**Thursday, March 25, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

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

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

We all know the story of Cain and Abel as we find it in Genesis:

“Then the Lord said to Cain, ‘Where is your brother, Abel?’ ‘I don’t know,’ he replied. ‘Am I my brother’s keeper?’ ”

(Genesis 4:9)

Let us bow in prayer:

In the Book of Genesis, we are reminded, O God, that we do, indeed, have a measure of responsibility for the well-being of our sisters and our brothers. Long gone are any ideas that we live in a vacuum, untouched by those around us, with no concern for anyone except ourselves. Dear Lord, even in these difficult days, help everyone in this Senate and in this State House to reflect upon how our lives are indeed interrelated, how we frequently need to show our love and care for the needy and the lost. And may we do so to Your glory and in Your loving name, O 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**

Reappointment, Spartanburg County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Cynthia W. Church, 108 Cumberland Drive, Moore, SC 29369

Reappointment, Spartanburg County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Frederick Donald Watson, 150 Kelseys Mill Road, Campobello, SC 29322-8806

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

William Clayton Driggers, P. O. Box 163, Salters, SC 29590

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Martin Ira Easler, 196 Richburg Rd., Greeleyville, SC 29056

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Randy Brice Foxworth, 97 Crestwood Dr., Andrews, SC 29510

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Delores Franklin Williams, 4804 Nesmith Road, Nesmith, SC 29580

**Leave of Absence**

On motion of Senator KNOTTS, at 11:05 A.M., Senator CAMPBELL was granted a leave of absence for today.

**Leave of Absence**

At 11:55 A.M., Senator LOURIE requested a leave of absence until 12:45 P.M.

**Leave of Absence**

On motion of Senator COURSON, at 1:20 P.M., Senator HAYES was granted a leave of absence for the balance of the day.

**CO-SPONSORS ADDED**

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

S. 1 Sen. Rankin

S. 2 Sen. Rankin

S. 134 Sen. Campsen

S. 1024 Sens. Knotts, Setzler

S. 1057 Sen. McGill

S. 1128 Sen. Rankin

S. 1249 Sen. McConnell

S. 1267 Sens. Scott, Hutto

S. 1291 Sen. O’Dell

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1311 -- Senators L. Martin and Alexander: A SENATE RESOLUTION TO RECOGNIZE SAFE KIDS UPSTATE, A PROGRAM LED BY CHILDREN'S HOSPITAL OF GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER, FOR FIFTEEN YEARS OF DISTINGUISHED SERVICE IN PROTECTING CHILDREN FROM UNINTENTIONAL INJURIES.

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The Senate Resolution was adopted.

S. 1312 -- Education Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO REQUIREMENTS FOR ADDITIONAL AREAS OF CERTIFICATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4117, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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Read the first time and ordered placed on the Calendar without reference.

S. 1313 -- Senator McConnell: A BILL TO AMEND CHAPTER 15, TITLE 17 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 17-15-110, SO AS TO PROVIDE THAT IF A PERSON IS CONVICTED OF COMMITTING OR ATTEMPTING TO COMMIT A GENERAL SESSIONS OFFENSE WHILE ON A BAIL BOND OR PERSONAL RECOGNIZANCE BOND, THE PERSON MUST BE IMPRISONED FOR FIVE YEARS IN ADDITION TO THE PUNISHMENT PROVIDED FOR THE PRINCIPAL OFFENSE.

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

S. 1314 -- Senator McConnell: A BILL TO AMEND CHAPTER 15, TITLE 17 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 17-15-55, SO AS TO PROVIDE THAT THE CIRCUIT COURT SHALL CONSIDER MOTIONS REGARDING RECONSIDERATION OF BOND FOR GENERAL SESSIONS OFFENSES SET BY A SUMMARY COURT JUDGE; TO PROVIDE THAT FURTHER DEFENSE MOTIONS TO RECONSIDER BOND MAY BE HEARD BY THE CIRCUIT COURT ONLY UPON THE DEFENDANT'S PRIMA FACIE SHOWING OF A MATERIAL CHANGE IN CIRCUMSTANCE; TO PROVIDE THAT MOTIONS BY THE STATE TO REVOKE OR MODIFY A DEFENDANT'S BOND MUST BE MADE IN WRITING, STATE WITH PARTICULARITY THE GROUNDS FOR REVOCATION OR MODIFICATION, AND SET FORTH THE RELIEF OR ORDER SOUGHT; AND TO PROVIDE THAT, IF THE STATE'S MOTION TO REVOKE OR MODIFY BOND INCLUDES A PRIMA FACIE SHOWING OF IMMINENT DANGER TO THE COMMUNITY, OR IMMINENT DANGER TO THE DEFENDANT OR FLIGHT BY THE DEFENDANT, THE CHIEF JUDGE OR PRESIDING JUDGE SHALL CONDUCT OR ORDER AN EMERGENCY HEARING WITHIN FORTY-EIGHT HOURS.

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

S. 1315 -- Senator Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-101-45 SO AS TO PROVIDE THAT ALL MEMBERS OF THE BOARDS OF TRUSTEES OF ALL PUBLIC COLLEGES AND UNIVERSITIES OF THIS STATE MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE, TO PROVIDE FOR THE EXPIRATION OF THE TERMS OF OFFICE OF CURRENT BOARD MEMBERS, TO PROVIDE FOR THE TERM LENGTH AND COMMENCEMENT OF TERMS OF NEWLY APPOINTED BOARD MEMBERS, AND TO PROVIDE THAT THE SENATE SHALL CONVENE A COMMITTEE TO SCREEN POTENTIAL CANDIDATES FOR THE RESPECTIVE BOARDS.

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

S. 1316 -- Senator Campsen: A BILL TO AMEND ARTICLE 1, CHAPTER 53, TITLE 44 OF THE 1976 CODE, BY ADDING SECTION 44-53-55 TO PROVIDE THAT ENGINE COOLANT AND ANTIFREEZE MANUFACTURED OR SOLD IN THE STATE SHALL INCLUDE A BITTERING AGENT, TO PROVIDE THAT MANUFACTURERS KEEP A RECORD OF BITTERING AGENTS USED, TO PROVIDE EXEMPTIONS FROM CERTAIN LIABILITIES, AND TO PROVIDE EXCEPTIONS.

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

S. 1317 -- Senators Bright, Alexander, Anderson, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Mulvaney, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A SENATE RESOLUTION TO COMMEND AND CONGRATULATE MRS. CLARA EDWARDS OF SPARTANBURG COUNTY AS SENIOR OF THE DAY.

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Senators BRIGHT and S. MARTIN spoke on the Resolution.

The Senate Resolution was adopted.

S. 1318 -- Senator Nicholson: A SENATE RESOLUTION TO CONGRATULATE THE LANDER UNIVERSITY WOMEN'S BASKETBALL TEAM FOR THEIR MOST SUCCESSFUL SEASON IN SCHOOL HISTORY, FOR BEING THE REGULAR SEASON CHAMPIONS OF THE PEACH BELT CONFERENCE, AND FOR BEING THE NUMBER ONE SEED IN THE SOUTHEAST REGION OF THE NCAA TOURNAMENT.

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The Senate Resolution was adopted.

S. 1319 -- Senator Elliott: A SENATE RESOLUTION TO RECOGNIZE THE MANY AND VARIED ACCOMPLISHMENTS OF SOUTH CAROLINA NATIVE, MONICA C. BRISBON, AND TO RECOGNIZE HER EXCELLENCE IN THE CLASSROOM AND HER CONTRIBUTIONS TO HER FAITH AND COMMUNITY.

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The Senate Resolution was adopted.

S. 1320 -- Senator Elliott: A SENATE RESOLUTION TO HONOR PHOTOGRAPHER JACK THOMPSON OF MYRTLE BEACH FOR HIS NEARLY SIXTY YEARS OF CAPTURING THE HISTORY OF MYRTLE BEACH ON FILM AND IN PRINT.

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The Senate Resolution was adopted.

S. 1321 -- Senators Scott, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Mulvaney, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO DECLARE THE MONTH OF SEPTEMBER 2010 YOUTH AWARENESS MONTH IN SOUTH CAROLINA AND TO ENCOURAGE ALL CITIZENS OF THIS GREAT STATE TO PROMOTE STRONG FAMILIES AND PARENTING, ALONG WITH YOUTH PROGRAMS AND JOBS.

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Senator SCOTT spoke on the Resolution.

The Concurrent Resolution was introduced and referred to the General Committee.

S. 1322 -- Senators O'Dell and Verdin: A CONCURRENT RESOLUTION TO ADMONISH THE ATTORNEY GENERAL OF SOUTH CAROLINA TO DETERMINE AND CARRY OUT THE MOST EXPEDITIOUS STRATEGY TO ASSURE THAT "BIG RED”, THE CITADEL BATTLE FLAG, SHALL REMAIN IN SOUTH CAROLINA PERMANENTLY AS AN IMPORTANT HISTORICAL ASSET OF SOUTH CAROLINA.

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The Concurrent Resolution was introduced and referred to the General Committee.

S. 1323 -- Senators Matthews, Elliott, Malloy, Leventis, Leatherman, Land, McGill and Williams: A BILL TO AMEND TITLE 11 OF THE 1976 CODE, RELATING TO PUBLIC FINANCE, BY ADDING CHAPTER 54 TO ESTABLISH THE "I-95 CORRIDOR AUTHORITY ACT" AND TO PROVIDE FOR THE COMPOSITION, DUTIES, AND POWERS OF THE AUTHORITY.

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

S. 1324 -- Senators Scott, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Mulvaney, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO DECLARE THE MONTH OF OCTOBER 2010 AS GANG AWARENESS MONTH IN SOUTH CAROLINA IN ORDER TO RAISE PUBLIC AWARENESS OF THE INCREASING PROBLEM OF CRIMINAL GANG ACTIVITY IN OUR STATE.

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The Concurrent Resolution was introduced and referred to the General Committee.

S. 1325 -- Senators Coleman, Scott, Hutto, Fair, Thomas and Matthews: A BILL TO AMEND SECTION 44-96-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN THE "SOUTH CAROLINA SOLID WASTE POLICY AND MANAGEMENT ACT OF 1991", SO AS TO REVISE THE DEFINITION OF "SOLID WASTE MANAGEMENT FACILITY" TO EXEMPT A WASTE TO ENERGY FACILITY FROM THIS DEFINITION AND TO DEFINE "WASTE TO ENERGY FACILITY"; AND BY ADDING SECTION 44-96-345 SO AS TO PROVIDE THAT THESE FACILITIES WITH A DAILY CAPACITY IN EXCESS OF SIX HUNDRED TONS MAY NOT BE PERMITTED, TO PROVIDE AN EXCEPTION, AND TO PROVIDE OTHER APPLICATION, PERMITTING, SITING, FACILITY DESIGN, AND OPERATIONAL REQUIREMENTS.

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

H. 4347 -- Reps. Cooper and White: A BILL TO AMEND SECTION 2-7-71, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAX BILLS AND REVENUE IMPACT STATEMENTS, SO AS TO PROVIDE THAT THE REVENUE IMPACT STATEMENT MUST BE SIGNED BY THE CHIEF ECONOMIST OF THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD; AND TO AMEND SECTION 2-7-78, RELATING TO THE CERTIFICATION OF A REVENUE IMPACT OF A PROVISION FOR PURPOSES OF ITS INCLUSION IN THE ANNUAL GENERAL APPROPRIATIONS BILL AND CHANGES IN THE OFFICIAL REVENUE ESTIMATE, SO AS TO PROVIDE THAT THE REVENUE IMPACTS MUST BE CERTIFIED BY THE CHIEF ECONOMIST OF THE OFFICE OF RESEARCH AND STATISTICS AND THAT THE BOARD OF ECONOMIC ADVISORS SHALL ADJUST ITS ESTIMATES TO REFLECT THESE CERTIFICATIONS AND MAKE OTHER ADJUSTMENTS IT CONSIDERS NECESSARY IN THE FINAL VERSION OF THE ANNUAL GENERAL APPROPRIATIONS BILL.

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

H. 4503 -- Reps. M. A. Pitts, R. L. Brown and Whipper: A BILL TO AMEND SECTION 44-53-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RESTRICTIONS ON THE USE, SALE, OR MANUFACTURE OF CLEANING AGENTS CONTAINING PHOSPHATES, SO AS TO ADD HOUSEHOLD DISHWASHING DETERGENT TO THE CLEANING PRODUCTS INCLUDED IN THE RESTRICTION ON PHOSPHATES.

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

H. 4563 -- Rep. Vick: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39-25-115 SO AS TO REQUIRE THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE TO PROMULGATE REGULATIONS RELATING TO PRESCRIBED CONDITIONS FOR THE ISSUANCE OF PERMITS FOR THE MANUFACTURING, PROCESSING, OR PACKAGING OF FOODS UNDER CERTAIN CONDITIONS, AND TO ALLOW AN OFFICER OR EMPLOYEE OF THE COMMISSIONER TO HAVE ACCESS TO A FACTORY OR ESTABLISHMENT OWNED BY A PERMIT HOLDER TO ASCERTAIN COMPLIANCE WITH THE PERMIT CONDITIONS; BY ADDING SECTION 39-25-210 SO AS TO REQUIRE A PERSON ENGAGED IN MANUFACTURING, PROCESSING, OR PACKAGING FOODS TO FIRST OBTAIN A PERMIT FROM THE DEPARTMENT OF AGRICULTURE, TO PROVIDE FOR THE RENEWAL OF PERMITS, AND TO PROVIDE PENALTIES FOR FAILURE TO OBTAIN A PERMIT; TO AMEND SECTION 39-25-30, RELATING TO PROHIBITED ACTS, SO AS TO INCLUDE OPERATING WITHOUT A VALID PERMIT; TO AMEND SECTION 39-25-180, RELATING TO PROMULGATION OF REGULATIONS BY THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE, SO AS TO INCLUDE REGULATIONS RELATING TO GOOD MANUFACTURING PRACTICE, THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS, ACIDIFIED FOODS, FISH AND FISHERY PRODUCTS, HAZARD ANALYSIS AND CRITICAL CONTROL POINT SYSTEMS, AND FOOD ALLERGEN AND LABELING; AND TO AMEND SECTION 39-25-190, RELATING TO AUTHORITY TO ENTER AND INSPECT A PREMISES, SO AS TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE MAY PERFORM LABORATORY SERVICES, AND TO PROVIDE FOR THE PAYMENT OF FEES FOR THOSE SERVICES.

Read the first time and referred to the Committee on Agriculture and Natural Resources.

H. 4768 -- Reps. Neilson, Cobb-Hunter, Skelton, Bales and McLeod: A JOINT RESOLUTION TO CREATE THE SUZANNE KIRSH TASK FORCE ON LONG TERM CARE IN SOUTH CAROLINA.

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

H. 4778 -- Reps. Barfield and Hearn: A CONCURRENT RESOLUTION TO CONGRATULATE PAM ALLSBROOK, LEAD FLOAT NURSE FOR THE HORRY COUNTY SCHOOLS, ON BEING NAMED SOUTH CAROLINA SCHOOL NURSE OF THE YEAR.

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

**REPORTS OF STANDING COMMITTEES**

**Invitations Accepted**

The following invitations were polled favorably from the Invitations Committee and the members voting as follows:

**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**

**Tuesday, April 6, 2010 - 6:00 p.m. - 8:00 p.m.**

Members of the Senate, Reception, Marriott Hotel, by **sc chamber of commerce**

**Tuesday, April 13, 2010 - 6:00 p.m. - 8:00 p.m.**

Members of the Senate, Reception, Clarion Town House Hotel, by **SC ASSOCIATION OF MUNICIPAL POWER SYSTEMS**

**Wednesday, April 14, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate and Staff, Breakfast, Room 112, Blatt Building, by **NATIONAL MULTIPLE SCLEROSIS SOCIETY**

**Wednesday, April 14, 2010 - 11:30 a.m. - 2:00 p.m.**

Members of the Senate, Luncheon, Room 112, Blatt Building, by **AMI KIDS - ASSOCIATED MARINE INSTITUTES OF SC**

**Thursday, April 15, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate and Staff, Breakfast, Room 112, Blatt Building, by **SC DENTAL ASSOCIATION**

**Tuesday, April 20, 2010 - 6:30 p.m. - 10:00 p.m.**

Members of the Senate and Spouse or Guest, 35th Annual Citadel Alumni Association Barbecue, Americraft-Cantey Building, State Fairgrounds, by **CITADEL ALUMNI ASSOCIATION**

**Wednesday, April 21, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate and Staff, Breakfast, Marriott Hotel, by **CHILDREN’S TRUST OF SC**

**Wednesday, April 21, 2010 - 12:00 - 2:00 p.m.**

Members of the Senate and Staff, Taste of SC, State House Grounds, by **HOSPITALITY ASSOCIATION OF SC**

**Wednesday, April 21, 2010 - 6:00 p.m. - 8:00 p.m.**

Members of the Senate and Staff, Reception, The Vista Room at the Blue Marlin by **SC JUNIOR GOLF FOUNDATION**

**Thursday, April 22, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate and Staff, Breakfast, Room 112, Blatt Building, by **ASSOCIATION OF SC LIFE INSURANCE COMPANIES**

**Tuesday, April 27, 2010 - 6:00 p.m. - 9:00 p.m.**

Members of the Senate and Staff, BBQ and Reception, 1114 College Street, by **SC BEER WHOLESALERS ASSOCIATION**

**Wednesday, April 28, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate, Breakfast, Room 112, Blatt Building, by

**SC HOME EDUCATORS’ ASSOCIATION**

**Wednesday, April 28, 2010 - 12:00 - 2:00 p.m.**

Members of the Senate and Staff, Luncheon, Room 112, Blatt Building, by **SC SOLUTIONS**

**Wednesday, April 28, 2010 - 6:00 p.m. - 8:00 p.m.**

Members of the Senate, Reception, University House, 911 S. Stadium Road, by **SOUTH CAROLINA BAR**

**Thursday, April 29, 2010 - 8:00 a.m. - 10:00 a.m.**

Members of the Senate and Staff, Breakfast, Room 112, Blatt Building, by **SC HEATING AND AIR ASSOCIATION**

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

S. 134 -- Senators Sheheen, Verdin and Fair: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑1‑435 SO AS TO ENACT THE “RELIGIOUS VIEWPOINTS ANTIDISCRIMINATION ACT”, WHICH PROHIBITS A SCHOOL DISTRICT FROM DISCRIMINATING AGAINST A STUDENT BASED ON RELIGIOUS VIEWPOINT, ALLOWS A STUDENT TO EXPRESS HIS RELIGIOUS VIEWPOINT, ALLOWS A STUDENT TO EXPRESS HIS RELIGIOUS BELIEFS IN HOMEWORK AND CLASSROOM ASSIGNMENTS, AND ALLOWS STUDENTS TO ORGANIZE AND PARTICIPATE IN RELIGIOUS STUDENT GATHERINGS TO THE SAME EXTENT AS SECULAR NONCURRICULAR GROUPS.

