction of rate of expenditure by the Director of the Office of State Budget, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.”

SECTION 4. Section 1‑11‑495(A) of the 1976 Code is amended to read:

“(A) The State Budget and Control Board is directed to survey the progress of the collection of revenue and the expenditure of funds by all agencies, departments, and institutions. If the board determines that a year‑end aggregate deficit may occur by virtue of a projected shortfall in anticipated revenues, it shall utilize those funds as may be available and required to be used to avoid a year‑end deficit and after that take action as necessary to restrict the rate of expenditure of all agencies, departments, and institutions consistent with the provisions of this section. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the board. A reduction of rate of expenditure by the board, under authority of this section, must be applied as uniformly as may be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government. This reduction ~~must not be ordered by the board while the General Assembly is in session without first reporting such necessity to the General Assembly and the General Assembly takes no action to prevent the reduction within five statewide session days of formal written notification~~ is subject to any bill or resolution enacted by the General Assembly.”

SECTION 5. Except where otherwise stated, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

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

**Statement by Senators McCONNELL and DAVIS**

We voted against the amendment because we have concerns that increasing the vote requirement from a simple majority to 4 of the 5 members raises constitutional concerns and may inadvertently invite legal challenge.

The constitutionality of the Budget and Control Board has hinged on the legislative members of the board constituting a minority. Our concern is that an increased vote requirement may equate to a *de facto* change in constitution of the legislative strength on the board and may change the balance of power by which the board has been found constitutional.

READ THE SECOND TIME

**READ IN FULL, PASSED BY “AYES” AND “NAYS”**

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 second reading of the Joint Resolution.

Senator PEELER 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.

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.

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

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’.”

\* \* \*

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

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

**Ayes 43; Nays 0**

**AYES**

Alexander Anderson Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Pinckney Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--43**

**NAYS**

**Total--0**

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

**AMENDMENT PROPOSED, OBJECTION**

S. 897 -- Senators McConnell, Leatherman, Peeler, Setzler, Rose, Elliott, Courson, Sheheen, Campbell and Campsen: A JOINT RESOLUTION TO CREATE THE COMMISSION ON STREAMLINING GOVERNMENT AND REDUCTION OF WASTE AND PROVIDE FOR THE MEMBERSHIP, POWERS, DUTIES, AND FUNCTIONS OF THE COMMISSION; TO PROVIDE A PROCEDURE FOR THE SUBMISSION, CONSIDERATION, APPROVAL, AND IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMISSION; TO PROVIDE FOR STAFF SUPPORT AND FINANCES FOR THE COMMISSION; TO PROVIDE FOR COOPERATION WITH AND SUPPORT FOR THE COMMISSION; TO PROVIDE FOR THE APPLICABILITY OF OTHER LAWS; AND TO PROVIDE FOR ITS TERMINATION.

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

Senators HUTTO and MASSEY proposed the following amendment (L:\S-JUD\AMEND\JUD0897.013.DOCX):

/ (JUD0897.013) two individuals, appointed by the Governor;

(6) one individual, appointed by the Speaker of the House of Representatives; and

(7) one individual, appointed by the President Pro Tempore of the Senate. /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

Senator KNOTTS objected to further consideration of the Joint Resolution.

**ADOPTED**

S. 1138 -- Senators Fair, Reese, Ryberg, Rose, S. Martin, Shoopman, Massey, Mulvaney, Alexander, Ford, Campbell, Anderson, Campsen, Williams, Grooms, Davis, Rankin, Scott, Pinckney, Nicholson, Coleman, Bright, Jackson, Malloy, Thomas and Bryant: A SENATE RESOLUTION TO REQUEST THAT THE DEPARTMENTS OF CORRECTIONS, PROBATION, PAROLE AND PARDON SERVICES, AND JUVENILE JUSTICE OFFER FAITH‑BASED PROGRAMS WITHIN THEIR INSTITUTIONS TO ASSIST THEIR CLIENTS TO ADJUST TO INSTITUTIONAL LIFE, BECOME PRODUCTIVE CITIZENS ONCE THEY ARE RELEASED, AND REDUCE RECIDIVISM.

The Senate Resolution was adopted.

H. 4335 -- Reps. T.R. Young, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G.A. Brown, H.B. Brown, R.L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb‑Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D.C. Moss, V.S. Moss, Nanney, J.H. Neal, J.M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie and A.D. Young: A CONCURRENT RESOLUTION TO DECLARE FEBRUARY 2010 AS “NATIONAL CHILDREN’S DENTAL HEALTH MONTH” AND FRIDAY, FEBRUARY 5, 2010, AS “GIVE KIDS A SMILE DAY” IN SOUTH CAROLINA, IN ORDER TO PROMOTE ORAL HEALTH AND JOIN IN THE EFFORTS THROUGHOUT THE NATION TO ADVOCATE FOR ORAL HEALTH AWARENESS AND OPTIMAL ORAL HEALTH IN CHILDREN.

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

**CARRIED OVER**

H. 4426 -- Reps. Hardwick, Viers, Merrill, Stavrinakis, Limehouse, Sottile, Erickson, Chalk, Edge, Hearn and Herbkersman: A CONCURRENT RESOLUTION TO DESIGNATE JUNE 12, 2010, AS “NATIONAL MARINA DAY IN SOUTH CAROLINA” IN ORDER TO HONOR SOUTH CAROLINA’S MARINAS FOR THEIR CONTRIBUTIONS TO THE COMMUNITY AND TO EDUCATE POLITICIANS, CIVIC LEADERS, AND THE PUBLIC ON THE MANY AND VARIED CONTRIBUTIONS OF MARINAS AND THE IMPORTANT ROLE THEY PLAY AS FAMILY-FRIENDLY GATEWAYS TO BOATING, AND TO REQUEST THAT OUR STATE JOIN HANDS WITH OTHER STATES AND THOUSANDS OF WATERFRONT COMMUNITIES ACROSS THE UNITED STATES IN CELEBRATING THIS DAY.

On motion of Senator ELLIOTT, the Concurrent Resolution was carried over.