Ordered for consideration tomorrow.

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

S. 789 -- Senators Rose, S. Martin, Davis, Bright, Shoopman, Williams, Bryant, Peeler, Thomas and Campsen: A BILL TO AMEND ARTICLE 1, CHAPTER 103, TITLE 59 OF THE 1976 CODE, RELATING TO THE COMMISSION ON HIGHER EDUCATION, BY ADDING SECTION 59‑103‑115 TO PROVIDE THAT EACH PUBLIC INSTITUTION OF HIGHER LEARNING MUST MAINTAIN A DETAILED TRANSACTION REGISTER OF ALL FUNDS EXPENDED EACH MONTH AND POST THAT REGISTER ONLINE, AND TO PROVIDE THAT EACH PUBLIC INSTITUTION OF HIGHER LEARNING MUST POST ONLINE ALL OF ITS CREDIT CARD STATEMENTS AND THE CREDIT CARD STATEMENTS FOR CREDIT CARDS ISSUED TO PUBLIC OFFICIALS AND EMPLOYEES FOR PUBLIC USE.

Ordered for consideration tomorrow.

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

S. 953 -- Senator Jackson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑19‑117 SO AS TO REQUIRE AN INDIVIDUAL HIRED BY A SCHOOL DISTRICT TO SERVE IN ANY CAPACITY IN A PUBLIC SCHOOL WHICH REQUIRES DIRECT INTERACTION WITH STUDENTS TO UNDERGO A CRIMINAL RECORD SEARCH, TO REQUIRE EACH SCHOOL DISTRICT TO DEVELOP A WRITTEN POLICY ON THE CRIMINAL RECORD SEARCH, TO PROVIDE WHAT THE POLICY MUST INCLUDE, AND TO REQUIRE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO PROVIDE TRAINING TO APPROPRIATE SCHOOL DISTRICT PERSONNEL; AND TO AMEND SECTION 23‑3‑115, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO FIX THE FEE AT EIGHT DOLLARS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES.

Ordered for consideration tomorrow.

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

S. 1268 -- Senators Matthews, Scott and Williams: A BILL TO AMEND SECTION 59‑127‑20 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA STATE UNIVERSITY BOARD OF TRUSTEES, TO REMOVE TWO AT‑LARGE SEATS AND REPLACE THEM WITH TWO SEATS TO BE ELECTED BY THE SOUTH CAROLINA STATE UNIVERSITY NATIONAL ALUMNI ASSOCIATION.

Ordered for consideration tomorrow.

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

H. 4244 -- Rep. Limehouse: A BILL TO AMEND SECTION 59‑130‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COLLEGE OF CHARLESTON BOARD OF TRUSTEES, SO AS TO ADD AN ADDITIONAL TRUSTEE TO BE APPOINTED BY THE COLLEGE OF CHARLESTON ALUMNI ASSOCIATION BOARD OF DIRECTORS, TO SET HIS TERM, AND TO PROVIDE CRITERIA FOR HIS SELECTION.

Ordered for consideration tomorrow.

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

H. 4248 -- Reps. Horne, Allison, Daning, Long, Littlejohn, Wylie, Gunn, Ballentine, Clemmons and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑19‑115 SO AS TO REQUIRE A SUBSTITUTE TEACHER HIRED BY A LOCAL SCHOOL DISTRICT TO UNDERGO A CRIMINAL RECORD SEARCH, TO REQUIRE EACH SCHOOL DISTRICT TO DEVELOP A WRITTEN POLICY ON THE CRIMINAL RECORD SEARCH, TO PROVIDE WHAT THE POLICY MUST INCLUDE, AND TO REQUIRE THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION TO PROVIDE TRAINING TO APPROPRIATE SCHOOL DISTRICT PERSONNEL; AND TO AMEND SECTION 23‑3‑115, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO FIX THE FEE AT EIGHT DOLLARS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES.

Ordered for consideration tomorrow.

**HOUSE CONCURRENCES**

The following were returned with concurrence and received as information:

S. 1307 -- Senator Elliott: A CONCURRENT RESOLUTION TO COMMEND MONICA C. BRISBON, BUSINESS EDUCATION TEACHER AT CAROLINA FOREST HIGH SCHOOL IN HORRY COUNTY, FOR HER OUTSTANDING CONTRIBUTIONS TO HER SCHOOL AND COMMUNITY.

S. 1309 -- Senators Knotts and Setzler: A CONCURRENT RESOLUTION TO HONOR THE LIFE AND MEMORY OF CHARLES EDWARD TAYLOR, THE WORLD’S FIRST AIRPLANE MECHANIC, AND, WITH THE FEDERAL AVIATION ADMINISTRATION SOUTHERN REGION AND THE SOUTH CAROLINA AERONAUTICS COMMISSION, URGE THE CITIZENS OF SOUTH CAROLINA TO RECOGNIZE MAY TWENTY‑FOURTH OF EACH YEAR AS “AVIATION MAINTENANCE TECHNICIAN DAY” IN HONOR OF CHARLES EDWARD TAYLOR.

**RATIFICATION OF ACTS**

Pursuant to an invitation the Honorable Speaker and House of Representatives appeared in the Senate Chamber on March 25, 2010, at 12:15 P.M. and the following Acts and Joint Resolutions were ratified:

(R137, S. 19) -- Senator Fair: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑116‑45 SO AS TO PROVIDE THAT EVERY POLICE/SECURITY DEPARTMENT SHALL IMPLEMENT POLICIES AND PROCEDURES TO GOVERN THEIR OPERATIONS; TO AMEND SECTIONS 59‑116‑10, 59‑116‑20, 59‑116‑30, 59‑116‑50, 59‑116‑60, 59‑116‑80, 59‑116‑100, AND 59‑116‑120, RELATING TO THE ESTABLISHMENT, POWERS, AND OPERATION OF CAMPUS SECURITY DEPARTMENTS, SO AS TO REVISE THE DEFINITION OF THE TERMS “CAMPUS” AND “CAMPUS POLICE OFFICER”, AND TO DEFINE THE TERM “CAMPUS SECURITY OFFICER”, TO PROVIDE THAT THESE PROVISIONS APPLY TO PRIVATE INSTITUTIONS, TO MAKE TECHNICAL CHANGES, TO REVISE THE JURISDICTIONAL BOUNDARY OF A CAMPUS SECURITY OFFICER, AND TO REVISE THE MARKINGS THAT MAY APPEAR ON A CAMPUS POLICE OFFICER’S VEHICLE AND TO PROVIDE FOR THE USE OF CAMPUS UNMARKED VEHICLES; TO AMEND SECTION 59‑116‑50, RELATING TO THE RANKS AND GRADES OF CAMPUS POLICE OFFICERS, SO AS TO DELETE THE TERM “PUBLIC SAFETY DIRECTOR” AND REPLACE IT WITH THE TERM “CHIEF LAW ENFORCEMENT EXECUTIVE”, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THIS PROVISION APPLIES TO PRIVATE INSTITUTIONS; TO AMEND SECTION 59‑116‑60, RELATING TO CAMPUS POLICE VEHICLES AND RADIO SYSTEMS, SO AS TO SUBSTITUTE THE TERM “CAMPUS POLICE DEPARTMENT” FOR THE TERM “SAFETY AND SECURITY DEPARTMENT”; TO AMEND SECTION 59‑116‑80, RELATING TO IMPERSONATING A CAMPUS POLICE OFFICER, SO AS TO SUBSTITUTE THE TERM “CAMPUS SECURITY DEPARTMENT” FOR THE TERM “SAFETY AND SECURITY DEPARTMENT”; TO PROVIDE THAT THIS PROVISION APPLIES TO A PRIVATE COLLEGE OR UNIVERSITY, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 59‑116‑100, RELATING TO THE PROCESSING OF A PERSON ARRESTED BY A CAMPUS POLICE OFFICER, SO AS TO PROVIDE THAT THIS PROVISION ALSO APPLIES TO THE ARREST OF A PERSON BY A CAMPUS SECURITY OFFICER; TO AMEND SECTION 59‑116‑120, RELATING TO COLLEGES AND UNIVERSITIES EMPLOYING SECURITY PERSONNEL, SO AS TO PROVIDE THAT THIS PROVISION APPLIES TO PRIVATE COLLEGES AND UNIVERSITIES, AND TO MAKE TECHNICAL CHANGES; AND TO REPEAL SECTION 59‑116‑70 RELATING TO THE POSTING OF A BOND BY A CAMPUS POLICE OFFICER BEFORE THE ASSUMPTION OF THEIR DUTIES.

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(R138, S. 21) -- Senator Hayes: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 47 TO TITLE 15 SO AS TO ENACT THE “UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT”, TO PROVIDE AN EFFICIENT AND INEXPENSIVE PROCEDURE FOR LITIGANTS TO DEPOSE OUT‑OF‑STATE INDIVIDUALS AND FOR THE PRODUCTION OF DISCOVERABLE MATERIALS THAT MAY BE LOCATED OUT OF STATE.

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(R139, S. 188) -- Senators McConnell and Ford: AN ACT TO AMEND SECTIONS 44‑34‑60 AND 44‑34‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AGE RESTRICTIONS ON TATTOOING, SO AS TO PROVIDE THAT PERSONS EIGHTEEN OR OLDER ARE ELIGIBLE TO RECEIVE A TATTOO.

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(R140, S. 191) -- Senators McConnell, Malloy, Campsen, Sheheen, Rose, Campbell and Knotts: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SOUTH CAROLINA REDUCTION OF RECIDIVISM ACT OF 2010” SO AS TO PROVIDE LAW ENFORCEMENT OFFICERS WITH THE STATUTORY AUTHORITY TO REDUCE RECIDIVISM RATES, APPREHEND CRIMINALS AND PROTECT POTENTIAL VICTIMS FROM CRIMINAL ENTERPRISES BY AUTHORIZING WARRANTLESS SEARCHES AND SEIZURES OF PROBATIONERS AND PAROLEES; TO AMEND SECTION 63‑19‑1820, RELATING TO THE BOARD OF JUVENILE PAROLE, SO AS TO PROVIDE THAT BEFORE A JUVENILE MAY BE CONDITIONALLY RELEASED, THE JUVENILE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 63‑19‑1850, RELATING TO CONDITIONAL RELEASE, SO AS TO PROVIDE THAT BEFORE A JUVENILE MAY BE CONDITIONALLY RELEASED, THE JUVENILE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑19‑110, RELATING TO THE PROCEDURE FOR CONDITIONAL RELEASE OF YOUTHFUL OFFENDERS, SO AS TO PROVIDE THAT BEFORE A YOUTHFUL OFFENDER MAY BE CONDITIONALLY RELEASED, THE YOUTHFUL OFFENDER MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑710, RELATING TO THE GUIDELINES, ELIGIBILITY CRITERIA, AND IMPLEMENTATION OF A SUPERVISED FURLOUGH PROGRAM, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON SUPERVISED FURLOUGH, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑720, RELATING TO INMATES WHO MAY BE PLACED WITHIN CERTAIN PROGRAMS, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON SUPERVISED FURLOUGH, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑13‑1330, RELATING TO AN ELIGIBLE INMATE’S AGREEMENT TO TERMS AND CONDITIONS, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON PAROLE, THE INMATE MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; TO AMEND SECTION 24‑21‑410, RELATING TO THE COURT BEING AUTHORIZED TO SUSPEND IMPOSITION OF SENTENCE FOR PROBATION AFTER CONVICTION, SO AS TO PROVIDE THAT BEFORE A DEFENDANT MAY BE PLACED ON PROBATION, THE DEFENDANT MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑430, RELATING TO THE CONDITIONS OF PROBATION, SO AS TO PROVIDE THAT THE CONDITIONS IMPOSED MUST INCLUDE THE REQUIREMENT THAT THE PROBATIONER MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT BASED ON REASONABLE SUSPICIONS; TO AMEND SECTION 24‑21‑560, RELATING TO COMMUNITY SUPERVISION PROGRAMS, SO AS TO PROVIDE THAT THE CONDITIONS OF PARTICIPATION MUST INCLUDE THE REQUIREMENT THAT THE OFFENDER MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT; TO AMEND SECTION 24‑21‑640, RELATING TO THE CIRCUMSTANCES WARRANTING PAROLE, SO AS TO PROVIDE THAT BEFORE AN INMATE MAY BE RELEASED ON PAROLE, THE INMATE MUST AGREE TO SEARCH AND SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE; AND TO AMEND SECTION 24‑21‑645, RELATING TO THE ORDER AUTHORIZING PAROLE, SO AS TO PROVIDE THAT THE CONDITIONS OF PAROLE MUST INCLUDE THE REQUIREMENT THAT THE PAROLEE MUST PERMIT SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE.

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(R141, S. 442) -- Senators Ryberg and Massey: AN ACT TO AMEND ACT 503 OF 1982, AS AMENDED, RELATING TO THE AIKEN COUNTY SCHOOL DISTRICT AND THE AIKEN COUNTY BOARD OF EDUCATION, SO AS TO REVISE THE AUTHORITY OF AREA ADVISORY COUNCILS ESTABLISHED BY THE BOARD AND TO REVISE THE REQUIREMENT THAT ADMINISTRATIVE AREAS HAVE AREA SUPERINTENDENTS.

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(R142, S. 914) -- Senator Land: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑13‑120 SO AS TO SET SIZE LIMITS, CATCH LIMITS, AND OTHER CATCH REQUIREMENTS FOR BLACK BASS (LARGEMOUTH) IN LAKE MARION, LAKE MOULTRIE, AND THE UPPER SANTEE RIVER, AND TO AMEND SECTION 50‑13‑385, AS AMENDED, RELATING TO SIZE LIMITS FOR BLACK BASS (LARGEMOUTH) IN CERTAIN SPECIFIED LAKES, SO AS TO DELETE LAKE MARION AND LAKE MOULTRIE.

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(R143, S. 929) -- Senators L. Martin and Elliott: AN ACT TO AMEND SECTION 41‑1‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO POSTING CERTAIN EMPLOYMENT NOTICES IN THE WORKPLACE, SO AS TO REMOVE A PROVISION REQUIRING NOTICE BE POSTED IN A ROOM WHERE FIVE OR MORE PEOPLE ARE EMPLOYED; TO AMEND SECTION 41‑3‑10, AS AMENDED, RELATING TO THE DIVISION OF LABOR WITHIN THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT, SO AS TO REMOVE THE PROVISION ESTABLISHING THE DIVISION; TO AMEND SECTION 41‑3‑40, AS AMENDED, RELATING TO THE DIRECTOR OF THE DEPARTMENT, SO AS TO REMOVE REFERENCES TO THE DIVISION OF LABOR; TO AMEND SECTIONS 41‑3‑50, AS AMENDED, 41‑3‑60, AS AMENDED, 41‑3‑100, AS AMENDED, 41‑3‑120, AS AMENDED, ALL RELATING TO VARIOUS LABOR AND EMPLOYMENT LAWS, SO AS TO MAKE CONFORMING CHANGES; AND TO REPEAL SECTION 41‑1‑40 RELATING TO REQUIRING AN EMPLOYER WHO REQUIRES NOTICE FROM AN EMPLOYEE QUITTING WORK TO POST NOTICE OF A SHUTDOWN, SECTION 41‑1‑50 RELATING TO THE ACCEPTANCE OF PAYMENT FROM A RELIEF FUND NOT BARRING A DAMAGES ACTION, SECTION 41‑3‑80 RELATING TO ENFORCEMENT OF THE FAIR LABOR STANDARDS ACT OF 1938, SECTION 41‑15‑10 RELATING TO LOCKING OF EMPLOYEES IN BUILDINGS, SECTION 41‑15‑50 RELATING TO REQUIRING A LIGHT AT AN ELEVATOR SHAFT ENTRANCE WHEN THE ELEVATOR IS IN OPERATION, ARTICLE 5, CHAPTER 3, TITLE 41 RELATING TO THE MIGRANT LABOR SUBDIVISION OF THE DEPARTMENT, CHAPTER 21, TITLE 41 RELATING TO VOLUNTARY APPRENTICESHIPS, AND CHAPTER 23, TITLE 41 RELATING TO AGRICULTURAL LABOR CONTRACTS.

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(R144, S. 963) -- Senators Knotts, Cromer, Courson and Setzler: AN ACT TO AMEND SECTION 7‑7‑380, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LEXINGTON COUNTY, SO AS TO REVISE AND RENAME CERTAIN VOTING PRECINCTS OF LEXINGTON COUNTY AND REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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(R145, S. 964) -- Senators Pinckney and Davis: AN ACT TO AMEND SECTION 59‑53‑2410, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITIES, SO AS TO CREATE THE TECHNICAL COLLEGE OF THE LOWCOUNTRY ENTERPRISE CAMPUS AUTHORITY.

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(R146, S. 975) -- Senator Campsen: AN ACT TO AMEND SECTION 50‑11‑65, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRAINING OF BIRD DOGS, SO AS 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.

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(R147, S. 1043) -- Senator Cleary: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, 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; TO REPEAL THE PROVISIONS OF THIS SECTION SIX YEARS AFTER THE EFFECTIVE DATE; AND TO REPEAL SECTION 50‑5‑2017 RELATING TO THE FLOUNDER POPULATION STUDY PROGRAM AND CATCH LIMITS.

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(R148, S. 1096) -- Senators McConnell, Alexander, Rankin, Hutto, Matthews, Leatherman, Land, Hayes, Anderson, Scott, Coleman, O’Dell, Nicholson, Setzler, Cleary, Courson, Verdin, L. Martin, Knotts, Lourie, Sheheen, Mulvaney, Campbell, S. Martin, Massey, Grooms, Davis, Shoopman, Thomas, Ford, Elliott, Rose and Malloy: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑37‑50, SO AS TO AUTHORIZE ELECTRICITY PROVIDERS AND NATURAL GAS PROVIDERS TO IMPLEMENT FINANCING AGREEMENTS FOR THE INSTALLATION OF ENERGY EFFICIENCY AND CONSERVATION IMPROVEMENTS; TO PROVIDE FOR THE RECOVERY OF THE FINANCING THROUGH CHARGES PAID FOR BY THE CUSTOMERS BENEFITTING FROM THE INSTALLATION OF THE ENERGY EFFICIENCY AND CONSERVATION MEASURES; TO PROTECT THE ENTITIES FROM LIABILITY FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF THE MEASURES; TO PROVIDE FOR THE INSTALLATION OF ENERGY EFFICIENCY AND CONSERVATION MEASURES IN RENTAL PROPERTIES; TO PROVIDE FOR AN ENERGY AUDIT BEFORE ENTERING INTO A FINANCING AGREEMENT; TO PROVIDE A MECHANISM FOR RECOVERY OF THE COSTS OF THE MEASURES INSTALLED IN RENTAL PROPERTIES; TO PROVIDE THAT THIS SECTION APPLIES TO CERTAIN ENERGY EFFICIENCY AND CONSERVATION MEASURES; TO PROVIDE THAT AN ELECTRICITY PROVIDER OR NATURAL GAS PROVIDER MAY NOT OBTAIN FUNDING FROM CERTAIN FEDERAL PROGRAMS; TO AMEND SECTION 8‑21‑310, AS AMENDED, RELATING TO THE SCHEDULE OF FEES AND COSTS TO BE COLLECTED BY CLERKS OF COURT AND REGISTERS OF DEEDS, SO AS TO ALLOW THEM TO CHARGE A FEE FOR FILING A NOTICE OF A METER CONSERVATION CHARGE; AND TO AMEND SECTION 27‑50‑40, RELATING TO DISCLOSURE STATEMENTS TO A PURCHASER OF REAL ESTATE, SO AS TO REQUIRE THE DISCLOSURE OF A METER CONSERVATION CHARGE BY SELLERS OF REAL PROPERTY.

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(R149, S. 1099) -- Senator McConnell: A JOINT RESOLUTION TO ADOPT REVISED CODE VOLUME 22 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO THE EXTENT OF ITS CONTENTS, AS THE ONLY GENERAL PERMANENT STATUTORY LAW OF THE STATE AS OF JANUARY 1, 2010.

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(R150, S. 1114) -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO CITRUS GREENING (CANDIDATUS LIBERIBACTER ASISTICUS) QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4105, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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(R151, S. 1115) -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION, RELATING TO PHYTOPHTHORA RAMORUM QUARANTINE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4106, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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(R152, S. 1127) -- Senators Campbell, Cleary, Alexander, Elliott, Grooms, Davis, McConnell, Verdin, Bryant, O’Dell, Peeler, Bright, Cromer, McGill, Shoopman, Leatherman, Rose and S. Martin: AN ACT TO AMEND SECTION 48‑1‑83 OF THE 1976 CODE, RELATING TO DISSOLVED OXYGEN CONCENTRATION DEPRESSION, SO AS TO PROVIDE THAT THE STANDARD FOR DISSOLVED OXYGEN IS 0.1 MG/L.

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(R153, 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.

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(R154, S. 1174) -- Senators Leatherman, O’Dell and Setzler: AN ACT TO AMEND SECTION 12‑6‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2009; TO ADOPT THE PROVISIONS OF PUBLIC LAW 111‑126 RELATING TO THE TIMING OF DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS FOR HAITI RELIEF; TO AMEND SECTION 12‑6‑50, AS AMENDED, RELATING TO PROVISIONS OF THE INTERNAL REVENUE CODE NOT ADOPTED BY STATE LAW, SO AS TO ADD PROVISIONS TO THOSE NOT ADOPTED; TO AMEND SECTION 12‑6‑3910, AS AMENDED, RELATING TO ESTIMATED STATE INCOME PAYMENTS, SO AS TO ALLOW THE DEPARTMENT OF REVENUE TO WAIVE PENALTIES ON CORPORATE TAXPAYERS WHO CALCULATE SOUTH CAROLINA ESTIMATED TAX PAYMENTS BASED ON FEDERAL ESTIMATED TAX PERIODS THAT DO NOT CONFORM TO STATE LAW; AND TO AMEND ACT 110 OF 2007 AND ACT 16 OF 2009, RELATING TO MISCELLANEOUS REVENUE PROVISIONS AND CONFORMITY OF STATE INCOME TAX LAW TO THE INTERNAL REVENUE CODE, SO AS TO DELETE OBSOLETE PROVISIONS.

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(R155, S. 1196) -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO WILDLIFE MANAGEMENT AREA REGULATIONS AND TURKEY HUNTING RULES AND SEASONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4090, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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(R156, H. 3170) -- Reps. Gunn, Wylie, Hart, Loftis, R.L. Brown, Whipper and King: A JOINT RESOLUTION TO CREATE THE JOINT ELECTRONIC HEALTH INFORMATION STUDY COMMITTEE TO EXAMINE THE FEASIBILITY OF INCREASING THE USE OF HEALTH INFORMATION TECHNOLOGY AND ELECTRONIC PERSONAL HEALTH RECORDS, TO PROVIDE FOR THE STUDY COMMITTEE’S MEMBERSHIP, AND TO REQUIRE THE STUDY COMMITTEE TO REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY BEFORE FEBRUARY 15, 2011, AT WHICH TIME THE STUDY COMMITTEE IS ABOLISHED.

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(R157, H. 3305) -- Reps. Bedingfield, Merrill, Bingham, Duncan, Loftis, G.R. Smith, Cato, Owens, Crawford, A.D. Young, Nanney, Bannister, Daning, Harrison, Horne, Kirsh, Lowe, Lucas, E.H. Pitts, Stringer, Thompson, Toole, Wylie, T.R. Young, Long, Rice, Parker, Allison, Littlejohn, Cole, Hiott, Edge, Whitmire, Hearn, Hardwick, D.C. Smith, Pinson, J.R. Smith, Simrill, Brantley, Willis, Hamilton, Erickson, Sottile, Scott, Harrell, Delleney, Gullick, Frye, Clemmons, G.M. Smith, Battle, Sandifer, Millwood, Haley, Ballentine, M.A. Pitts, Cooper, White, Gambrell, Bowen, Umphlett, Forrester, Barfield, Chalk, Herbkersman, Viers, Spires, Huggins, Limehouse, Stewart, Kelly, Brady and D.C. Moss: A JOINT RESOLUTION TO PROPOSE AN AMENDMENT TO ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE RIGHT OF SUFFRAGE, BY ADDING SECTION 12 SO AS TO GUARANTEE THE RIGHT OF AN INDIVIDUAL TO VOTE BY SECRET BALLOT FOR A DESIGNATION, A SELECTION, OR AN AUTHORIZATION FOR EMPLOYEE REPRESENTATION BY A LABOR ORGANIZATION.

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(R158, H. 3371) -- Reps. Harvin, Kennedy, Alexander, Funderburk, Gunn, Hart, McEachern, McLeod, Ott, J.E. Smith, Spires, Weeks and Bowers: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑243 SO AS PROVIDE FOR DEFINITIONS AND TO REGULATE A PROVIDER OF HEALTH CARE CONTRACTS AND ISSUERS OF CERTAIN INDIVIDUAL HEALTH INSURANCE WHEN A PROVIDER CONTRACT FOR HEALTH CARE SERVICES IS TERMINATED OR NONRENEWED; AND BY ADDING SECTIONS 38‑71‑246 AND 38‑71‑247 SO AS TO REQUIRE EACH PROVIDER CONTRACT TO CONTAIN CONTINUATION OF CARE PROVISIONS WITH A PLAIN LANGUAGE DESCRIPTION.

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(R159, H. 3442) -- Reps. Bingham, Harrell, Duncan, Harrison, Owens, Toole, Merrill, Brady, E.H. Pitts, G.M. Smith, Daning, Haley, Huggins, Cato, Ballentine, D.C. Smith, J.R. Smith, Rice, T.R. Young, Horne, Wylie, Bedingfield, Clemmons, Bales, Lucas, Neilson, Long, J.M. Neal and M.A. Pitts: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑29‑300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL AND PROVIDE FOR ITS COMPOSITION AND A METHOD OF SCREENING AND ELECTING MEMBERS AND A CHAIRMAN, TO PROVIDE A PARTY ONLY MAY APPEAL FROM A DECISION OF THE WORKFORCE DEPARTMENT TO THE PANEL, AND TO REQUIRE A QUORUM OF THE PANEL TO CONDUCT A HEARING OR DECIDE AN APPEAL; BY ADDING SECTION 41‑29‑310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO ADD THE DEPARTMENT OF WORKFORCE TO THE EXECUTIVE BRANCH OF STATE GOVERNMENT; TO AMEND SECTION 41‑29‑10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE CHAPTERS 27 THROUGH 41 OF TITLE 41 ARE ADMINISTERED BY THE DEPARTMENT, AND TO DELETE OTHER LANGUAGE IN THE SECTION; TO AMEND SECTION 41‑29‑20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR, TO PROVIDE THE DIRECTOR SERVES COTERMINOUS TO THE GOVERNOR AND MAYBE REMOVED BY THE GOVERNOR, AND TO PROVIDE THE DIRECTOR SHALL RECEIVE CERTAIN COMPENSATION; TO AMEND SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYMENT GRIEVANCE PROCEDURE, SO AS TO EXEMPT THE EXECUTIVE DIRECTOR, ASSISTANT DIRECTORS, AND AREA DIRECTORS OF THE DEPARTMENT OF WORKFORCE FROM THE STATE EMPLOYEE GRIEVANCE PROCEDURE; BY ADDING SECTION 41‑27‑650 SO AS TO PROVIDE THE DEPARTMENT MUST WORK IN CONJUNCTION WITH THE DEPARTMENT OF COMMERCE ON CERTAIN MATTERS AND IN CONJUNCTION WITH THE STATE BUDGET AND CONTROL BOARD ON CERTAIN MATTERS; TO AMEND SECTION 41‑33‑45, RELATING TO CERTAIN ANNUAL REPORTS REQUIRED OF THE DEPARTMENT, SO AS TO REQUIRE THE DEPARTMENT ANNUALLY MUST REPORT TO THE GENERAL ASSEMBLY, THE REVIEW COMMITTEE, AND THE GOVERNOR THE AMOUNT IN THE UNEMPLOYMENT TRUST FUND AND MAKE AN ASSESSMENT OF ITS FUNDING LEVEL, AND TO SPECIFY CERTAIN REQUIREMENTS OF THE REPORT; TO AMEND SECTION 41‑31‑10, AS AMENDED, RELATING TO GENERAL RATES OF EMPLOYMENT CONTRIBUTION TO THE UNEMPLOYMENT TRUST FUND, SO AS TO PROVIDE AN EMPLOYER MAY PREPAY HIS REQUIRED CONTRIBUTION TO THIS FUND, AND TO REQUIRE THE DEPARTMENT TO PROMULGATE REGULATIONS REGARDING THE METHODOLOGY FOR CALCULATING THESE PREPAYMENTS AND THE MANNER FOR CREDITING THESE PREPAYMENTS TO THE EMPLOYER’S ACCOUNT; TO AMEND SECTIONS 41‑27‑10, 41‑27‑30, 41‑27‑150, 41‑27‑160, 41‑27‑190, 41‑27‑210, AS AMENDED, 41‑27‑230, 41‑27‑235, AS AMENDED, 41‑27‑260, AS AMENDED, 41‑27‑360, 41‑27‑370, AS AMENDED, 41‑27‑380, 41‑27‑390, 41‑27‑510, 41‑27‑550, 41‑27‑560, 41‑27‑570, 41‑27‑580, 41‑27‑600, 41‑27‑610, 41‑27‑620, 41‑27‑630, 41‑29‑40, 41‑29‑50, 41‑29‑70, 41‑29‑80, 41‑29‑110, 41‑29‑130, 41‑29‑140, 41‑29‑150, 41‑29‑170, AS AMENDED, 41‑29‑180, 41‑29‑190, 41‑29‑200, 41‑29‑210, 41‑29‑220, 41‑29‑230, 41‑29‑240, 41‑29‑270, 41‑29‑280, 41‑29‑290, 41‑33‑10, 41‑33‑20, 41‑33‑30, 41‑33‑40, 41‑33‑45, 41‑33‑80, AS AMENDED, 41‑33‑90, 41‑33‑100, 41‑33‑110, 41‑33‑120, 41‑33‑130, 41‑33‑170, 41‑33‑180, 41‑33‑190, 41‑33‑200, 41‑33‑210, 41‑33‑430, 41‑33‑460, 41‑33‑470, 41‑33‑610, 41‑33‑710, 41‑35‑30, 41‑35‑100, 41‑35‑115, AS AMENDED, 41‑35‑125, 41‑35‑126, 41‑35‑130, AS AMENDED, 41‑35‑140, 41‑35‑330, 41‑35‑340, 41‑35‑410, 41‑35‑420, AS AMENDED, 41‑35‑450, 41‑35‑610, 41‑35‑630, 41‑35‑640, AS AMENDED, 41‑35‑670, 41‑35‑680, AS AMENDED, 41‑35‑690, 41‑35‑700, 41‑35‑710, AS AMENDED, 41‑35‑730, 41‑35‑740, 41‑35‑750, AS AMENDED, 41‑37‑20, 41‑37‑30, 41‑39‑30, 41‑39‑40, 41‑41‑20, AS AMENDED, 41‑41‑40, AS AMENDED, 41‑41‑50, 41‑42‑10, 41‑42‑20, 41‑42‑30, AND 41‑42‑40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 41‑29‑120, AS AMENDED, RELATING TO EMPLOYMENT STABILIZATION, SO AS TO REQUIRE ADDITIONAL MEASURES; TO AMEND SECTION 41‑29‑250, RELATING TO PUBLICATION AND FURNISHING OF CERTAIN MATERIAL, SO AS TO PROVIDE ADDITIONAL REQUIREMENTS; TO AMEND SECTION 41‑35‑110, AS AMENDED, RELATING TO CONDITIONS OF ELIGIBILITY FOR BENEFITS, SO AS TO MAKE A PERSON INELIGIBLE UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 41‑35‑120, AS AMENDED, RELATING TO DISQUALIFICATION FOR BENEFITS FOR USE OF ILLEGAL DRUGS, SO AS TO PROVIDE THIS DISQUALIFICATION MUST CONTINUE UNTIL CERTAIN CONDITIONS ARE SATISFIED; TO AMEND SECTION 41‑35‑720, RELATING TO THE CONDUCT OF APPEALED CLAIMS, SO AS TO PROVIDE THE DEPARTMENT MAY PROMULGATE REGULATIONS TO DETERMINE CERTAIN PROCEDURES; BY ADDING SECTION 41‑35‑760 SO AS TO PROVIDE THE DEPARTMENT MUST PROMULGATE CERTAIN REGULATIONS GOVERNING PROCEEDINGS AND OTHER CERTAIN MATTERS BEFORE THE DEPARTMENT, AND TO SPECIFY CERTAIN REQUIREMENTS FOR THESE REGULATIONS; BY ADDING SECTION 41‑35‑615 SO AS TO PROVIDE WHEN CERTAIN NOTICES GIVEN AN EMPLOYER MUST BE MADE BY UNITED STATES MAIL OR ELECTRONIC MAIL, AMONG OTHER THINGS; TO AMEND SECTION 41‑27‑590, RELATING TO THE PROSECUTION OF CERTAIN VIOLATIONS, SO AS TO PROVIDE THE DEPARTMENT MUST REFER CASES OF SIGNIFICANT CLAIMANT FRAUD OR SIGNIFICANT EMPLOYER FRAUD TO THE ATTORNEY GENERAL TO DETERMINE WHETHER PROSECUTION IS APPROPRIATE; BY ADDING ARTICLE 7 TO CHAPTER 13, TITLE 38 SO AS TO PROVIDE THE DEPARTMENT OF INSURANCE MUST CONDUCT CERTAIN EXAMINATIONS, INVESTIGATIONS, AND MAKE CERTAIN REPORTS RELATED TO THE UNEMPLOYMENT COMPENSATION FUND ADMINISTERED BY THE DEPARTMENT; BY ADDING ARTICLE 7 TO CHAPTER 27, TITLE 41 SO AS TO CREATE THE DEPARTMENT OF WORKFORCE REVIEW COMMITTEE, TO PROVIDE THE COMMITTEE’S COMPOSITION, DUTIES, POWERS, AND ENTITLEMENT TO EXPENSE REIMBURSEMENT; BY ADDING SECTION 41‑29‑35 SO AS TO PROVIDE FOR THE APPOINTMENT OF THE EXECUTIVE DIRECTOR, THE MANNER OF HIS APPOINTMENT, AND QUALIFICATIONS FOR THE POSITION; BY ADDING SECTION 41‑29‑25 SO AS TO PROVIDE FOR THE MANNER IN WHICH THE EXECUTIVE DIRECTOR MUST DISCHARGE HIS DUTIES, AMONG OTHER THINGS; TO REPEAL SECTION 41‑29‑30 RELATING TO THE APPOINTMENT OF A SECRETARY AND CHIEF EXECUTIVE OFFICER OF THE COMMISSION, SECTION 41‑29‑60 RELATING TO THE ORGANIZATION OF THE COMMISSION AND ITS SEAL, SECTION 41‑29‑90 RELATING TO THE ADOPTION OF CERTAIN REGULATIONS BY THE COMMISSION RELATED TO THE APPOINTMENT, PROMOTION, AND DEMOTION OF COMMISSION EMPLOYEES, SECTION 41‑29‑100 RELATING TO THE DELEGATION OF POWERS GRANTED TO THE COMMISSION, SECTION 41‑29‑130, RELATING TO ADOPTION OF CERTAIN RULES AND REGULATIONS BY THE COMMISSION, AND SECTION 41‑29‑260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES; AND TO FURTHER PROVIDE FOR THE IMPLEMENTATION OF THIS ACT.