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

**MOTION ADOPTED**

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

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

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

**RETURNED TO THE SPECIAL ORDER CALENDAR**

H. 3272 -- Reps. Cooper, Merrill, Erickson, Herbkersman, Chalk, Duncan, Long, Sottile, Daning, Lowe, Bowen, Harrison, Horne, A.D. Young, Limehouse, R.L. Brown, Clemmons, Edge and Wylie: A BILL TO AMEND SECTION 12‑37‑3140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINING THE FAIR MARKET VALUE OF REAL PROPERTY FOR PURPOSES OF THE SOUTH CAROLINA REAL PROPERTY VALUATION REFORM ACT, SO AS TO POSTPONE THE IMPLEMENTATION OF THE TRANSFER VALUE OF A PARCEL OF REAL PROPERTY UNIMPROVED SINCE THE LAST COUNTYWIDE REASSESSMENT PROGRAM UNTIL THE TIME OF IMPLEMENTATION OF THE NEXT COUNTYWIDE REASSESSMENT PROGRAM AND TO REQUIRE THE FIFTEEN PERCENT LIMIT ON INCREASES IN VALUE TO BE CALCULATED SEPARATELY ON LAND AND IMPROVEMENTS; TO AMEND SECTION 12‑37‑3150, AS AMENDED, RELATING TO THE TIME AN ASSESSABLE TRANSFER OF INTEREST OCCURS, SO AS TO REVISE THE PENALTY FOR FAILURE TO PROVIDE NOTICE OR FAILURE TO PROVIDE ACCURATE NOTICE TO THE ASSESSING AUTHORITY OF BUSINESS ENTITY TRANSFERS; TO AMEND SECTION 12‑43‑220, AS AMENDED, RELATING TO THE CLASSIFICATION AND VALUATION OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE RESIDENTIAL REAL PROPERTY HELD IN TRUST DOES NOT QUALIFY AS A LEGAL RESIDENCE UNLESS A NAMED INDIVIDUAL BENEFICIARY UNDER THE TRUST OCCUPIES THE RESIDENCE AS THAT NAMED BENEFICIARY’S LEGAL RESIDENCE AND THAT INDIVIDUAL BENEFICIARY’S NAME APPEARS ON THE DEED TO THE RESIDENCE AND REQUIRE SOCIAL SECURITY NUMBERS OF APPLICANTS FOR THE LEGAL RESIDENCE ASSESSMENT RATIO; AND TO AMEND SECTION 40‑60‑35, RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR ASSESSORS, SO AS TO REVISE THE REQUIREMENT.

The Senate proceeded to a consideration of the Bill, the question being the adoption of Amendment No. P-4 (3272FIN19) proposed by Senator ALEXANDER and previously printed in the Journal of Wednesday, February 3, 2010. Amendment No. P-4 was subsequently withdrawn.

Senator MALLOY was recognized.

With Senator MALLOY retaining the floor, Senator ALEXANDER was recognized to explain Amendment No. P-7A.

**RECESS**

At 1:05 P.M., with Senator ALEXANDER retaining the floor, on motion of Senator ALEXANDER, the Senate receded from business subject to the Call of the Chair.

At 2:10 P.M., the Senate resumed.

**PRESIDENT *Pro Tempore* PRESIDES**

At 2:10 P.M., Senator McCONNELL assumed the Chair.

Senator ALEXANDER was recognized.

**Previously Proposed Amendment No. P-4 Withdrawn**

Senator ALEXANDER asked unanimous consent to make a motion to withdraw Amendment No. P-4, which had been previously proposed.

There was no objection and Amendment No. P-4 was withdrawn.

Senator ALEXANDER asked unanimous consent to make a motion to take up Amendment No. P-7A for immediate consideration and resume explaining the amendment.

There was no objection.

**Amendment No. P-7A**

Senator ALEXANDER proposed the following Amendment No. P-7A (3272FIN29), which was adopted:

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

/ SECTION 1. A. Article 25, Chapter 37, Title 12 of the 1976 Code is amended by adding:

“Section 12-37-3135. (A) When a parcel of real property and improvements thereon subject to the six percent assessment ratio provided pursuant to Section 12‑43‑220(e) and which is currently subject to property tax undergoes an assessable transfer of interest in property tax year 2010, there is allowed an exemption of an amount of fair market value of that parcel sufficient to eliminate any increase in fair market value as determined in the appraisal at the time of the assessable transfer of interest over the property tax value. The fair market value to which the cap on increases in fair market value imposed pursuant to Section 12-37-3140(B) applies is the fair market value as it may be reduced by the exemption allowed by this section. The exemption allowed by this section applies at the time value as determined by an assessable transfer of interest applies.

(B)(1) When a parcel of real property and improvements thereon subject to the six percent assessment ratio provided pursuant to Section 12‑43‑220(e) and which is currently subject to property tax undergoes an assessable transfer of interest after property tax year 2010, there is allowed a twenty percent exemption of fair market value of that parcel as determined in the appraisal at the time of the assessable transfer of interest. The fair market value to which the cap on increases in fair market value imposed pursuant to Section 12‑37‑3140(B) applies is the fair market value as it may be reduced by the exemption allowed by this section. The exemption allowed by this section applies at the time the value as determined by an assessable transfer of interest first applies.

(2) Notwithstanding subsection subitem (1) of this subsection, if the exemption provided in subitem (1) would reduce the fair market value of a parcel of real property and improvements thereon below the fair market value of the parcel as previously carried on the books of the property tax assessor, the exemption provided in subitem (1) does not apply and the fair market value shall be the fair market value of the parcel as previously carried on the books. However, if the fair market value of the parcel as determined in the appraisal at the time of the assessable transfer of interest is lower than the fair market value of the parcel as previously carried on the books, the exemption provided in subitem (1) does not apply and the fair market value shall be the fair market value determined pursuant to Section 12-47-140(A)(1)(b).

(C) The exemptions allowed by this section continue to apply until the parcel next undergoes an assessable transfer of interest. However, the parcel remains subject to changes in value as determined in a periodic countywide appraisal and equalization program and the limit on the increases in such values pursuant to Section 12‑37‑3140(B).

(D) The exemptions allowed by this section do not apply to the fair market value of additions or improvements made to the parcel not previously subject to property tax.

(E) The exemptions provided in this section do not apply unless the owner of the property or the owner's agent notifies the county assessor that the property will be subject to the six percent assessment ratio provided pursuant to Section 12‑43‑220(e) before January thirty-first for the tax year for which the owner first claims eligibility for the exemption. No further notifications are necessary from the current owner while the property remains subject to the six percent assessment ratio.

(F) The exemptions allowed by this section shall no longer be effective if the property does not remain subject to the six percent assessment ratio provided pursuant to Section 12‑43‑220(e) for at least five tax years following the assessable transfer of interest.. If the property does not maintain the exemption allowed by this section, in the first tax year which the exemption does not apply, the fair market value of the property shall be increased to the fair market value as determined in the appraisal at the time of the assessable transfer of interest plus any increase attributable to Section 12-37-3140(B).

(G) For purposes of this section, ‘fair market value’ means the fair market value of real property and improvements to real property determined by appraisals of the property tax assessor based on initial appraisals and periodic reappraisals conducted pursuant to Section 12‑43‑217.

(H) For purposes of this section, ‘property tax value’ means the fair market value as it may be adjusted pursuant to Section 12-37-3140(B).”

B. Section 12‑37‑3140(A)(1)(b) of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read:

“(b) subject to Section 12‑37‑3135, December thirty‑first of the year in which an assessable transfer of interest has occurred;”

C. This section applies for real property transfers after 2009. Property tax assessors shall conform the values of parcels of real property which underwent an assessable transfer of interest in 2010 before the effective date of this act, to the fair market value of these parcels as that value may have been adjusted to reflect the provisions of Section 12-37-3135 of the 1976 Code, as added by this act. No refund is allowed on account of values adjusted as provided in this section.

SECTION 2. A. Section 12‑37‑3150(B) of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read:

“(B) An assessable transfer of interest does not include:

(1) transfers not subject to federal income tax in the following circumstances:

(a) 1033 (Conversions‑Fire and Insurance Proceeds to Rebuild);

(b) 1041 (Transfers of Property Between Spouses or Incident to Divorce);

(c) 351 (Transfer to a Corporation Controlled by Transferor);

(d) 355 (Distribution by a Controlled Corporation);

(e) 368 (Corporate Reorganizations); or

(f) 721 (Nonrecognition of Gain or Loss on a Contribution to a Partnership).

Number references in the above subitems are to sections of the Internal Revenue Code of 1986, as defined in Section 12‑6‑40;

(2) a transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease;

(3) a transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture, until the redemption period has expired;

(4) a transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes;

(5) a conveyance to a trust if the settlor or the settlor’s spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor’s spouse, or both;

(6) a transfer for security or an assignment or discharge of a security interest;

(7) a transfer of real property or other ownership interests among members of an affiliated group. As used in this item, ‘affiliated group’ is as defined in Section 1504 of the Internal Revenue Code as defined in Section 12‑6‑40. Upon request of the applicable property tax assessor, a corporation shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B);

(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty‑five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12‑37‑3160(B); ~~or~~

(9) a transfer of an interest in a timeshare unit by deed or lease; or

(10) a transfer of an undivided, fractional ownership interest in real estate in a single transaction or as a part of a series of related transactions, if the ownership interest or interests conveyed, or otherwise transferred, in the single transaction or series of related transactions within a twenty‑five year period, is not more than fifty percent of the entire fee simple title to the real estate;

(11) a transfer to a single member limited liability company, not taxed separately as a corporation, by its single member or a transfer from a single member limited liability company, not taxed separately as a corporation, to its single member, as provided in Section 12‑2‑25(B)(1);

(12) a conveyance, assignment, release or modification of an easement, including but not limited to:

(a) a conservation easement, as defined in Chapter 8 of Title 27;

(b) a utility easement; or

(c) an easement for ingress, egress, or regress;

(13) a transfer or renunciation by deed, release, or agreement of a claim of interest in real property for the purpose of quieting and confirming title to real property in the name of one or more of the existing owners of the real property or for the purpose of confirming or establishing the location of an uncertain or disputed boundary line;

(14) the execution or recording of a deed to real property for the purpose of creating or terminating a joint tenancy with rights of survivorship, provided the grantors and grantees are the same;

(15)(a) a conveyance by deed, distribution under a will, or by intestate succession of real property, subject to the special four percent assessment ratio pursuant to Section 12-43-220(c), to a child or children of the grantor or decedent;

(b) a conveyance to a trust of real property, subject to the special four percent assessment ratio pursuant to Section 12-43-220(c), and the sole present beneficiary or beneficiaries of the trust is a child or children of the settler; or

(16) a transfer of no more than a fifth of an interest in real property by an individual or individuals to another individual or individuals.”

B. Section 12-37-3150(A)(8) of the 1976 Code is amended to read:

“(8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty‑five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. This provision does not apply to transfers that are not subject to federal income tax, as provided in subsection (B)(1), including, but not limited to, transfers of interests to spouses. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty‑five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item;”

C. This section applies for real property transfers after 2009.

SECTION 3. Section 6‑1‑320(A), as last amended by Act 116 of 2007 of the 1976 Code, is further amended to read:

“(A)(1) Notwithstanding Section 12‑37‑251(E), a local governing body may increase the millage rate imposed for general operating purposes above the rate imposed for such purposes for the preceding tax year only to the extent of the increase in the average of the twelve monthly consumer price indices for the most recent twelve‑month period consisting of January through December of the preceding calendar year, plus, beginning in 2007, the percentage increase in the previous year in the population of the entity as determined by the Office of Research and Statistics of the State Budget and Control Board. If the average of the twelve monthly consumer price indices experiences a negative percentage, the average is deemed to be zero. If an entity experiences a reduction in population, the percentage change in population is deemed to be zero. However, in the year in which a reassessment program is implemented, the rollback millage, as calculated pursuant to Section 12‑37‑251(E), must be used in lieu of the previous year’s millage rate.