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(R160, H. 3707) -- Reps. T.R. Young, Cato, Cobb‑Hunter, Toole, Ott, Cooper, Gambrell, Bowen, Agnew, McLeod, J.H. Neal, Gunn, Hayes, Stewart, Thompson, White, Duncan, D.C. Moss, H.B. Brown, Knight, Frye, Spires, Neilson, Vick, Hutto, Sellers and Rice: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39‑41‑235 SO AS TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE ALL GRADES OF PETROLEUM PRODUCTS SUITABLE FOR SUBSEQUENT BLENDING WITH ETHANOL; TO REQUIRE MOTOR FUEL TERMINALS TO OFFER FOR SALE ALL GRADES OF DIESEL FUEL SUITABLE FOR BLENDING TO PRODUCE BIODIESEL OR BIODIESEL BLENDS; TO PROHIBIT THE SALE OF AN UNBLENDED PRODUCT WITHOUT NECESSARY ADDITIVES; TO PROHIBIT THE DENIAL OF A DISTRIBUTOR OR RETAILER FROM BEING THE BLENDER OF RECORD; TO REQUIRE THE UTILIZATION OF THE RENEWABLE IDENTIFICATION NUMBER SYSTEM; TO DECLARE A VIOLATION OF THIS SECTION AN UNFAIR TRADE PRACTICE AND TO PROVIDE A PENALTY; TO REQUIRE WHOLESALER PURCHASERS TO ENSURE THEIR ACTIVITIES RESULT IN PRODUCTS THAT MEET CERTAIN STANDARDS; TO PROVIDE FOR LIABILITY FOR DAMAGES ARISING FROM THE BLENDING OF GASOLINE, GASOLINE BLENDING STOCK, OR DIESEL; AND TO REQUIRE NOTICE OF THE ENTITY THAT PERFORMED THE BLENDING IN CERTAIN LOCATIONS.

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(R161, H. 4087) -- Rep. Bedingfield: AN ACT TO AMEND ACT 743 OF 1962, AS AMENDED, RELATING TO THE GREENVILLE COUNTY COMMISSION FOR TECHNICAL EDUCATION, SO AS TO CREATE THE GREENVILLE TECHNICAL COLLEGE AREA COMMISSION AND TO PROVIDE FOR ITS MEMBERSHIP, POWERS, AND DUTIES; AND TO DELETE SECTIONS 2 AND 3 OF ACT 743 OF 1962.

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(R162, H. 4340) -- Reps. Whitmire and Sandifer: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 19 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN OCONEE COUNTY AS THE FALLING WATERS SCENIC BYWAY, AND TO MAKE IT SUBJECT TO THE REGULATIONS OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA SCENIC HIGHWAYS COMMITTEE.

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(R163, H. 4416) -- Reps. Loftis, Hamilton, G.R. Smith, Dillard, Bannister, Bedingfield, Wylie, Nanney, Rice, Cato, Stringer and Allen: AN ACT TO EXPAND THE AUTHORITY OF THE RENEWABLE WATER RESOURCES OF GREENVILLE COUNTY, ORIGINALLY CREATED AS THE GREATER GREENVILLE SEWER DISTRICT PURSUANT TO THE PROVISIONS OF ACT 362 OF 1925, TO USE THE BY‑PRODUCTS OF WASTE TREATMENT FACILITIES FOR ALTERNATE ENERGY PRODUCTION.

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(R164, 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.

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(R165, H. 4530) -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO REGULATIONS FOR SPECIES OR SUBSPECIES OF NON‑GAME WILDLIFE, DESIGNATED AS REGULATION DOCUMENT NUMBER 4069, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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(R166, H. 4551) -- Reps. Sandifer, Thompson, Bedingfield, Hayes, Brady, Mack, Harrell, Cato, Ott, Harrison, Duncan, J.R. Smith, White, Cooper, Hutto, Horne, Cobb‑Hunter, Anderson, Hodges, Harvin, Skelton, Gunn and Bales: AN ACT 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 FOR 911 SERVICE, SO AS TO PROVIDE THAT FOR THE BILLING OF 911 CHARGES FOR LOCAL EXCHANGE ACCESS FACILITIES THAT ARE CAPABLE OF SIMULTANEOUSLY CARRYING MULTIPLE VOICE AND DATA TRANSMISSIONS OR TO REVISE THE 911 CHARGE THAT A PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IS SUBJECT TO, AND TO MAKE TECHNICAL CHANGES; BY ADDING SECTION 23‑47‑55 SO AS TO PROVIDE THAT A SUBSCRIBER IS NOT LIABLE FOR A DIFFERENT NUMBER OF 911 CHARGES THAN THE SUBSCRIBER HAS BEEN BILLED FOR ANY FACILITY, AND THAT NO SERVICE SUPPLIER IS LIABLE TO ANY PERSON FOR BILLING, COLLECTING, OR REMITTING CERTAIN 911 CHARGES FOR SERVICE WHICH ARE BILLED FOR BEFORE THE EFFECTIVE DATE OF THIS ACT; 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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(R167, H. 4635) -- Rep. Sellers: AN ACT TO AUTHORIZE THE CITY OF BAMBERG TO ADD TWO ADDITIONAL COMMISSIONERS TO THE BOARD OF COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF BAMBERG.

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(R168, H. 4684) -- Rep. Anthony: AN ACT TO AMEND ACT 848 OF 1946, AS AMENDED, RELATING TO THE CREATION OF THE UNION HOSPITAL DISTRICT, SO AS TO ADD THREE ADVISORY MEMBERS TO THE DISTRICT’S BOARD OF TRUSTEES, AND TO DELETE PROVISIONS MAKING THE UNION COUNTY TREASURER THE BOARD’S TREASURER, PROHIBITING A TRUSTEE FROM RECEIVING COMPENSATION, ALLOWING REIMBURSEMENT TO A TRUSTEE FOR ACTUAL CASH EXPENDITURES MADE BY HIM AS A TRUSTEE, AND CONCERNING A SEAL AND CERTAIN OFFICE PROCEDURES OF THE DISTRICT.

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(R169, H. 4698) -- Rep. J.R. Smith: AN ACT TO AMEND SECTION 7‑7‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN AIKEN COUNTY, SO AS TO REVISE AND RENAME CERTAIN PRECINCTS AND REDESIGNATE A MAP NUMBER ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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(R170, H. 4728) -- Reps. Norman, Simrill and Delleney: AN ACT TO AUTHORIZE THE BOARD OF TRUSTEES OF FORT MILL SCHOOL DISTRICT NO. 4 OF YORK COUNTY TO ISSUE GENERAL OBLIGATION BONDS OF THE DISTRICT UP TO ITS CONSTITUTIONAL DEBT LIMIT IN AN AMOUNT NOT TO EXCEED TWO MILLION DOLLARS TO DEFRAY THE LOSS OF EDUCATION FINANCE ACT FUNDS TO THE DISTRICT, TO PRESCRIBE THE CONDITIONS UNDER WHICH THE BONDS MAY BE ISSUED AND THE PURPOSES FOR WHICH THE PROCEEDS MAY BE EXPENDED, AND TO MAKE PROVISION FOR THE PAYMENT OF THE BONDS.

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

**ORDERED ENROLLED FOR RATIFICATION**

The following Joint Resolutions were read the third time and, having received three readings in both Houses, it was ordered that the titles be changed to that of Acts and enrolled for Ratification:

H. 4531 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO AIR POLLUTION CONTROL REGULATIONS AND STANDARDS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4070, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**H. 4531--Recorded Vote**

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

H. 4692 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO AIR POLLUTION CONTROL REGULATIONS AND STANDARDS; DEFINITIONS AND GENERAL REQUIREMENTS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4085, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**H. 4692--Recorded Vote**

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

H. 4693 -- Agriculture, Natural Resources and Environmental Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO HAZARDOUS WASTE MANAGEMENT REGULATIONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4080, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

**H. 4693--Recorded Vote**

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

**HOUSE BILL RETURNED**

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

H. 3245 -- Reps. Delleney, Nanney, Simrill, G.R. Smith, G.M. Smith, Lucas, Cooper, Stringer, Parker, Allison, Pinson, Hamilton, Erickson, J.R. Smith, Clemmons, Bedingfield, E.H. Pitts, Owens, Rice, Hiott, Littlejohn, Stewart, Viers, Willis, Loftis, Toole, Wylie, Vick, Millwood, Haley, Duncan, Ballentine, Frye and Barfield: A BILL TO AMEND SECTION 44‑41‑330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, AMONG OTHER THINGS, TO PREREQUISITES TO PERFORMING AN ABORTION, SO AS TO PROVIDE THAT IF AN ULTRASOUND IS PERFORMED, AN ABORTION MUST NOT BE PERFORMED SOONER THAN TWENTY‑FOUR HOURS, RATHER THAN SIXTY MINUTES, FOLLOWING THE COMPLETION OF THE ULTRASOUND, TO REQUIRE THE WOMAN TO BE INFORMED OF THE PROCEDURE TO BE INVOLVED AND THE PROBABLE GESTATIONAL AGE OF THE EMBRYO OR FETUS, AND TO PROVIDE THAT AN ABORTION MAY NOT BE PERFORMED SOONER THAN TWENTY‑FOUR HOURS, RATHER THAN ONE HOUR, AFTER THE WOMAN RECEIVES CERTAIN WRITTEN MATERIALS.

By prior motion of Senator McCONNELL, with unanimous consent.

**H. 3245--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. 348 -- Senators Fair, Sheheen, S. Martin, Lourie, Shoopman, Knotts and Rose: A BILL TO AMEND SECTION 16‑3‑95, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INFLICTION OF GREAT BODILY INJURY UPON A CHILD, SO AS TO PROVIDE A MINIMUM TERM OF IMPRISONMENT OF TWO YEARS FOR A PERSON WHO IS CONVICTED OF THIS OFFENSE AND WHO IS REGISTERED WITH OR LICENSED BY THE DEPARTMENT OF SOCIAL SERVICES PURSUANT TO CHILDCARE FACILITIES LICENSURE REQUIREMENTS; TO PROVIDE THAT NO PORTION OF THE SENTENCE MAY BE SUSPENDED; AND BY ADDING SECTION 63‑13‑825 SO AS TO REQUIRE FAMILY CHILDCARE OPERATORS AND CAREGIVERS ANNUALLY TO COMPLETE A MINIMUM OF TWO HOURS OF TRAINING APPROVED BY THE DEPARTMENT OF SOCIAL SERVICES.

Senator LARRY MARTIN explained the Bill.

Senator MALLOY spoke on the Bill.

**S. 348--Recorded Vote**

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

S. 965 -- Senators Sheheen and Elliott: A BILL TO AMEND SECTION 40‑47‑760 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE ACUPUNCTURE ACT OF SOUTH CAROLINA, TO ADD PHYSICIANS TRAINED TO PERFORM ACUPUNCTURE TO THE LIST OF EXEMPTIONS.

**S. 965--Recorded Vote**

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

**AMENDED, READ THE THIRD TIME**

S. 812 -- Senators S. Martin, Shoopman, Grooms, Bryant, Bright, Davis and Rose: A BILL TO PROVIDE THAT THE PARENT OR LEGAL GUARDIAN OF A STUDENT RESIDING IN SPARTANBURG OR UNION COUNTY AND ATTENDING SCHOOL IN SPARTANBURG OR UNION COUNTY AS A NON-RESIDENT MUST ARRANGE FOR THE STUDENT TO ATTEND A SCHOOL IN THE COUNTY RATHER THAN THE SCHOOL AUTHORITIES IN THE CHILD’S COUNTY OF RESIDENCE; AND TO PROVIDE THAT THE SCHOOL BOARD OF TRUSTEES FOR THE SCHOOL DISTRICT IN WHICH A CHILD IN SPARTANBURG OR UNION COUNTY RESIDES MAY NOT PREVENT A STUDENT FROM TRANSFERRING TO ANOTHER SCHOOL DISTRICT IN SPARTANBURG OR UNION COUNTY IF THE RECEIVING SCHOOL DISTRICT APPROVES THE TRANSFER.

**Motion Under Rule 26B**

Senator SHANE MARTIN asked unanimous consent to make a motion to take up a further amendment pursuant to the provisions of Rule 26B.

There was no objection.

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

Senator SHANE MARTIN proposed the following amendment (812R004.SRM), which was adopted:

Amend the bill, as and if amended, page 2, by striking lines 12-34 and inserting:

/ SECTION 2. (A) Notwithstanding Section 59‑63‑490, when a person in Spartanburg County is better accommodated at a school in Union County, or a person in Union County is better accommodated at a school in Spartanburg County, whether special or otherwise, the student may, with the consent of the board of trustees of the school district in which the school is located, transfer to the school district in which the school is located, and the trustees of the school district in which the school is located shall receive the person into the school as though he resided within the district.

(B) When a transfer of pupils from one district to another is sought and the trustees of the latter district unreasonably or capriciously withhold their consent, the board of education in the district in which the pupils reside may, after hearing, make the transfer, but only on condition that each pupil so transferred pay the payment required by Section 59‑63‑45. /

Renumber sections to conform.

Amend title to conform.

Senator SHANE MARTIN explained the amendment.

The amendment was adopted.

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

**S. 812--Recorded Vote**

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

**SECOND READING BILLS**

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

H. 4755 -- Reps. Miller and Anderson: A BILL TO PROVIDE THAT THE SCHOOL DISTRICT OF GEORGETOWN COUNTY FOR FISCAL YEAR 2010-2011 MAY EXPEND FUNDS GENERATED FROM A GENERAL OBLIGATION DEBT BOND ISSUE FOR SCHOOL OPERATING PURPOSES, IN ORDER TO DEAL WITH A SHORTAGE OF SCHOOL OPERATING FUNDS, IF PERMITTED BY THE FEDERAL LAW APPLICABLE TO THE PARTICULAR TYPES OF BONDS ISSUED AND IF IT DOES NOT VIOLATE ANY PROVISIONS OF THE BOND INDENTURE APPLICABLE TO THE ISSUANCE AND SALE OF THOSE BONDS.