(2) There may be added to the operating millage increase allowed pursuant to item (1) of this section any such increase, allowed but not previously imposed, for the three property tax years preceding the year to which the current limit applies.”

SECTION 4. A. Section 12‑37‑251(E) of the 1976 Code is amended to read:

“(E) Rollback millage is calculated by dividing the prior year property ~~tax revenues~~ taxes levied as adjusted by abatements, additions, and nulla bona returns by the adjusted total assessed value applicable in the year the values derived from a countywide equalization and reassessment program are implemented. This amount of assessed value must be adjusted by deducting assessments added for property or improvements not previously taxed, for new construction, ~~and~~ for renovation of existing structures, and assessments attributable to increases in value due to an assessable transfer of interest.”

B. This section takes effect for rollback millage calculated for property tax years beginning after 2009.

SECTION 5. (A) There is created the Index of Taxpaying Ability Study Committee. The committee shall be composed of eight members, all appointed pursuant to subsection (B). The committee shall examine the index of taxpaying ability and its relationship to Education Finance Act resources available to the individual school districts in support of the education foundation program required by the State. The committee shall also examine the manner in which the index is calculated and the impact of this act and other property tax measures on the calculation.

(B) The committee shall be composed of:

(1) four members appointed by the President Pro Tempore of the Senate; and

(2) four members appointed by the Speaker of the House of Representatives.

(C) No later than January 1, 2011, the committee shall prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Education Committee, and the Chairman of House Education and Public Works Committee.

(D) Members of the study committee shall serve without compensation for per diem, mileage, and subsistence.

SECTION 6. Section 12-37-3130(1) of the 1976 Code is amended to read:

“(1) “Additions” or “improvements” mean an increase in the value of an existing parcel of real property because of:

(a) new construction;

(b) reconstruction;

(c) major additions to the boundaries of the property or a structure on the property;

(d) remodeling; or

(e) renovation and rehabilitation, including installation.

Additions or improvements do not include minor construction or ongoing maintenance and repair of existing structures. This issuance of a permit is not de facto proof of an addition or improvement and is not conclusive evidence of an assessable transfer of interest. The repair or reconstruction of a structure damaged or destroyed by a disaster, to include, but not limited to, construction defects, defective materials, fire, wind, hail, flood, and acts of God, is not an addition or improvement to the extent that the structure as repaired or reconstructed is similar in size, utility, and function of the structure damaged or destroyed, and the rebuilding or reconstruction is begun within eight years after determination of the damage or destruction. Construction of facilities in a home that make the home handicap accessible is not an addition or improvement if the utility and function of the structure remains unchanged. The installation of a fire sprinkler system in a commercial or residential structure when the installation is not required by law, regulation, or code is not an addition or improvement if the utility and function of the structure remains unchanged.”

SECTION 7. Subarticle 9, Article 9, Chapter 60, Title 12 of the 1976 Code is amended by adding:

“Section 12-60-2570. For any appeal or protest brought pursuant to this subarticle for an appraisal resulting from an assessable transfer of interest due to a conveyance by deed, if the county assessor determines the fair market value of a parcel of real property and improvements thereon is higher than the consideration given for the interest in the parcel, the county assessor shall have the burden of proof of showing that the higher fair market value is appropriate. This section only applies when the assessable transfer of interest was an arms-length transaction. In determining whether a transaction is an arms-length transaction, it should be considered whether both the seller and the buyer are willing, are not acting under compulsion, are reasonably well informed of the uses and purposes for which the property is adapted and for which the property is capable of being used, or any other factor.”

SECTION 8. Article 25, Chapter 37, Title 12 of the 1976 Code is amended by adding:

“Section 12-37-3180. (A) If this article effects the valuation of a parcel of real property in which a licensed real estate broker, as defined in Section 40-57-30(3), is acting in his capacity as a real estate broker to sell the property, the real estate broker must notify the purchaser of the real property in writing, before the signing of the contract, of the estimated property tax in the year in which an increase attributable to this article would first apply. The estimate shall be based on the most recent millage rate and using the assessment ratio that the purchaser intends to claim. The notice must state which year’s millage rate was used in the calculation. The notice must be in a clear and conspicuous place on the seller disclosure statement in large bold print. The purchaser must sign directly underneath the notice stating that he has been made aware of the estimated property tax.

(B) Any real estate broker failing to meet the requirements of subsection (A) shall be investigated pursuant to Section 40-57-150 and is subject to disciplinary action thereof. There may be no cause of action against a real estate broker for incorrectly estimating the property tax unless the real estate broker was grossly negligent or intentionally misleading in making the estimate.”

SECTION 9. Except where otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER explained the amendment.

The amendment was adopted.

**Motions Adopted**

On motion of Senator RANKIN, with unanimous consent, Senators CAMPBELL, HUTTO and RANKIN were granted leave to attend a subcommittee meeting, were to be counted in any quorum, and be notified for any votes.

On motion of Senator O’DELL, with unanimous consent, Senators PEELER, ELLIOTT, FAIR, REESE and O’DELL were granted leave to attend a subcommittee meeting, be counted in any quorum, and be granted leave to vote from the balcony.

The question then was the adoption of the amendment proposed by the Committee on Finance.

The Committee on Finance proposed the following amendment (3272FIN002), which was adopted:

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

/ A BILL

TO AMEND THE 1976 CODE BY ADDING SECTION 12‑37‑3135 TO EXEMPT AN AMOUNT OF FAIR MARKET OF A PARCEL OF REAL PROPERTY AND IMPROVEMENTS THEREON AS DETERMINED BY THE APPRAISAL RESULTING FROM AN ASSESSABLE TRANSFER OF INTEREST SUFFICIENT TO LIMIT THE INCREASE IN THE FAIR MARKET VALUE OF THE PARCEL TO FIFTEEN PERCENT OF ITS VALUE ON THE ASSESSOR’S BOOKS, TO PROVIDE THAT FAIR MARKET VALUE AS REDUCED BY THIS EXEMPTION IS THE VALUE TO WHICH THE CONSTITUTIONAL CAP ON INCREASES TO FIFTEEN PERCENT OVER FIVE YEARS APPLIES, TO PROVIDE THAT THIS EXEMPTION CONTINUES UNTIL THE PROPERTY UNDERGOES A SUBSEQUENT ASSESSABLE TRANSFER OF INTEREST AND PROVIDE THAT THIS EXEMPTION DOES NOT APPLY TO PREVIOUSLY UNTAXED ADDITIONS OR IMPROVEMENTS; AND TO AMEND SECTION 12‑37‑3140, AS AMENDED, RELATING TO VALUATION OF REAL PROPERTY FOR PURPOSES OF THE SOUTH CAROLINA REAL PROPERTY VALUATION REFORM ACT, TO MAKE A CONFORMING AMENDMENT, TO REQUIRE THE PROPERTY TAX ASSESSOR TO APPLY THE EXEMPTION ALLOWED BY THIS EXEMPTION TO FAIR MARKET VALUE DETERMINED AT THE TIME OF ASSESSABLE TRANSFERS OF INTEREST OCCURRING IN 2009 BEFORE THE EFFECTIVE DATE OF THIS ACT, AND TO PROVIDE THAT NO REFUND IS ALLOWED BASED ON THOSE ADJUSTED VALUES.

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

SECTION 1. Article 25, Chapter 37, Title 12 of the 1976 Code is amended by adding:

“Section 12‑37‑3135. (A) When a parcel of real property and improvements thereon currently subject to property tax undergoes an assessable transfer of interest, there is allowed an exemption of an amount of fair market value of that parcel sufficient to limit to fifteen percent the increase in fair market value as determined in the appraisal at the time of the assessable transfer of interest over the fair market value of the parcel as previously carried on the books of the property tax assessor. The fair market value to which the cap on increases in fair market value imposed pursuant to Section 12‑37‑3140(B) applies is the fair market value as it may be reduced by the exemption allowed by this section. The exemption allowed by this section applies at the time value as determined by an assessable transfer of interest applies.

(B) The exemption allowed by this section continues to apply until the parcel next undergoes an assessable transfer of interest. However, the parcel remains subject to the implementation of a periodic countywide appraisal and equalization program.

(C) The exemption allowed by this section does not apply to the fair market value of additions or improvements made to the parcel not previously subject to property tax.

(D) Unless authorized by a further or subsequent enactment, the provisions of this section shall no longer be effective after property tax year 2014. ”

SECTION 2. Section 12‑37‑3140(A)(1)(b) of the 1976 Code, as last amended by Act 57 of 2007, is further amended to read:

“(b) subject to any exemption allowed pursuant to Section 12‑37‑3135, December thirty‑first of the year in which an assessable transfer of interest has occurred;”

SECTION 3. This act takes effect upon approval by the Governor and applies for property tax years beginning after December 31, 2008. Property tax assessors shall conform the values of parcels of real property which underwent an assessable transfer of interest in 2009 before the effective date of this act, to the fair market value of these parcels as that value may have been adjusted to reflect the provisions of Section 12‑37‑3135 of the 1976 Code, as added by this act. No refund is allowed on account of values adjusted as provided in this section./

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

**Amendment No. 3A**

Senators ROSE and SHEHEEN proposed the following Amendment No. 3A (3272R007.MTR), which was ruled out of order:

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

/ SECTION \_\_\_. Notwithstanding any limitation imposed by Act 81 of 2009, the Tax Realignment Commission shall consider all aspects of the assessment of local taxes levied and other provisions affecting local revenue to fund the operation and responsibilities of local government. For purposes of this section local taxes are defined as local levies related to ad valorem taxation, including, but not limited to, assessment ratios, classification and valuation of property, assessable transfers of interest, valuation limitation, local millages, and fee in lieu of taxes agreements. /

Renumber sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

**Point of Order**

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

The PRESIDENT *Pro Tempore* sustained the Point of Order.

Amendment No. 3A was ruled out of order.

**Amendment No. 4**

Senator SHANE MARTIN proposed the following Amendment No. 4 (3272R002.SM), which was carried over and subsequently withdrawn:

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

/ SECTION \_\_\_. Article 25, Chapter 37, Title 12 of the 1976 Code is amended by adding:

“Section 12‑37‑3145. When a parcel of real property and improvements thereon subject to the four percent assessment ratio provided pursuant to Section 12‑43‑220(c) undergoes an assessable transfer of interest after property tax year 2009 and the assessable transfer of interest results in a more than a fifteen percent increase in the assessed value of the property, then the property is considered to have met the fifteen percent limit in the increase in the fair market value provided in Section 12-37-3140(B) for the five year reassessment period in which the transfer is made. As a result of this limitation, the fair market value of the property attributable to the periodic countywide appraisal and equalization program at the end of the five year reassessment period implemented pursuant to Section 12-43-217 must not exceed the fair market value attributable to the assessable transfer of interest. For any subsequent periodic countywide assessment and equalization program, any increase in the fair market value above the limitation provided by this section, is subject to the limit provided in Section 12-37-3140(B).” /

Renumber sections to conform.

Amend title to conform.

Senator SHANE MARTIN explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 20; Nays 22**

**AYES**

Alexander Anderson Campbell

Coleman Elliott Fair

Hayes Hutto Land

Leatherman Lourie *Martin, Larry*

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Sheheen Williams

**Total--20**

**NAYS**

Bright Bryant Campsen

Courson Cromer Davis

Grooms Knotts Leventis

Malloy *Martin, Shane* Massey

Peeler Pinckney Rankin

Reese Rose Ryberg

Setzler Shoopman Thomas

Verdin

**Total--22**

The Senate refused to table the amendment. The question then was the adoption of the amendment.

**Statement by Senator McCONNELL**

While I supported the idea of this amendment and would support it in separate legislation, I voted to table it because it is important to get something done this year for the benefit of taxpayers and our economy. This amendment would likely undo a compromise and make legislative action difficult before we adjourn. Should the compromise fall apart, I will support this amendment when it is offered.

Senator ALEXANDER spoke on the amendment.

Senator DAVIS moved to lay the amendment on the table.