By prior motion of Senator McGILL

S. 1024 -- Senators O’Dell, Knotts and Setzler: A BILL TO AMEND SECTION 12‑37‑220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO ALLOW THE SURVIVING SPOUSE OF A DECEDENT WHO WAS ELIGIBLE FOR THE EXEMPTION OF THE DWELLING OWNED BY A PERSON WITH CERTAIN SPECIFIC ILLNESSES CAUSING THE SAME AMBULATORY DIFFICULTIES AS PERSONS WITH PARAPARESIS OR HEMIPARESIS.

Senator HAYES explained the Bill.

S. 950 -- Senator Elliott: A BILL TO AMEND SECTIONS 5‑37‑20, 5‑37‑35, 5‑37‑40, AS AMENDED, 5‑37‑50, AS AMENDED, AND 5‑37‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE MUNICIPAL IMPROVEMENT DISTRICT ACT, SO AS TO CLARIFY THAT AN EASEMENT FOR MAINTENANCE IN CHANNELS, CANALS, OR WATERWAYS IS SUFFICIENT PROPERTY INTEREST TO PROCEED WITH AN ASSESSED DISTRICT; TO AUTHORIZE SOME PORTION OF THE BONDS ISSUED TO FUND ASSESSMENTS MAY BE BACKED BY THE TAXING POWER OF A MUNICIPALITY; AND TO PROVIDE AN EXCEPTION OF AN OWNER OF RESIDENTIAL PROPERTY TO BE REQUIRED TO CONSENT TO INCLUSION IN AN IMPROVEMENT DISTRICT WHEN THE SOLE IMPROVEMENTS ARE THE WIDENING AND DREDGING OF CANALS.

Senator HAYES explained the Bill.

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

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

There was no objection.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 876 -- Senator Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑45‑17 SO AS TO PROVIDE MINIMUM CONTINUING EDUCATION COURSE REQUIREMENTS FOR COUNTY TAX COLLECTORS AND PROVIDE EXCEPTIONS; BY ADDING SECTION 12‑59‑85 SO AS TO ALLOW A COUNTY FORFEITED LAND COMMISSION TO REFUSE TO ACCEPT TITLE TO PROPERTY WHEN REFUSAL IS IN THE PUBLIC INTEREST; TO AMEND SECTION 12‑37‑2725, RELATING TO CANCELLATION OF A LICENSE PLATE AND REGISTRATION CERTIFICATE WHEN A VEHICLE OWNER MOVES OUT OF STATE AND THE PRORATED PROPERTY TAX REFUND DUE ON THAT CANCELLATION, SO AS TO ALLOW THE APPROPRIATE RECEIPT ISSUED BY THE DEPARTMENT OF MOTOR VEHICLES TO SUBSTITUTE FOR THE ACTUAL LICENSE PLATE AND CERTIFICATE; TO AMEND SECTION 12‑37‑3150, AS AMENDED, RELATING TO ASSESSABLE TRANSFERS OF INTEREST FOR PURPOSES OF DETERMINING THE VALUE OF REAL PROPERTY FOR PROPERTY TAXATION, SO AS TO PROVIDE A CIVIL PENALTY FOR FAILURE TO PROVIDE NOTICE TO THE ASSESSOR OF OWNERSHIP TRANSFERS OF CERTAIN BUSINESS REAL PROPERTY; TO AMEND SECTION 12‑39‑220, RELATING TO THE DISCOVERY OF UNTAXED PROPERTY FOR PURPOSES OF PROPERTY TAXES, SO AS TO PROVIDE THE DUTIES OF THE ASSESSOR WITH RESPECT TO THIS PROPERTY; TO AMEND SECTIONS 12‑51‑50, AS AMENDED, AND 12‑51‑70, RELATING TO DELINQUENT TAX SALES, SO AS TO PROVIDE FOR THE SALES DATE AND TO INCREASE FROM THREE HUNDRED TO ONE THOUSAND DOLLARS THE DAMAGES FOR WHICH A DEFAULTING BIDDER IS LIABLE; AND TO AMEND SECTION 12‑54‑85, AS AMENDED, RELATING TO THE TIME LIMITS APPLICABLE FOR ASSESSING DELINQUENT TAXES, SO AS TO MAKE A CONFORMING AMENDMENT.

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

The Committee on Finance proposed the following amendment (876FIN002.HKL), which was adopted:

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

/ SECTION \_\_\_. Section 12‑43‑220(c)(2) of the 1976 Code is amended to read:

“(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner‑occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the applicable tax year. Additionally, the taxpayer must provide his social security number and the social security number of all members of his household. A residence which has been qualified as a legal residence for any part of the year is entitled to the four percent assessment ratio provided in this item for the entire year, for the exemption from property taxes levied for school operations pursuant to Section 12‑37‑251 for the entire year, and for the homestead exemption under Section 12‑37‑250, if otherwise eligible, for the entire year.

(ii) This item does not apply unless the owner of the property or the owner’s agent applies for the four percent assessment ratio before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio. In the application the owner or his agent must certify to the following statement:

‘Under penalty of perjury I certify that:

(A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I ~~do not~~ nor my spouse claim to be a legal resident of a jurisdiction other than South Carolina for any purpose, unless my spouse and I are separated; and

(B) that neither I nor any other member of my household is residing in or occupying any other residence which I or any member of my immediate family has qualified for the special assessment ratio allowed by this section.’

(iii) For purposes of subitem (ii)(B) of this item, ‘a member of my household’ means:

(A) the owner‑occupant’s spouse, except when that spouse is legally separated from the owner‑occupant; and

(B) any child under the age of eighteen years of the owner‑occupant claimed or eligible to be claimed as a dependent on the owner‑occupant’s federal income tax return.”

SECTION \_\_\_. Chapter 43, Title 12 of the 1976 Code is amended by adding:

“Section 12‑43‑226. Notwithstanding any other provision of law, the county assessor may require a taxpayer to re‑qualify for the special four percent assessment ratio set forth in Section 12‑43‑220(c) for all or a portion of the parcels of real estate then receiving the special four percent assessment ratio. However, no property owner may be required to re‑qualify more than once every three years.” /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

H. 4299 -- Reps. Cooper and Owens: A JOINT RESOLUTION TO ALLOW LOCAL SCHOOL DISTRICTS AND SPECIAL SCHOOLS TO TRANSFER CERTAIN FUNDS AMONG APPROPRIATED REVENUES, EDUCATION IMPROVEMENT ACT FUNDS, EDUCATION LOTTERY ACT FUNDS, AND FUNDS RECEIVED FROM THE CHILDREN’S EDUCATION ENDOWMENT FUND IN ORDER TO ENSURE THE DELIVERY OF ACADEMIC AND ARTS INSTRUCTION DURING FISCAL YEAR 2010‑2011 AND TO PROVIDE THAT A SCHOOL DISTRICT MAY NOT TRANSFER FUNDS REQUIRED FOR DEBT SERVICE OR BONDED INDEBTEDNESS, TO ALLOW SCHOOL DISTRICTS FOR FISCAL YEAR 2010‑2011 TO SUSPEND CERTAIN PROFESSIONAL STAFFING RATIOS AND EXPENDITURE REGULATIONS, TO DELAY THE DATE THAT TEACHER CONTRACTS ARE ISSUED, TO NEGOTIATE SALARIES FOR CERTAIN RETIRED TEACHERS BELOW THE SCHOOL DISTRICT SALARY SCHEDULE, AND TO FURLOUGH TEACHERS FOR UP TO FIVE NONINSTRUCTIONAL DAYS, PROVIDED THAT DISTRICT ADMINISTRATORS ARE FURLOUGHED FOR TWICE THE NUMBER OF DAYS, TO PROVIDE FURTHER MEASURES SCHOOL DISTRICTS AND EDUCATION‑RELATED ENTITIES ARE ENCOURAGED TO TAKE TO MAXIMIZE RESOURCES, TO PROVIDE DISTRICT REPORTING REQUIREMENTS FOR COST‑SAVING MEASURES UNDERTAKEN BY THE DISTRICT, TO REQUIRE SCHOOL DISTRICTS TO PROVIDE TO PUBLIC CHARTER SCHOOLS PUPIL ALLOCATION FOR EACH CATEGORICAL PROGRAM BEFORE IMPLEMENTING THESE FLEXIBILITY PROVISIONS, TO SUSPEND CERTAIN FORMATIVE ASSESSMENTS, TO ALLOW SCHOOL DISTRICTS TO SUSPEND TEXTBOOK ADOPTIONS, AND TO ALLOW SCHOOL DISTRICTS TO PURCHASE THE MOST ECONOMICAL TYPE OF BUS FUEL FOR FISCAL YEAR 2010‑2011, TO REQUIRE SCHOOL DISTRICTS FOR FISCAL YEAR 2010‑2011 TO UTILIZE AT LEAST SIXTY‑FIVE PERCENT OF THEIR PER PUPIL EXPENDITURES WITHIN PROVIDED CATEGORIES OF INSTRUCTION WITH CERTAIN CONDITIONS AND TO PROVIDE REPORTING REQUIREMENTS, TO REQUIRE SCHOOL DISTRICTS FOR FISCAL YEAR 2010‑2011 TO MAINTAIN A TRANSACTION REGISTER THAT RECORDS CERTAIN EXPENDED FUNDS, TO PROVIDE WHAT THE REGISTER MUST INCLUDE, TO REQUIRE SCHOOL DISTRICTS TO PUBLISH THEIR CREDIT CARD STATEMENTS ON THEIR WEBSITES, AND TO REQUIRE THE COMPTROLLER GENERAL TO PUBLISH ON ITS WEBSITE CREDIT CARD INFORMATION OF SCHOOL DISTRICTS THAT DO NOT MAINTAIN THEIR OWN WEBSITES; AND TO SUSPEND SECTION 59‑21‑1030 OF THE 1976 CODE FOR THE 2010‑2011 FISCAL YEAR.

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

The Committee on Finance proposed the following amendment (4299FIN001), which was adopted:

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

/ SECTION 1. Notwithstanding Section 59‑25‑410, the boards of trustees of the several school districts shall decide and notify, in writing, the teachers, as defined in Section 59‑1‑130, in their employ concerning their employment for the 2010‑2011 school year by May 15, 2010.

SECTION 2. Notwithstanding Section 59‑25‑420, any teacher who is reemployed by written notification pursuant to Section 59‑25‑410 shall notify the board of trustees in writing of his acceptance of the contract for the 2010‑2011 school year no later than ten days following receipt of written notification. Failure on the part of the teacher to notify the board of acceptance within the specified time limit shall be conclusive evidence of the teacher’s rejection of the contract.

SECTION 3. Notwithstanding any other provision of law, school districts may uniformly negotiate salaries below the school district salary schedule for the 2010‑2011 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive Program.

SECTION 4. This joint resolution takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1270 -- Senator Rose: A BILL TO AMEND SECTIONS 12-60-1750 AND 12-43-220 OF THE 1976 CODE, RELATING TO REFUNDS OF PROPERTY TAXES, TO PROVIDE THAT NO REFUND MUST BE GIVEN FOR A CHANGE IN ASSESSMENT RATIOS TO THE SPECIAL FOUR PERCENT ASSESSMENT RATIO UNLESS THE APPLICATION WAS TIMELY FILED; AND TO FURTHER AMEND SECTION 12-43-220, RELATING TO THE SPECIAL FOUR PERCENT ASSESSMENT RATIO, TO PROVIDE THAT THE PROPERTY MAY ONLY BE CLAIMED AT THE FOUR PERCENT ASSESSMENT RATIO FOR THE PRO-RATA PORTION OF THE YEAR IN WHICH THE PROPERTY WAS THE LEGAL RESIDENCE.

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

The Committee on Finance proposed the following amendment (1270FIN001.RWH), which was adopted:

Amend the bill, as and if amended, by deleting SECTION 3.

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

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

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

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.

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

**Amendment No. P-1**

Senator MALLOY proposed the following Amendment No. P-1 (JUD1154.006), which was adopted:

Amend the Committee Report, as and if amended, by striking SECTION 16 in its entirety, page [1154-13], line 9 through page [1154-30], line 31, and inserting the following:

/ SECTION 16. A. Section 16-11-510(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, ~~or both, as permitted by law and without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

B. Section 16-11-520(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned~~, or both, as permitted by law and without presentment or indictment of the grand jury~~ not more than thirty days, or both.”

C. Section 16-11-523(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction magistrate’s or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined not more than ~~five~~ ~~hundred~~ one thousand dollars or imprisoned not more than thirty days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is ~~one~~ two thousand dollars or less;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars; or

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is ~~five~~ ten thousand dollars or more.”

D. Section 16-13-10(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than ~~five~~ ten thousand dollars.

(C) If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrate’s or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.”

E. Section 16-13-30 of the 1976 Code is amended to read:

“Section 16-13-30. (A) Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of ~~one~~ two thousand dollars or less, is petit larceny, a misdemeanor, triable in the magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than~~ ~~is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of ~~one~~ two thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:

(1) five years if the value of the personalty is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(2) ten years if the value of the personalty is ~~five~~ ten thousand dollars or more.”

F. Section 16-13-40 of the 1976 Code is amended to read:

“Section 16-13-40. (A) It is unlawful for a person to steal or take by robbery a bond, warrant, bill, or promissory note for the payment or securing the payment of money belonging to another.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the instrument stolen or taken has a value of ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the instrument stolen or taken is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the instrument stolen or taken has a value of ~~five~~ ten thousand dollars or more.”

G. Section 16-13-50 of the 1976 Code is amended to read:

“Section 16-13-50. (A) A person convicted of the larceny of a horse, mule, cow, hog, or any other livestock is guilty of a: (1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twenty‑five hundred dollars, or both, if the value of the livestock is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be imprisoned not more than five years or fined not more than five hundred dollars, or both, if the value of the livestock is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the livestock is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.

(B) A motor vehicle or other chattel used by or found in possession of a person engaged in the commission of a crime under this section is subject to confiscation and must be confiscated and sold under the provisions of Section 27‑21‑10.”

H. Section 16-13-66 of the 1976 Code is amended to read:

“Section 16-13-66. (A) A person violating the provision of Section 16‑13‑65 is guilty of a misdemeanor and, upon conviction:

(1) for the first offense, must be fined an amount not to exceed ~~five hundred~~ one thousand dollars or imprisoned for a term not to exceed one year, or both, and shall pay restitution to the culturist an amount determined by the court. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, an offense punishable under this subitem may be tried in magistrate’s or municipal court.

(2) for a second offense, must be fined an amount not to exceed two thousand dollars or imprisoned for a term not less than two months and thirty days community service nor more than one year, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers and nets must be seized and forfeited to the court.

(3) for a third or subsequent offense, must be fined an amount not to exceed five thousand dollars or imprisoned for a term not less than six months nor more than two years, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(B) ~~Provided further, that if~~ If the value of such property stolen or damaged is less than ~~one~~ two hundred dollars, the case shall be tried in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and the punishment shall be ~~no more than is permitted by law without presentment or indictment by a grand jury~~ a fine of not more than one thousand dollars, and imprisonment for not more than thirty days, or both.”

I. Section 16-13-70(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.

(C) In addition to the punishment specified in this section, the person must make good to the person injured all damages sustained and, if the matter be a trespass only, the person committing the offense shall make good to the person injured all damages that accrued.”

J. Section 16-13-80 of the 1976 Code is amended to read:

“Section 16‑13‑80. The larceny of a bicycle is a misdemeanor and, upon conviction, the person must be punishable at the discretion of the court. When the value of the bicycle is less than ~~one~~ two thousand dollars, the case is triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, the person must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.”

K. Section 16-13-110(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days if the value of the shoplifted merchandise is ~~one~~ two thousand dollars or less;

(2) felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both, if the value of the shoplifted merchandise is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be imprisoned not more than ten years if the value of the shoplifted merchandise is ~~five~~ ten thousand dollars or more.”

L. Section 16-13-180 of the 1976 Code is amended to read:

“Section 16-13-180. (A) It is unlawful for a person to buy, receive, or possess stolen goods, chattels, or other property if the person knows or has reason to believe the goods, chattels, or property is stolen. A person is guilty of this offense whether or not anyone is convicted of the theft of the property.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more.

(C) For the purposes of this section, the receipt of multiple items in a single transaction or event constitutes a single offense.”

M. Section 16-13-210 of the 1976 Code is amended to read:

“Section 16-13-210. (A) It is unlawful for an officer or other person charged with the safekeeping, transfer, and disbursement of public funds to embezzle these funds.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of the embezzlement and imprisoned not more than ten years if the amount of the embezzled funds is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of embezzlement and imprisoned not more than five years if the amount of the embezzled funds is less than ~~five~~ ten thousand dollars.

(C) The person convicted of a felony is disqualified from holding any office of honor or emolument in this State; but the General Assembly, by a two-thirds vote, may remove this disability upon payment in full of the principal and interest of the sum embezzled.”