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

**Ayes 17; Nays 26**

**AYES**

Alexander Campbell Davis

Elliott Fair Hayes

Hutto Land Leatherman

Lourie *Martin, Larry* McConnell

McGill Mulvaney O’Dell

Sheheen Williams

**Total--17**

**NAYS**

Anderson Bright Bryant

Campsen Coleman Courson

Cromer Grooms Jackson

Knotts Leventis Malloy

*Martin, Shane* Massey Matthews

Nicholson Peeler Rankin

Reese Rose Ryberg

Scott Setzler Shoopman

Thomas Verdin

**Total--26**

The Senate refused to table the amendment. The question then was the adoption of the amendment.

**Statement by Senator McCONNELL**

While I supported the idea of this amendment and would support it in separate legislation, I voted to table it because it is important to get something done this year for the benefit of taxpayers and our economy. This amendment would likely undo a compromise and make legislative action difficult before we adjourn. Should the compromise fall apart, I will support this amendment when it is offered.

Senator HUTTO argued contra to the adoption of the amendment.

Senator HUTTO moved to recommit the Bill.

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

**Ayes 13; Nays 29**

**AYES**

Anderson Coleman Hutto

Jackson Leventis Malloy

Matthews McGill Nicholson

Ryberg Scott Sheheen

Williams

**Total--13**

**NAYS**

Alexander Bright Bryant

Campbell Campsen Cleary

Courson Cromer Davis

Elliott Fair Grooms

Hayes Knotts Land

Leatherman *Martin, Larry Martin, Shane*

Massey McConnell Mulvaney

O’Dell Peeler Rankin

Rose Setzler Shoopman

Thomas Verdin

**Total--29**

The Senate refused to recommit the Bill.

**Objection**

Senator SHANE MARTIN asked unanimous consent to make a motion to carry over Amendment 4.

Senator MALLOY objected.

Senator LARRY MARTIN spoke on the amendment.

On motion of Senator LARRY MARTIN, Amendment No. 4 was carried over and subsequently withdrawn.

**Amendment No. 5**

Senator ROSE proposed the following Amendment No. 5 (3272R005.MTR), which was carried over and subsequently tabled:

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

/ SECTION \_\_\_. Notwithstanding any other provision of law, for a parcel of real property subject to the six percent assessment ratio provided by Section 12-43-220(e) that has undergone an assessable transfer of interest since the effective date of Act 388 of 2006 and prior to property tax year 2010, there is allowed a one hundred percent exemption for property tax years after 2009 for the amount of increase in the fair market value for assessment purposes attributable to the assessable transfer of interest. For any subsequent transfer of interest after property tax year 2009, the purchaser of the property is allowed the exemption provided by this section and any additional exemption provided by law. /

Renumber sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

**ACTING PRESIDENT PRESIDES**

At 4:13 P.M., Senator LARRY MARTIN assumed the Chair.

Senator ROSE explained the amendment.

Senator McCONNELL spoke on the amendment.

On motion of Senator PEELER, with unanimous consent, Amendment No. 5 was carried over.

Senator PEELER asked unanimous consent to make a motion to take up Amendment No. 12 for immediate consideration.

There was no objection.

**Amendment No. 12A**

Senators GROOMS and CAMPSEN proposed the following Amendment No. 12A (3272R008.LKG), which was tabled:

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

/ SECTION 1. Section 12-37-3150 of the 1976 Code is repealed.

SECTION 2. Notwithstanding the limit imposed pursuant to Section 6-1-320, for Fiscal Year 2010-2011 only, a local governing body may increase the millage rate imposed for general operating purposes by an amount necessary to hold the local governing body harmless for the effect of the provisions of SECTION 1 in property tax year 2010 based on the number and value of assessable transfers of interest within the local governing body in property tax year 2009. For purposes of calculating the limit on millage increases pursuant to Section 6-1-320(A)(1), any increase attributable to this subitem shall be considered to be included in the millage imposed in the preceding tax year. This subitem is in addition to any increase attributable to Section 6-1-230(A)(1) of this section.

SECTION 3. This act takes effect upon approval of the Governor and applies to property tax years after 2009. /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 26; Nays 14**

**AYES**

Alexander Anderson Courson

Elliott Fair Ford

Hayes Hutto Knotts

Land Leatherman Leventis

Malloy *Martin, Larry* McConnell

McGill Mulvaney Nicholson

O’Dell Rankin Ryberg

Scott Setzler Sheheen

Thomas Williams

**Total--26**

**NAYS**

Bright Bryant Campbell

Campsen Cromer Davis

Grooms *Martin, Shane* Matthews

Peeler Pinckney Rose

Shoopman Verdin

**Total--14**

The amendment was laid on the table.

**Amendment No. 15**

Senators BRIGHT, KNOTTS and BRYANT proposed the following Amendment No. 15 (3272FIN27), which was ruled out of order:

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

/ SECTION 1. A. Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Article 12

Additional Sales, Use, and Casual Excise Tax

Section 12‑36‑1110. Beginning July 1, 2010, an additional sales, use, and casual excise tax equal to four percent is imposed on amounts taxable pursuant to this chapter, except that this additional four percent tax does not apply to amounts taxed pursuant to Section 12‑36‑920(A), the tax on accommodations for transients, nor does this additional tax apply to items subject to a maximum sales and use tax pursuant to Section 12‑36‑2110 nor to the sale of unprepared food which may be lawfully purchased with United States Department of Agriculture food coupons.

Section 12‑36‑1120. The revenue of the taxes imposed by this article must be credited to the Property Tax Exemption Fund established pursuant to Section 11‑11‑230.

Section 12‑36‑1130. The Department of Revenue may prescribe amounts that may be added to the sales price to reflect the additional taxes imposed pursuant to this article.”

B. The provisions of Section 4‑10‑350(F) and (G) of the 1976 Code apply mutatis mutandis with respect to the tax imposed pursuant to Article 11, Chapter 36, Title 12 of the 1976 Code as added by this section.