N. Section 16-13-230(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount is ~~five~~ ten thousand dollars or more.”

O. Section 16-13-240 of the 1976 Code is amended to read:

“Section 16-13-240. A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment of the grand jury~~ not more than thirty days.”

P. Section 16-13-260 of the 1976 Code is amended to read:

“Section 16-13-260. A person who falsely and deceitfully obtains or gets into his hands or possession any money, goods, chattels, jewels, or other things of another person by color and means of any false token or counterfeit letter made in another person’s name is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars,or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

Q. Section 16-13-290 of the 1976 Code is amended to read:

“Section 16-13-290. It is unlawful for a person, with intent to defraud either the State, a county, or municipal government or any person, to act as an officer and demand, obtain, or receive from a person or an officer of the State, county, or municipal government any money, paper, document, or other valuable things. A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the property or thing obtained has a value of more than ~~two~~ four hundred dollars.

(2) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined not more than ~~one~~ two hundred dollars or imprisoned not more than thirty days if the property or thing obtained has a value of ~~two~~ four hundred dollars or less.”

R. Section 16-13-331 of the 1976 Code is amended to read:

“Section 16-13-331. Whoever, without authority, with the intention of depriving the library or archive of the ownership of such property, willfully conceals a book or other library or archive property, while still on the premises of such library or archive, or willfully or without authority removes any book or other property from any library or archive or collection shall be deemed guilty of a misdemeanor under the jurisdiction of the magistrate’s or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and upon conviction shall be punished in accordance with the following: (1) by a fine of not more than six hundred dollars or imprisonment for not more than six months; provided, however, that if the value of the library or archive property is less than ~~fifty~~ one hundred dollars, the punishment shall be a fine of not more than ~~one~~ two hundred dollars or imprisonment for not more than thirty days. Proof of the willful concealment of any book or other library or archive property while still on the premises of such library or archive shall be prima facie evidence of intent to commit larceny thereof.”

S. Section 16-13-420 of the 1976 Code is amended to read:

“Section 16‑13‑420. (A) A person having any ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property in his possession or under his control by virtue of a lease or rental agreement is guilty of larceny if he:

(1) wilfully and fraudulently fails to return the ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property within seventy‑two hours after the lease or rental agreement has expired;

(2) fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of ~~his~~ the lease or rental agreement.

The provisions of this section do not apply to lease‑purchase agreements or conditional sales type contracts.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the rented or leased item is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the rented or leased item is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court , notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the value of the rented or leased item is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days ~~is permitted by law without presentment or indictment by the grand jury~~.”

T. Section 16-13-430(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony if the amount of food stamps fraudulently acquired or used is of a value of ~~five~~ ten thousand dollars or more. Upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than ten years, or both;

(2) felony if the amount of food stamps fraudulently acquired or used is of a value of more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars. Upon conviction, the person must be fined not more than five hundred dollars or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the amount of food stamps fraudulently acquired or used is of a value of ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both ~~is permitted by law without presentment or indictment by the grand jury~~.”

U. Section 16-14-80(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction of the magistrate’s or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(a) if the value of the money, goods, services, and anything else of value, is ~~five hundred~~ one thousand dollars or less in any six‑month period;

(2) felony and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(b) if the value of the money, goods, services, or anything of value is more than ~~five hundred~~ one thousand dollars in any six‑month period.”

V. Section 16-14-100 of the 1976 Code is amended to read:

“Section 16-14-100. (a) A crime punishable under this subsection is a misdemeanor under the jurisdiction of the magistrate’s or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, the person must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both.

(b) A crime punishable under this subsection is a felony and, upon conviction, the person must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.”

W. Section 16-17-600(C) of the 1976 Code is amended to read:

“(C)(1) It is unlawful for a person wilfully and knowingly to steal anything of value located upon or around a repository for human remains or within a human graveyard, cemetery, or memorial park, or for a person wilfully, knowingly, and without proper legal authority to destroy, tear down, or injure any fencing, plants, trees, shrubs, or flowers located upon or around a repository for human remains, or within a human graveyard, cemetery, or memorial park.

(2) A person violating the provisions of item (1) is guilty of:

(a) a felony and, upon conviction, if the theft of, destruction to, injury to, or loss of property is valued at ~~two~~ four hundred dollars or more, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and must be required to perform not more than five hundred hours of community service;

(b) a misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the theft of, destruction to, injury to, or loss of property is valued at less than ~~two~~ four hundred dollars. Upon conviction, a person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both, ~~pursuant to the jurisdiction of magistrates as provided in Section 22‑3‑550 ,~~ and must be required to perform not more than two hundred fifty hours of community service.”

X. Section 16-21-80 of the 1976 Code is amended to read:

“Section 16-21-80. A person not entitled to the possession of a vehicle who receives, possesses, conceals, sells, or disposes of it, knowing it to be stolen or converted under circumstances constituting a crime, is guilty of a:

(1) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the vehicle is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned~~, not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both~~,~~;

(2) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the vehicle is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the vehicle is ~~five~~ ten thousand dollars or more.”

Y. Section 36-9-410(C) of the 1976 Code is amended to read:

“(C) If the value of the personal property subject to a perfected security interest is worth:

(1) ~~one~~ two thousand dollars or less, a person who violates the provisions of this section is guilty of a misdemeanor triable in the magistrate’s court or the municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days, or both;

(2) more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) ~~five~~ ten thousand dollars or more, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.”

Z. Section 38-55-170 of the 1976 Code is amended to read:

“Section 38-55-170. A person who knowingly causes to be presented a false claim for payment to an insurer transacting business in this State, to a health maintenance organization transacting business in this State, or to any person, including the State of South Carolina, providing benefits for health care in this State, whether these benefits are administered directly or through a third person, or who knowingly assists, solicits, or conspires with another to present a false claim for payment as described above, is guilty of a:

(1) felony if the amount of the claim is ~~five~~ ten thousand dollars or more. Upon conviction, the person must be imprisoned not more than ten years or fined not more than five thousand dollars, or both;

(2) felony if the amount of the claim is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars. Upon conviction, the person must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of the claim is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

A.A. Section 45-1-50(A) of the 1976 Code of Laws is amended to read:

“(A) A person who:

(1) obtains food, lodging or other service, or accommodation at any hotel, motel, inn, boarding or rooming house, campground, cafe, or restaurant and intentionally absconds without paying for it; or

(2) while a guest at any hotel, motel, inn, boarding or rooming house, campground, cafe, or restaurant, intentionally defrauds the keeper in a transaction arising out of the relationship as guest, is guilty of a misdemeanor and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than six months, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, an offense punishable under this subsection may be tried in magistrates or municipal court.”

B.B. Section 45-2-40 of the 1976 Code is amended to read:

“Section 45-2-40. (A) A person who on the premises or property of a lodging establishment:

(1) uses or possesses a controlled substance in violation of Chapter 53 of Title 44;

(2) consumes or possesses beer, wine, or alcoholic liquors in violation of Sections 63‑19‑2440 or ~~630‑19‑2450~~ 63-19-2450; is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(B) A person who on the premises or property of a lodging establishment maliciously and wilfully commits a violation of this chapter resulting in damage to a lodging establishment room or its furnishings is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount of injury or damage to the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount of injury or damage to the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of injury or damage to the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.

(C) A person who rents or leases a room in a lodging establishment for the purpose of allowing the room to be used by another to do any act enumerated in subsections (A) or (B) of this section is guilty of a misdemeanor under the jurisdiction of the magistrate’s or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.

(D) In a case arising under this section involving damage to a lodging establishment room or its furnishings, the court may order the person renting or leasing the lodging establishment room or the person causing such damage, or both:

(1) to pay restitution for any damages suffered by the owner or operator of the lodging establishment, which damages may include the lodging establishment’s loss of revenue resulting from the establishment’s inability to rent or lease the room during the period of time the lodging establishment room is being repaired; and

(2) to pay damages or restitution to any other person who is injured in person or property.

In a case arising under this subsection triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, a ~~magistrate~~ judge may order restitution not to exceed ~~one thousand dollars~~ the civil jurisdictional amount of magistrates court provided in 22‑3‑10(2).

In the case of a minor, the parents of the minor are liable for acts of the minor in violation of this section which cause damages to the lodging establishment room or furnishings or cause injury to persons or property.

(E) This section does not prohibit the prosecution of a person for the underlying violation which occurred on the premises or property of the lodging establishment.”

C.C. Section 46-1-20 of the 1976 Code is amended to read:

“Section 46-1-20. A person who steals from the field any grain, cotton, or vegetables, whether severed from the freehold or not, is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the crop is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the crop is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the crop is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

D.D. Section 46-1-40 of the 1976 Code is amended to read:

“Section 46-1-40. A person who steals tobacco plants, whether severed from the freehold or not, from any tobacco plant beds is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the tobacco plants is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the tobacco plants is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the tobacco plants is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

E.E. Section 46-1-60(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the sale amount of the commodities is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

F.F. Section 46-1-70(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the sale amount of the commodities is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

G.G. Section 49-1-50(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the lumber or timber is ~~five~~ ten thousand dollars or more.

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the lumber or timber is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars.

(3) misdemeanor triable in magistrate’s court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the lumber or timber is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.” /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

The amendment was adopted.

**Amendment No. P-2**

Senator KNOTTS proposed the following Amendment No. P-2 (AGM\19969AHB10), which was withdrawn:

Amend the amendment, as and if amended, by deleting SECTION 36 in its entirety, page 1154-47, lines 23-31, and inserting:

/ SECTION 36. Section 14-1-213(A) and (B) of the 1976 Code, as added by Act 353 of 2008, is further amended to read:

“(A) In addition to all other assessments and surcharges required to be imposed by law, a ~~one‑hundred‑dollar~~ one hundred and fifty dollarsurcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.

(B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used first for drug treatment court programs ~~only~~ to defray the costs of operating drug treatment court programs with the balance to be used by the solicitor to pay the costs of the solicitor’s victim/witness assistance programs.” /

Amend the bill further, Section 44-53-450(C), as contained in SECTION 41, page 1154-68, by deleting on lines 33 and 34 / The funds must be used for drug treatment court programs only. / and inserting / The funds must be used first for drug treatment court programs to defray the costs of operating drug treatment court programs with the balance to be used by the solicitor to pay the costs of the solicitor’s victim/witness assistance programs. /

Renumber sections to conform.

Amend title to conform.

Senator KNOTTS explained the amendment.

**Objection**

Senator KNOTTS asked unanimous consent to make a motion to give the Bill a second reading, waiving the provisions of Rule 26B to offer a further amendment.

Senator McCONNELL objected.

The Senate resumed consideration of the Bill. The question then was the adoption of Amendment No. P-2 (AGM\19969AHB10) proposed by Senator KNOTTS.

On motion of Senator KNOTTS, with unanimous consent, Amendment No. P-2 was withdrawn.

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

The Committee on Judiciary proposed the following amendment (JUD1154.004), which was adopted:

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

/ SECTION 1. This bill may be cited as “The Omnibus Crime Reduction and Sentencing Reform Act of 2010”. It is the intent of the General Assembly to preserve public safety, reduce crime, and use correctional resources most effectively. Currently, the South Carolina correctional system incarcerates people whose time in prison does not result in improved behavior and who often return to South Carolina communities and commit new crimes, or are returned to prison for violations of supervision requirements. It is, therefore, the purpose of this act to reduce recidivism, provide fair and effective sentencing options, employ evidence‑based practices for smarter use of correctional funding, and improve public safety.

PART I

Criminal Offenses Revisions

SECTION 2. It is the intent of the General Assembly that the provisions in PART I of this act shall provide consistency in sentencing classifications, provide proportional punishments for the offenses committed, and reduce the risk of recidivism.

SECTION 3. Section 16‑11‑110 of the 1976 Code is amended to read:

“Section 16‑11‑110. (A) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, structure, or any property ~~specified in subsections (B) and (C)~~ whether the property of himself or another, which results, either directly or indirectly, in the death ~~or serious bodily injury to~~ of a person is guilty of arson in the first degree and, upon conviction, must be imprisoned not less than t~~en nor more than~~ thirty years.

(B) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures ~~the~~ a burning that results in damage to a dwelling house, ~~church or place of worship, a public or private school facility, a manufacturing plant or warehouse, a building where business is conducted, an institutional facility, or any structure designed for human occupancy to include local and municipal buildings,~~ building, structure, or any property whether the property of himself or another, which results, either directly or indirectly, in serious bodily injury to a person is guilty of arson in the second degree and, upon conviction, must be imprisoned not less than ~~five~~ three nor more than twenty‑five years.

(C) A person who wilfully and maliciously~~:~~

~~(1)~~ causes an explosion, sets fire to, burns, or causes ~~a burning which~~ to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, building, ~~or~~ structure ~~other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property; or~~, or any property,

~~(2)~~ ~~aids, counsels, or procures a burning that results in damage to a building or structure other than those specified in subsection (A) or (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property with intent to destroy or damage by explosion or fire;~~ whether the property of himself or another, which results, either directly or indirectly, in bodily injury to a person or damage to the property is guilty of arson in the third degree and, upon conviction, must be imprisoned ~~not less than one and~~ not more than ~~ten~~ fifteen years.

(D) For purposes of this section, ‘damage’ means an application of fire or explosive that results in burning, charring, blistering, scorching, smoking, singeing, discoloring, or changing the fiber or composition of a building, structure, or any property specified in this section.”

SECTION 4. Section 16‑3‑210 of the 1976 Code is amended to read:

“Section 16‑3‑210.~~Any act of violence inflicted by a mob upon the body of another person which results in the death of the person shall constitute the crime of lynching in the first degree and shall be a felony. Any person found guilty of lynching in the first degree shall suffer death unless the jury shall recommend the defendant to the mercy of the court, in which event the defendant shall be confined at hard labor in the State Penitentiary for a term not exceeding forty years or less than five years at the discretion of the presiding judge.~~ (A) For purposes of this section, a ‘mob’ is defined as the assemblage of two or more persons, without color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another.

(B) Any act of violence inflicted by a mob upon the body of another person, which results in the death of the person, shall constitute the crime of assault and battery by mob in the first degree and, upon conviction, an offender shall be punished by imprisonment for not less than thirty years.

(C) Any act of violence inflicted by a mob upon the body of another person, which results in serious bodily injury to the person, shall constitute the crime of assault and battery by mob in the second degree and, upon conviction, an offender shall be punished by imprisonment for not less than three years nor more than twenty-five years.

(D) Any act of violence inflicted by a mob upon the body of another person, which results in bodily injury to the person, shall constitute the crime of assault and battery by mob in the third degree and, upon conviction, an offender shall be punished by imprisonment for not more than one year.

(E) When any mob commits an act of violence, the sheriff of the county wherein the crime occurs and the solicitor of the circuit wherein the county is located shall act as speedily as possible to apprehend and identify the members of the mob and bring them to trial.

(F) The solicitor of any circuit shall have summary power to conduct any investigation deemed necessary by him in order to apprehend the members of a mob and may subpoena witnesses and take testimony under oath.

(G) This article shall not be construed to relieve a member of any such mob from civil liability.”

SECTION 5. Repeal Sections 16‑3‑220, 16‑3‑230, 16‑3‑240, 16‑3‑250, 16‑3‑260, and 16‑3‑270 of the 1976 Code.

SECTION 6. A. Article 1, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑29. A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder. A person who violates this section is guilty of a felony, and, upon conviction, must be imprisoned for not more than thirty years.”

B. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑600. (A) For purposes of this section:

(1) ‘Great bodily injury’ means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(2) ‘Moderate bodily injury’ means bodily injury which requires medical treatment but does not cause a substantial risk of death or which does not cause serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(3) ‘Private parts’ means the genital area or buttocks of a male or female or the breasts of a female.

(B)(1) A person commits the offense of assault and battery of a high and aggravated nature if the person unlawfully injures another person, and:

(a) great bodily injury to another person results; or

(b) the act is accomplished by means likely to produce death or great bodily injury.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than twenty years.

(3) Assault and battery of a high and aggravated nature is a lesser‑included offense of attempted murder, as defined in Section 16‑3‑29.

(C)(1) A person commits the offense of assault and battery in the first degree if the person unlawfully:

(a) injures another person, and the act:

(i) involves nonconsensual touching of the private parts of an adult, either under or above clothing, with lewd and lascivious intent; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) offers or attempts to injure another person with the present ability to do so, and the act:

(i) is accomplished by means likely to produce death or great bodily injury; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than ten years.

(3) Assault and battery in the first degree is a lesser‑included offense of assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(D)(1) A person commits the offense of assault and battery in the second degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so, and:

(a) moderate bodily injury to another person results or moderate bodily injury to another person could have resulted;

(b) the act involves the taking of indecent liberties or familiarities and the nonconsensual touching of the private parts of an adult, either under or above clothing; or

(c) there is a great disparity of the size or physical condition between the actor and the victim.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand five hundred dollars, or imprisoned for not more than three years, or both.

(3) Assault and battery in the second degree is a lesser‑included offense of assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.

(E)(1) A person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.

(3) Assault and battery in the third degree is a lesser‑included offense of assault and battery in the second degree, as defined in subsection (D)(1), assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16‑3‑29.”