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

“Section 11‑11‑230. (A) The revenue from the tax imposed pursuant to Article 12, Chapter 36 of Title 12 is automatically credited to a fund separate and distinct from the state general fund known as the ‘Property Tax Exemption Fund’. The Board of Economic Advisors shall account for the Property Tax Exemption Fund revenue separately from general fund revenues, and the board shall make an annual estimate of the receipts by the Property Tax Exemption Fund by February fifteenth of each year. This estimate shall be transmitted to the State Treasurer, Comptroller General, the Chairmen of the House Ways and Means Committee and the Senate Finance Committee and to each school district and county. No portion of these revenues may be credited to the Education Improvement Act (EIA) Fund.

(B) An unexpended balance in the Property Tax Exemption Fund at the end of a fiscal year must remain in the Homestead Exemption Fund. Beginning in Fiscal Year 2011-2012 and every fiscal year thereafter, any unexpended balance at the end of a fiscal year must be expended in the following fiscal year to increase the exemption provided on six percent property pursuant to Section 12-37-220(e) to the maximum percentage amount. Any increase in the percentage amount is only for the fiscal year following the end of the fiscal year in which there is an unexpended balance.

(C) Earnings on the Property Tax Exemption Fund must be credited to the Property Tax Exemption Fund.

(D) Nothing in this section prohibits appropriations by the General Assembly of additional revenues to the Property Tax Exemption Fund.

(E) Revenues credited to this fund must be used as provided pursuant to Section 11‑11‑236.”

SECTION 3. Section 12‑37‑220(B) of the 1976 Code is further amended by adding three appropriately numbered items at the end to read:

“( )(a) Effective for property tax years beginning after 2010 and to the extent not already exempt pursuant to Section 12‑37‑250, one hundred percent of the fair market value of owner‑occupied residential property eligible for and receiving the special assessment ratio allowed owner‑occupied residential property pursuant to Section 12‑43‑220(c) is exempt from all property taxes imposed for county, city, and school operating purposes but not including millage imposed for the repayment of general obligation debt.

(b) Notwithstanding any other provision of law, property exempted from property tax in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15 of Article X of the Constitution of this State.

(c) The exemptions allowed by this item may not be deleted or reduced except by a legislative enactment receiving a recorded rollcall vote of at least a two‑thirds majority of the membership of each house of the General Assembly.

( )(a) Effective for property tax years beginning after 2010 and to the extent not already exempt, one hundred percent of the fair market value of property eligible for the ten and one-half percent ratio allowed pursuant to Section 12-43-220(a), is exempt from all property taxes imposed for county, city, or school operating purposes but not including millage imposed for the repayment of general obligation debt.

(b) Notwithstanding any other provision of law, property exempted from property tax in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15 of Article X of the Constitution of this State.

(c) The exemptions allowed by this item may not be deleted or reduced except by a legislative enactment receiving a recorded rollcall vote of at least a two‑thirds majority of the membership of each house of the General Assembly.

( )(a) Effective for property tax years beginning after 2010 and to the extent not already exempt, fifteen percent of the fair market value of property eligible for the six percent ratio allowed pursuant to Section 12-43-220(e), is exempt from all property taxes imposed for county, city, and school operating purposes but not including millage imposed for the repayment of general obligation debt. In any fiscal year in which the Property Tax Exemption Fund has excess funds at the end of the fiscal year, the exemption provided in this subsection shall be increased in the following fiscal year pursuant to Section 11-11-230(B) to maximize the exemption; however, any increase in the percentage amount is only for the fiscal year following the end of the fiscal year in which there is an unexpended balance.

(b) Notwithstanding any other provision of law, property exempted from property tax in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15 of Article X of the Constitution of this State.

(c) The exemptions allowed by this item may not be deleted or reduced except by a legislative enactment receiving a recorded rollcall vote of at least a two‑thirds majority of the membership of each house of the General Assembly.”

SECTION 4. Section 12-6-530 of the 1976 Code is repealed.

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

“Section 11‑11‑236. (A)(1) Beginning with fiscal year 2011‑2012, counties, cities, and school districts of this State must be reimbursed from the Property Tax Exemption Fund in the manner provided in this subsection. The Comptroller General shall pay these reimbursements upon application of the county, city and school district and the reimbursements for fiscal year 2011-2012 shall be equal to the amount estimated to be collected or reimbursed in fiscal year 2010‑2011 by the county, city, and school district from operating millage imposed on four percent property pursuant to Section 12-43-220(c), operating millage imposed on ten and one-half percent property pursuant to Section 12-43-220(a), and fifteen percent of the operating millage imposed on six percent property pursuant to Section 12-43-220(e).

(2) Beginning in fiscal year 2011-2012 a county, city, and school district shall receive in reimbursements what it received in fiscal year 2010-2011 plus the reimbursement increases provided for in item (3).

(3) Beginning with the fiscal year 2011‑2012 reimbursements, these reimbursements must be increased on an annual basis by an inflation factor equal to the percentage increase in the previous year of the Consumer Price Index, Southeast Region, as published by the United States Department of Labor, Bureau of Labor Statistics plus the percentage increase in the previous year in the population of the State as determined by the Office of Research and Statistics of the State Budget and Control Board. Distribution of these reimbursement increases shall be as provided in this subsection.

(4) The percentage of population growth in any year for any county, city, and school district entitled to reimbursements from the Property Tax Exemption Fund shall be based on estimates for such growth in the county, city, and school district as determined by the Office of Research and Statistics of the State Budget and Control Board. Where the school district encompasses areas in more than one county, the population growth in that entity shall be the average of the growth in each county weighted to reflect the existing population of the school district in that county as compared to the existing population of the school district as a whole.

(5) Upon the beginning of reimbursements for a particular year, the reimbursements must be paid to counties, cities, and school districts on or after January first of that year.

(6) To the extent revenues in the Property Tax Exemption Fund are insufficient to pay all reimbursements to the counties, cities, and school districts required by this subsection, the difference must be paid from the state general fund.

(7) Operating millage levied in a county for alternative schools, career and technology centers, and county boards of education whether or not levied countywide or on a school district by school district basis in a county also is considered school operating millage to which the reimbursements provided for in this section apply.