C. Section 16‑3‑610 of the 1976 Code is amended to read:

“Section 16‑3‑610. If ~~any~~ a person ~~be~~ is convicted of ~~assault, assault and battery, assault or assault and battery with intent to kill~~ an offense pursuant to Section 16‑3‑29, 16‑3‑600, or manslaughter, and ~~it shall appear upon the trial that the assault, assault and battery, assault or assault and battery with intent to kill or manslaughter shall have been~~ the offense is committed with a deadly weapon of the character as specified in Section 16‑23‑460 carried or concealed upon the person of the defendant ~~so convicted~~, the ~~presiding~~ judge shall, in addition to the punishment provided by law for such ~~assault, assault and battery, assault or assault and battery with intent to kill or manslaughter~~ offense, ~~inflict further punishment upon~~ sentence the person ~~so convicted by confinement in the Penitentiary~~ to imprisonment for not less than three months nor more than twelve months, ~~with or without hard labor,~~ or a fine of not less than two hundred dollars, or both ~~fine and imprisonment, at the discretion of the judge~~.”

SECTION 7. A. Repeal Sections 16‑3‑612, 16‑3‑620, 16‑3‑630, and 16‑3‑635 of the 1976 Code.

B. The common law offenses of assault and battery with intent to kill, assault with intent to kill, assault and battery of a high and aggravated nature, simple assault and battery, assault of a high and aggravated nature, aggravated assault, and simple assault are abolished for offenses occurring on or after the effective date of this act.

C. Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16‑3‑620, and, except for references in Section 16‑1‑60 and Section 17‑25‑45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16‑3‑29.

SECTION 8. Section 22‑3‑560 of the 1976 Code is amended to read:

“Section 22‑3‑560.~~(A)~~ Magistrates may punish by fine not exceeding five hundred dollars or imprisonment for a term not exceeding thirty days, or both, all ~~assaults and batteries and other~~ breaches of the peace ~~when the offense is neither an assault and battery against school personnel pursuant to Section 16‑3‑612 nor an assault and battery of a high and aggravated nature requiring, in their judgment or by law, greater punishment~~.

~~(B)~~ ~~Magistrates may punish by fine not exceeding one thousand dollars or imprisonment for a term not exceeding sixty days, or both, all assaults and batteries against sports officials and coaches when, in committing an assault and battery, the offender knows the individual assaulted to be a sports official or coach at any level of competition and the act causing the assault and battery to the sports official or coach occurred within an athletic facility or an indoor or outdoor playing field or within the immediate vicinity of the athletic facility or an indoor or outdoor playing field at which the sports official or coach was an active participant in the athletic contests held at the athletic facility. For the purposes of this subsection, “sports official” means a person at an athletic contest who enforces the rules of the contest, such as an umpire, referee, scorekeeper, and “coach” means a person recognized as a coach by the sanctioning authority that conducted the athletic contest.~~”

SECTION 9. Section 17‑15‑30 of the 1976 Code is amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, the court may, on the basis of available information, consider the nature and circumstances of the offense charged and the accused’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) The court shall consider:

(1) the accused’s criminal record;

(2) any charges pending against the accused at the time release is requested;

(~~2~~3) all incident reports generated as a result of the offense charged, if available; and

(~~3~~4) whether the accused is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status.

(C) Prior to or at the time of the hearing, the law enforcement officer, local detention facility officer, or local jail officer, as applicable, attending the hearing shall provide the court with the following information if available:

(1) the accused’s criminal record;

(2) any charges pending against the accused at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(D) The law enforcement officer, local detention facility officer, or local jail officer, as applicable, shall inform the court if any of the information required in this subsection is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement officer, local detention facility officer, or local jail officer, as applicable, to provide the court with the information required in this subsection does not constitute grounds for the postponement or delay of the person’s hearing.

(E) A court hearing this matter has contempt powers to enforce these provisions.”

SECTION 10. Section 22‑5‑510 of the 1976 Code is amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty‑four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) Prior to or at the time of the bond hearing, the law enforcement officer, local detention facility officer, or local jail officer, as applicable, attending the hearing shall provide the court with the following information if available:

(1) the person’s criminal record;

(2) any charges pending against the person;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining bail.

(D) The law enforcement officer, local detention facility officer, or local jail officer, as applicable, shall inform the court if any of the information required in this subsection is not available at the time of the bond hearing and the reason the information is not available. Failure on the part of the law enforcement officer, local detention facility officer, or local jail officer, as applicable, to provide the court with the information required in this subsection does not constitute grounds for the postponement or delay of the person’s bond hearing.

(E) A court hearing this matter has contempt powers to enforce these provisions.”

SECTION 11. Section 16‑11‑312(C) of the 1976 Code is amended to read:

“Section 16‑11‑312. (C)(1) Burglary in the second degree pursuant to subsection (A) is a felony punishable by imprisonment for not more than ten years.

(2) Burglary in the second degree pursuant to subsection (B) is a felony punishable by imprisonment for not more than fifteen years, provided, that no person convicted of burglary in the second degree pursuant to subsection (B) shall be eligible for parole except upon service of not less than one‑third of the term of the sentence.”

SECTION 12. Section 16‑17‑420 of the 1976 Code is amended to read:

“Section 16‑17‑420. (A) It shall be unlawful:

(1) For any person wilfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon; or

(2) For any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge.

(B) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not ~~less than one hundred dollars nor~~ more than one thousand dollars or be imprisoned in the county jail for not ~~less than thirty days nor~~ more than ninety days.

(C) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section. If the person is a child as defined by Section 63‑19‑20, jurisdiction must remain vested in the Family Court.”

SECTION 13. Amend Article 1, Chapter 25, Title 17 of the 1976 Code by adding:

“Section 17‑25‑65. (A) Upon the State’s motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided:

(1) substantial assistance in investigating or prosecuting another person; or

(2) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(B) Upon the State’s motion made more than one year after sentencing, the court may reduce a sentence if the defendant’s substantial assistance involved:

(1) information not known to the defendant until one year or more after sentencing;

(2) information provided by the defendant to the State within one year of sentencing, but which did not become useful to the State until more than one year after sentencing;

(3) information, the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after sentencing, and which was promptly provided to the State after its usefulness was reasonably apparent to the defendant; or

(4) aid to a Department of Corrections employee or volunteer who was in danger of being seriously injured or killed.

(C) A motion made pursuant to this provision shall be filed by that circuit’s solicitor in the county where the defendant’s case arose. The State shall send a copy to the chief judge of the circuit within five days of filing. The chief judge or a circuit court judge currently assigned to that county shall have jurisdiction to hear and resolve the motion. Jurisdiction to resolve the motion is not limited to the original sentencing judge.”

SECTION 14. A. Section 56‑1‑440 of the 1976 Code is amended to read:

“Section 56‑1‑440. (A) A person who drives a motor vehicle on a public highway of this State without a driver’s license in violation of Section 56‑1‑20 is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined five hundred dollars or imprisoned for forty‑five days, or both, and for a third and subsequent offense must be imprisoned for not less than forty‑five days nor more than six months. However, a charge of driving a motor vehicle without a driver’s license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.

(B) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

B. Section 56-3-1970 of the 1976 Code is amended to read:

“Section 56-3-1970. (A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56‑3‑1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Sections 56‑3‑1910, 56‑3‑1960, and 56‑3‑1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days for each offense.

D) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.”

SECTION 15. A. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑395. (A) The Department of Motor Vehicles shall establish a driver’s license reinstatement fee payment program. A person who is a South Carolina resident, is eighteen years of age or older, and has had his driver’s license suspended may apply to the Department of Motor Vehicles to obtain a license valid for no more than six months to allow time for payment of reinstatement fees. If the person has served all of his suspensions, has met all other conditions for reinstatement, and owes three hundred dollars or more of South Carolina reinstatement fees only for suspensions that are listed in subsection (E), the Department of Motor Vehicles may issue a six-month license upon payment of a thirty-five dollar administrative fee and payment of fifteen percent of the reinstatement fees owed.

(B) During the period of the six-month license, the person must make periodic payments of the reinstatement fees owed. Monies paid shall be applied to suspensions in chronological order, with the oldest fees being paid first.

(C) When all fees are paid, and the department records demonstrate that the person has no other suspensions, the person is eligible to renew his regular driver’s license.

(D) If all fees are not paid by the end of the six-month period, existing suspensions shall be reactivated.

(E) This subsection applies only to a person whose driver’s license has been suspended pursuant to Sections 34‑11‑70, 56‑1‑120, 56‑1‑170, 56‑1‑185, 56‑1‑240, 56‑1‑270, 56‑1‑290, 56‑1‑460(A)(1), 56‑2‑2740, 56‑9‑351, 56‑9‑354, 56‑9‑357, 56‑9‑430, 56‑9‑490, 56‑9‑610, 56‑9‑620, 56‑10‑225, 56‑10‑240, 56‑10‑270, 56‑10‑520, 56‑10‑530, and 56‑25‑20.

(F) No person may participate in the payment program more than one time in any three-year period.

(G) The payment program administrative fee of thirty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses.”

B. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56‑1‑396. (A) The Department of Motor Vehicles shall establish a driver’s license suspension amnesty period.

(B) The amnesty period must be for one week on an annual basis at the department’s discretion.

(C) During the amnesty period, a person whose driver’s license is suspended prior to the amnesty period may apply to the department to have qualifying suspensions cleared.

(D) If the person has met all conditions for reinstatement other than service of the suspension period, including payment of all applicable fees, the department must reinstate the person’s driver’s license.

(E) If the qualifying suspensions are cleared, but non-qualifying suspensions remain to be served, the department must recalculate the remaining suspension start dates to begin as soon as feasible.

(F) Qualifying suspensions include, and are limited to, suspensions pursuant to Sections 34‑11‑70, 56‑1‑120, 56‑1‑170, 56‑1‑185, 56‑1‑240, 56‑1‑270, 56‑1‑290, 56‑1‑460(A)(1), 56‑2‑2740, 56‑9‑351, 56‑9‑354, 56‑9‑357, 56‑9‑430, 56‑9‑490, 56‑9‑610, 56‑9‑620, 56‑10‑225, 56‑10‑240, 56‑10‑270, 56‑10‑520, 56‑10‑530, and 56‑25‑20.”

SECTION 16. A. Section 16-11-510(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the injury to the property or the property loss is worth ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, ~~or both, as permitted by law and without presentment or indictment by the grand jury~~ not more than thirty days, or both.”

B. Section 16-11-520(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the injury to the property or the property loss is worth ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned~~, or both, as permitted by law and without presentment or indictment of the grand jury~~ not more than thirty days, or both.”

C. Section 16-11-523(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than ~~five~~ ~~hundred~~ one thousand dollars or imprisoned not more than thirty days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is ~~one~~ two thousand dollars or less;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars; or

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is ~~five~~ ten thousand dollars or more.”

D. Section 16-13-10 (B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than ~~five~~ ten thousand dollars.

(C) If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.”

E. Section 16-13-30 of the 1976 Code is amended to read:

“Section 16-13-30. (A) Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of ~~one~~ two thousand dollars or less, is petit larceny, a misdemeanor, triable in the ~~magistrate’s court~~ summary courts. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than~~ ~~is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of ~~one~~ two thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:

(1) five years if the value of the personalty is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(2) ten years if the value of the personalty is ~~five~~ ten thousand dollars or more.”

F. Section 16-13-40 of the 1976 Code is amended to read:

“Section 16-13-40. (A) It is unlawful for a person to steal or take by robbery a bond, warrant, bill, or promissory note for the payment or securing the payment of money belonging to another.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the instrument stolen or taken has a value of ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the instrument stolen or taken is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the instrument stolen or taken has a value of ~~five~~ ten thousand dollars or more.”

G. Section 16-13-50 of the 1976 Code is amended to read:

“Section 16-13-50. (A) A person convicted of the larceny of a horse, mule, cow, hog, or any other livestock is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twenty‑five hundred dollars, or both, if the value of the livestock is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be imprisoned not more than five years or fined not more than five hundred dollars, or both, if the value of the livestock is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the livestock is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.

(B) A motor vehicle or other chattel used by or found in possession of a person engaged in the commission of a crime under this section is subject to confiscation and must be confiscated and sold under the provisions of Section 27‑21‑10.”

H. Section 16-13-66 of the 1976 Code is amended to read:

“Section 16-13-66. (A) A person violating the provision of Section 16‑13‑65 is guilty of a misdemeanor and, upon conviction:

(1) for the first offense, under the jurisdiction of the summary courts, must be fined an amount not to exceed ~~five hundred~~ one thousand dollars or imprisoned for a term not to exceed one year, or both, and shall pay restitution to the culturist an amount determined by the court.

(2) for a second offense, must be fined an amount not to exceed two thousand dollars or imprisoned for a term not less than two months and thirty days community service nor more than one year, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers and nets must be seized and forfeited to the court.

(3) for a third or subsequent offense, must be fined an amount not to exceed five thousand dollars or imprisoned for a term not less than six months nor more than two years, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(B) ~~Provided further, that if~~ If the value of such property stolen or damaged is less than ~~one~~ two hundred dollars, the case shall be tried in ~~magistrate’s court~~ the summary courts, and the punishment shall be ~~no more than is permitted by law without presentment or indictment by a grand jury~~ a fine of not more than one thousand dollars, and imprisonment for not more than thirty days.”

I. Section 16-13-70(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.

(C) In addition to the punishment specified in this section, the person must make good to the person injured all damages sustained and, if the matter be a trespass only, the person committing the offense shall make good to the person injured all damages that accrued.”

J. Section 16-13-80 of the 1976 Code is amended to read:

“Section 16-13-80. The larceny of a bicycle is a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, the person must be punishable at the discretion of the court. When the value of the bicycle is less than ~~one~~ two thousand dollars, the case is triable in ~~magistrate’s court~~ the summary courts and, upon conviction, the person must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.”

K. Section 16-13-110(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s court~~ the summary courts and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days if the value of the shoplifted merchandise is ~~one~~ two thousand dollars or less;

(2) felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both, if the value of the shoplifted merchandise is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be imprisoned not more than ten years if the value of the shoplifted merchandise is ~~five~~ ten thousand dollars or more.”

L. Section 16-13-180 of the 1976 Code is amended to read:

“Section 16-13-180. (A) It is unlawful for a person to buy, receive, or possess stolen goods, chattels, or other property if the person knows or has reason to believe the goods, chattels, or property is stolen. A person is guilty of this offense whether or not anyone is convicted of the theft of the property.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more.

(C) For the purposes of this section, the receipt of multiple items in a single transaction or event constitutes a single offense.”

M. Section 16-13-210 of the 1976 Code is amended to read:

“Section 16-13-210. (A) It is unlawful for an officer or other person charged with the safekeeping, transfer, and disbursement of public funds to embezzle these funds.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of the embezzlement and imprisoned not more than ten years if the amount of the embezzled funds is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of embezzlement and imprisoned not more than five years if the amount of the embezzled funds is less than ~~five~~ ten thousand dollars.

(C) The person convicted of a felony is disqualified from holding any office of honor or emolument in this State; but the General Assembly, by a two-thirds vote, may remove this disability upon payment in full of the principal and interest of the sum embezzled.”

N. Section 16-13-230(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the amount is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount is ~~five~~ ten thousand dollars or more.”

O. Section 16-13-240 of the 1976 Code is amended to read:

“Section 16-13-240. A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment of the grand jury~~ not more than thirty days.”

P. Section 16-13-260 of the 1976 Code is amended to read:

“Section 16-13-260. A person who falsely and deceitfully obtains or gets into his hands or possession any money, goods, chattels, jewels, or other things of another person by color and means of any false token or counterfeit letter made in another person’s name is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars,or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

Q. Section 16-13-290 of the 1976 Code is amended to read:

“Section 16-13-290. It is unlawful for a person, with intent to defraud either the State, a county, or municipal government or any person, to act as an officer and demand, obtain, or receive from a person or an officer of the State, county, or municipal government any money, paper, document, or other valuable things. A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the property or thing obtained has a value of more than ~~two~~ four hundred dollars.

(2) misdemeanor triable in ~~magistrate’s court~~ the summary courts, and, upon conviction, must be fined not more than ~~one~~ two hundred dollars or imprisoned not more than thirty days if the property or thing obtained has a value of ~~two~~ four hundred dollars or less.”

R. Section 16-13-331 of the 1976 Code is amended to read:

“Section 16-13-331. Whoever, without authority, with the intention of depriving the library or archive of the ownership of such property, willfully conceals a book or other library or archive property, while still on the premises of such library or archive, or willfully or without authority removes any book or other property from any library or archive or collection shall be deemed guilty of a misdemeanor under the jurisdiction of the summary courts, and upon conviction shall be punished in accordance with the following: (1) by a fine of not more than six hundred dollars or imprisonment for not more than six months; provided, however, that if the value of the library or archive property is less than ~~fifty~~ one hundred dollars, the punishment shall be a fine of not more than ~~one~~ two hundred dollars or imprisonment for not more than thirty days. Proof of the willful concealment of any book or other library or archive property while still on the premises of such library or archive shall be prima facie evidence of intent to commit larceny thereof.”