(8) Reimbursements to a school district under this subsection shall be considered in the computation of the required Education Improvement Act maintenance of local effort.”

SECTION 6. Except as otherwise stated in this act, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator BRIGHT explained the amendment.

**Point of Order**

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

Senator BRIGHT spoke on the Point of Order.

The ACTING PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

**Amendment No. 18**

Senator SHEHEEN proposed the following Amendment No. 18 (3272R010.VAS), which was tabled:

Amend the bill, as and if amended, in SECTION 2 A, by striking Section 12-37-3150(B)(15).

Renumber sections to conform.

Amend title to conform.

Senator SHEHEEN explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

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

**Ayes 27; Nays 13**

**AYES**

Alexander Anderson Bright

Bryant Campbell Cleary

Courson Davis Elliott

Fair Grooms Hayes

Knotts Leatherman *Martin, Larry*

*Martin, Shane* McConnell McGill

Mulvaney O’Dell Peeler

Rankin Rose Ryberg

Thomas Verdin Williams

**Total--27**

**NAYS**

Campsen Coleman Cromer

Hutto Land Leventis

Malloy Matthews Nicholson

Pinckney Scott Setzler

Sheheen

**Total—13**

The amendment was laid on the table.

**Amendment No. 5**

Senator ROSE proposed the following Amendment No. 5 (3272R005.MTR), which was tabled:

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

/ SECTION \_\_\_. Notwithstanding any other provision of law, for a parcel of real property subject to the six percent assessment ratio provided by Section 12-43-220(e) that has undergone an assessable transfer of interest since the effective date of Act 388 of 2006 and prior to property tax year 2010, there is allowed a one hundred percent exemption for property tax years after 2009 for the amount of increase in the fair market value for assessment purposes attributable to the assessable transfer of interest. For any subsequent transfer of interest after property tax year 2009, the purchaser of the property is allowed the exemption provided by this section and any additional exemption provided by law. /

Renumber sections to conform.

Amend title to conform.

Senator ROSE explained the amendment.

Senator ALEXANDER argued contra to the adoption of the amendment.

Senator ALEXANDER moved to lay the amendment on the table.

The amendment was laid on the table.

**Statement by Senator ROSE**

I withdrew Amendment Nos. 6, 14 and 16 because (1) it was clear that those amendments would be tabled in order to preserve a compromise reached by parties affected by H. 3272; (2) problems with some of the amendments emerged during the debate on the amendments; and (3) the Chairman of the Senate Finance Committee pledged to the Senate that in return he would allow a good faith Finance subcommittee hearing on one or more Bills to be introduced by me containing the substance of those amendments.

The question then was the second reading of the Bill.

Senator McCONNELL asked unanimous consent to make a motion that in lieu of taking a roll call vote on second reading, the Senate would defer to third reading the taking of a roll call vote.

There was no objection.

**Objection**

Senator ROSE asked unanimous consent to make a motion to take a roll call vote on the motion to table Amendment No. 5.

Senator LEATHERMAN objected.

**Motion to Reconsider Vote on Amendment No. 5 Adopted**

Having voted on the prevailing side, Senator SHEHEEN moved to reconsider the vote whereby the amendment was laid on the table.

The motion to reconsider was adopted.

The question then was the adoption of Amendment No. 5

Senator McCONNELL moved to lay the amendment on the table.

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

**Ayes 24; Nays 13**

**AYES**

Alexander Anderson Campbell

Courson Elliott Fair

Hayes Hutto Knotts

Land Leatherman Malloy

*Martin, Larry* Matthews McConnell

McGill Nicholson O’Dell

Pinckney Rankin Setzler

Sheheen Thomas Williams

**Total--24**

**NAYS**

Bright Bryant Campsen

Coleman Cromer Davis

Grooms Mulvaney Peeler

Rose Ryberg Scott

Verdin

**Total--13**

Amendment No. 5 was laid on the table.

**Statement by Senator McCONNELL**

While I supported the idea of this amendment and would support it in separate legislation, I voted to table it because it is important to get something done this year for the benefit of taxpayers and our economy. This amendment would likely undo a compromise and make legislative action difficult before we adjourn. Should the compromise fall apart, I will support this amendment when it is offered.

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

The Bill was returned to the Calendar in the category of Special Order.

**Recorded Vote**

Senators SHEHEEN, MALLOY and MATTHEWS desired to be recorded as voting against the second reading of the Bill.

**Statement by Senator GROOMS**

I voted against this proposal because it does not correct the property tax inequities created by the assessable transfer of interest.  Should this proposal become law, it will make bad policy better but it will still be bad policy.  The only way to correct the inequities with the assessable transfer of interest is to eliminate it.  Unfortunately, my amendment failed and the Senate has placed yet another band-aid on a seriously flawed tax system.

**LOCAL APPOINTMENTS**

**Confirmations**

Having received a favorable report from the Senate, the following appointments were confirmed in open session:

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Jason Thomas Wall, 448 Old Boiling Springs Road, Spartanburg, SC 29303

Initial Appointment, Fairfield County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Michael Paul Swearingen, Koon and Cook, PA, 229 South Congress Street, P. O. Box 488, Winnsboro, SC 29180 *VICE* William M. Estes III

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

Samuel Franklin Adams, 105 Meadow Lake Drive, Inman, SC 29349

Reappointment, Spartanburg County Magistrate, with the term to commence April 30, 2007, and to expire April 30, 2011

James B. Paslay, 803 Lucerne Dr., Spartanburg, SC 29302

**MOTION ADOPTED**

On motion of Senator SCOTT, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. E. Perry Palmer of Columbia, S.C. Mr. Palmer was the President and Funeral Director of Palmer Memorial Chapel and was a successful businessman and philanthropist. He was a loving husband, devoted father and doting grandfather.

and

**MOTION ADOPTED**

On motion of Senator HAYES, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Melvin L. Roberts of York, S.C.

**ADJOURNMENT**

At 6:47 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 1:00 P.M.

**Recorded Vote**

Senators BRIGHT and BRYANT desired to be recorded as voting against the motion to adjourn.

\* \* \*