S. Section 16-13-420 of the 1976 Code is amended to read:

“Section 16‑13‑420. (A) A person having any ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property in his possession or under his control by virtue of a lease or rental agreement is guilty of larceny if he:

(1) wilfully and fraudulently fails to return the ~~motor vehicle, trailer, appliance, equipment, tool, clothing, or formal wear~~ property within seventy‑two hours after the lease or rental agreement has expired;

(2) fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of his lease or rental agreement.

The provisions of this section do not apply to lease‑purchase agreements or conditional sales type contracts.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the rented or leased item is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the rented or leased item is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the rented or leased item is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days ~~is permitted by law without presentment or indictment by the grand jury~~.”

T. Section 16-13-430(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony if the amount of food stamps fraudulently acquired or used is of a value of ~~five~~ ten thousand dollars or more. Upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than ten years, or both;

(2) felony if the amount of food stamps fraudulently acquired or used is of a value of more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars. Upon conviction, the person must be fined not more than five hundred dollars or imprisoned not more than five years, or both;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the amount of food stamps fraudulently acquired or used is of a value of ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days ~~is permitted by law without presentment or indictment by the grand jury~~.”

U. Section 16-14-60(a), (b), (c), and (d) of the 1976 Code is amended to read:

“(a) A person is guilty of financial transaction card fraud when, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, he:

(1) uses for the purpose of obtaining money, goods, services, or anything else of value a financial transaction card obtained or retained, or which was received with knowledge that it was obtained or retained, in violation of Section 16‑14‑20 or 16‑14‑40 or a financial transaction card which he knows is forged, altered, expired, revoked, or was obtained as a result of a fraudulent application in violation of Section 16‑14‑40(c);

(2) obtains money, goods, services, or anything else of value by:

a. representing without the consent of the specified cardholder that he has permission to use it;

b. presenting the financial transaction card without the authorization or permission of the cardholder;

c. representing that he is the holder of a card and the card has not in fact been issued;

d. using a financial transaction card to knowingly and wilfully exceed:

(i) the actual balance of a demand deposit account or time deposit account;

(ii) an authorized credit line in an amount which exceeds the authorized credit line by five hundred dollars or fifty percent of the authorized credit line, whichever is greater, if the cardholder has not paid to the issuer of the financial transaction card the total amount of the excess over the authorized credit line within ten days after notice to the cardholder by certified mail to the last known address that the credit line has been exceeded. Failure to pay the amount in excess of the authorized credit line after the notice is prima facie evidence of an intent to defraud;

(3) obtains control over a financial transaction card as security for debt;

(4) deposits into his account or any account, by means of an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other document not his lawful or legal property;

(5) receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other document having been deposited into an account by means of an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document deposited was false, fictitious, forged, altered, or counterfeit or that the above deposited item was not his lawful or legal property.

A person who violates the provisions of this subsection except subsection (a)(2)d. is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both, if the value of all money, goods, services, and other things of value furnished in violation of this section or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this section, does not exceed ~~five hundred~~ one thousand dollars in any six‑month period. If the value exceeds ~~five hundred~~ one thousand dollars in a six‑month period, a person is guilty of a felony and, upon conviction, must be fined not less than three thousand dollars or more than five thousand dollars or imprisoned not more than five years, or both. A person who violates the provisions of subsection (a)(2)d. is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employee of such person is guilty of a financial transaction card fraud when, with intent to defraud the issuer or the cardholder, he:

(1) furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card obtained or retained in violation of Section 16‑14‑20, or a financial transaction card which he knows is forged, expired, or revoked;

(2) fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished.

A person who violates the provisions of this subsection is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both, if the value of all money, goods, services, and other things of value furnished in violation of this section or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this section, does not exceed ~~five hundred~~ one thousand dollars in any six‑month period. If the value exceeds ~~five hundred~~ one thousand dollars in a six‑month period, a person is guilty of a felony and, upon conviction, must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.

(c) A person is guilty of financial transaction card fraud when, upon application for a financial transaction card to an issuer, he knowingly makes or causes to be made a false statement or report relative to his name, occupation, financial condition, assets, or liabilities; or wilfully and substantially overvalues any assets, or wilfully omits or substantially undervalues any indebtedness for the purpose of influencing the issuer to issue a financial transaction card. A person who violates the provisions of this subsection is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both.

(d) A cardholder is guilty of financial transaction card fraud when he wilfully, knowingly, and with an intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, submits, verbally or in writing, to the issuer or any other person, any false notice or report of the theft, loss, disappearance, or nonreceipt of his financial transaction card. A person who violates the provisions of this subsection is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both.”

V. Section 16-14-80(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(a) if the value of the money, goods, services, and anything else of value, is ~~five hundred~~ one thousand dollars or less in any six‑month period;

(2) felony and, upon conviction, must be sentenced pursuant to Section 16‑14‑100(b) if the value of the money, goods, services, or anything of value is more than ~~five hundred~~ one thousand dollars in any six‑month period.”

W. Section 16-14-100 of the 1976 Code is amended to read:

“Section 16-14-100. (a) A crime punishable under this subsection is a misdemeanor under the jurisdiction of the summary court, and, upon conviction, the person must be fined not more than ~~one~~ two thousand dollars or imprisoned not more than one year, or both.

(b) A crime punishable under this subsection is a felony and, upon conviction, the person must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.”

X. Section 16-17-600(C) of the 1976 Code is amended to read:

“(C)(1) It is unlawful for a person wilfully and knowingly to steal anything of value located upon or around a repository for human remains or within a human graveyard, cemetery, or memorial park, or for a person wilfully, knowingly, and without proper legal authority to destroy, tear down, or injure any fencing, plants, trees, shrubs, or flowers located upon or around a repository for human remains, or within a human graveyard, cemetery, or memorial park.

(2) A person violating the provisions of item (1) is guilty of:

(a) a felony and, upon conviction, if the theft of, destruction to, injury to, or loss of property is valued at ~~two~~ four hundred dollars or more, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and must be required to perform not more than five hundred hours of community service;

(b) a misdemeanor triable in ~~magistrates court~~ the summary courts if the theft of, destruction to, injury to, or loss of property is valued at less than ~~two~~ four hundred dollars. Upon conviction, a person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both, ~~pursuant to the jurisdiction of magistrates as provided in Section 22‑3‑550 ,~~ and must be required to perform not more than two hundred fifty hours of community service.”

Y. Section 16-21-80 of the 1976 Code is amended to read:

“Section 16-21-80. A person not entitled to the possession of a vehicle who receives, possesses, conceals, sells, or disposes of it, knowing it to be stolen or converted under circumstances constituting a crime, is guilty of a:

(1) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the vehicle is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned~~, not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days, or both~~,~~;

(2) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the vehicle is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the vehicle is ~~five~~ ten thousand dollars or more.”

Z. Section 36-9-410(C) of the 1976 Code is amended to read:

“(C) If the value of the personal property subject to a perfected security interest is worth:

(1) ~~one~~ two thousand dollars or less, a person who violates the provisions of this section is guilty of a misdemeanor triable in ~~the magistrate’s court~~ the summary courts and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days, or both;

(2) more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) ~~five~~ ten thousand dollars or more, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.”

A.A. Section 38-55-170 of the 1976 Code is amended to read:

“Section 38-55-170. A person who knowingly causes to be presented a false claim for payment to an insurer transacting business in this State, to a health maintenance organization transacting business in this State, or to any person, including the State of South Carolina, providing benefits for health care in this State, whether these benefits are administered directly or through a third person, or who knowingly assists, solicits, or conspires with another to present a false claim for payment as described above, is guilty of a:

(1) felony if the amount of the claim is ~~five~~ ten thousand dollars or more. Upon conviction, the person must be imprisoned not more than ten years or fined not more than five thousand dollars, or both;

(2) felony if the amount of the claim is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars. Upon conviction, the person must be fined in the discretion of the court or imprisoned not more than five years, or both;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the amount of the claim is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

B.B. Section 45-2-40 of the 1976 Code is amended to read:

“Section 45-2-40. (A) A person who on the premises or property of a lodging establishment:

(1) uses or possesses a controlled substance in violation of Chapter 53 of Title 44;

(2) consumes or possesses beer, wine, or alcoholic liquors in violation of Sections 63‑19‑2440 or ~~630‑19‑2450~~ 63-19-2450; is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(B) A person who on the premises or property of a lodging establishment maliciously and wilfully commits a violation of this chapter resulting in damage to a lodging establishment room or its furnishings is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount of injury or damage to the property is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount of injury or damage to the property is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the amount of injury or damage to the property is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.

(C) A person who rents or leases a room in a lodging establishment for the purpose of allowing the room to be used by another to do any act enumerated in subsections (A) or (B) of this section is guilty of a misdemeanor under the jurisdiction of the summary courts, and, upon conviction, must be fined not more than ~~five hundred~~ one thousand dollars or imprisoned not more than thirty days.

(D) In a case arising under this section involving damage to a lodging establishment room or its furnishings, the court may order the person renting or leasing the lodging establishment room or the person causing such damage, or both:

(1) to pay restitution for any damages suffered by the owner or operator of the lodging establishment, which damages may include the lodging establishment’s loss of revenue resulting from the establishment’s inability to rent or lease the room during the period of time the lodging establishment room is being repaired; and

(2) to pay damages or restitution to any other person who is injured in person or property.

In a case arising under this subsection triable in ~~magistrate’s court~~ the summary courts, a ~~magistrate~~ judge may order restitution not to exceed ~~one thousand dollars~~ the civil jurisdictional amount of magistrates court provided in 22‑3‑10(2).

In the case of a minor, the parents of the minor are liable for acts of the minor in violation of this section which cause damages to the lodging establishment room or furnishings or cause injury to persons or property.

(E) This section does not prohibit the prosecution of a person for the underlying violation which occurred on the premises or property of the lodging establishment.”

C.C. Section 46-1-20 of the 1976 Code is amended to read:

“Section 46-1-20. A person who steals from the field any grain, cotton, or vegetables, whether severed from the freehold or not, is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the crop is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the crop is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the crop is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

D.D. Section 46-1-40 of the 1976 Code is amended to read:

“Section 46-1-40. A person who steals tobacco plants, whether severed from the freehold or not, from any tobacco plant beds is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five hundred dollars if the value of the tobacco plants is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the tobacco plants is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the tobacco plants is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

E.E. Section 46-1-60(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~  the summary courts if the sale amount of the commodities is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

F.F. Section 46-1-70(B) of the 1976 Code is amended to read:

“(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the sale amount of the commodities is ~~five~~ ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the sale amount of the commodities is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars;

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the sale amount of the commodities is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

G.G. Section 49-1-50(C) of the 1976 Code is amended to read:

“(C) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the lumber or timber is ~~five~~ ten thousand dollars or more.

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the lumber or timber is more than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand dollars.

(3) misdemeanor triable in ~~magistrate’s court~~ the summary courts if the value of the lumber or timber is ~~one~~ two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned ~~not more than is permitted by law without presentment or indictment by the grand jury~~ not more than thirty days.”

SECTION 17. Repeal Section 16‑13‑425 of the 1976 Code.

SECTION 18. A. Section 56‑1‑460(A) of the 1976 Code is amended to read:

“Section 56‑1‑460. (A)(1) Except as provided in subitems (2) and (3), a person who drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;

(b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both; and

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for ~~not less than~~ up to ninety days, or both, or confined to a person’s place of residence pursuant to the Home Detention Act for not less than ninety days nor more than six months~~,~~. ~~no~~ No portion of ~~which~~ a term of imprisonment or confinement under home detention may be suspended by the trial judge. For purposes of this subitem, a person sentenced to confinement pursuant to the Home Detention Act is required to pay for the cost of such confinement.

(d) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense punishable under this subitem may be tried in ~~magistrate’s court~~ the summary courts.

(e) (i) A person convicted of a first or second offense of this subitem, as determined by the records of the department, and who is employed or enrolled in a college or university at any time while his driver’s license is suspended pursuant to this subitem, may apply for a route restricted driver’s license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the route restricted driver’s license only upon a showing by the person that he is employed or enrolled in a college or university and that he lives further than one mile from his place of employment or place of education.

(ii) When the department issues a route restricted driver’s license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A person holding a route restricted driver’s license pursuant to this subitem must report to the department immediately any change in his employment hours, place of employment, status as a student, or residence.

(iii) The fee for a route restricted driver’s license issued pursuant to this subitem is one hundred dollars, but no additional fee is due when changes occur in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The remainder of the fees collected pursuant to this subitem must be credited to the Department of Transportation State Non‑Federal Aid Highway Fund.

(iv) The operation of a motor vehicle outside the time limits and route imposed by a route restricted license by the person issued that license is a violation of subitem (A)(1).

(2) A person who drives a motor vehicle on any public highway of this State when his license has been suspended or revoked pursuant to the provisions of Section 56‑5‑2990 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third and subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

(d) No portion of the minimum sentence imposed under this subitem may be suspended.”

B. Article 5, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56-1-1105. (A) For purposes of this section:

(1) ‘Great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) ‘Habitual offender’ has the same meaning as in Section 56-1-1020.

(B) An habitual offender who drives a motor vehicle on any public highway of this State when the offender’s license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony, and, upon conviction, guilty plea, or nolo contendere plea must be punished:

(1) by a fine of not more than five thousand dollars and imprisonment for not more than ten years when great bodily injury results; or

(2) by a fine of not less than five thousand dollars nor more than ten thousand dollars and imprisonment for not more than twenty years when death results.

(C) The Department of Motor Vehicles must suspend the driver’s license of an habitual offender who is convicted, pleads guilty, or pleads nolo contendere pursuant to this section for a period to include incarceration plus two years when great bodily injury results and three years when death results. The period of incarceration must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident shall run concurrently.”

SECTION 19. Section 16‑5‑50 of the 1976 Code is amended to read:

“Section 16‑5‑50. Any person who shall (a) hinder, prevent or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this chapter in arresting any person for whose apprehension such warrant or other process may have been issued, (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, (c) aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not ~~less than fifty nor~~ more than ~~one~~ three thousand dollars or imprisonment for not ~~less than three months nor~~ more than ~~one year~~ three years, or both, at the discretion of the court having jurisdiction.”

SECTION 20. Section 17‑25‑45 of the 1976 Code is amended to read:

“Section 17‑25‑45. (A) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a most serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has either:

(1) one or more prior convictions for:

(~~1~~a) a most serious offense; or

(~~2~~b) a federal or out‑of‑state conviction for an offense that would be classified as a most serious offense under this section; or

~~(3) any combination of the offenses listed in items (1) and (2) above~~

(2) two or more prior convictions for:

(a) a serious offense; or

(b) a federal or out‑of‑state conviction for an offense that would be classified as a serious offense under this section.

(B) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has two or more prior convictions for:

(1) a serious offense;

(2) a most serious offense;

(3) a federal or out‑of‑state offense that would be classified as a serious offense or most serious offense under this section; or

(4) any combination of the offenses listed in items (1), (2), and (3) above.

(C) As used in this section:

(1) ‘Most serious offense’ means:

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

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

16‑3‑10 Murder

16-3-29 Attempted Murder

~~16‑3‑30~~ ~~Killing by poison~~

~~16‑3‑40~~ ~~Killing by stabbing or thrusting~~

16‑3‑50 Voluntary manslaughter

16‑3‑85(A)(1) Homicide by child abuse

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

16‑3‑210 Lynching, First degree

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

~~16‑3‑430~~ ~~Killing in a duel~~

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

16‑3‑652 Criminal sexual conduct, First degree

16‑3‑653 Criminal sexual conduct, Second degree

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

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

16‑3‑910 Kidnapping

16‑3‑920 Conspiracy to commit kidnapping

16‑3‑1075 Carjacking

16‑11‑110(A) Arson, First degree

16‑11‑311 Burglary, First degree

16‑11‑330(A) Armed robbery

16‑11‑330(B) Attempted armed robbery

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

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

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

25‑7‑40 Gathering information for an enemy

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

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

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

58‑17‑4090 Obstruction of railroad, death results.

(2) ‘Serious offense’ means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16‑3‑220 Lynching, Second degree

16-3-210(C) Assault and battery by mob, Second degree

16-3-600(B)(1) Assault and battery of a high and aggravated nature

16‑3‑810 Engaging child for sexual performance

16‑9‑220 Acceptance of bribes by officers

16‑9‑290 Accepting bribes for purpose of procuring public office

16‑11‑110(B) Arson, Second degree

16‑11‑312(B) Burglary, Second degree

16‑11‑380(B) Theft of a person using an automated teller machine

16‑13‑210(1) Embezzlement of public funds

16‑13‑230(B)(3) Breach of trust with fraudulent intent

16‑13‑240(1) Obtaining signature or property by false pretenses

38‑55‑540(3) Insurance fraud

44‑53‑370(e) Trafficking in controlled substances

44‑53‑375(C) Trafficking in ice, crank, or crack cocaine

44‑53‑445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

56‑5‑2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16‑1‑40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)

16‑1‑80 Attempt to commit any of the offenses listed in subitems (a) and (b)

43‑35‑85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.

(3) ‘Conviction’ means any conviction, guilty plea, or plea of nolo contendere.

(D) Except as provided in subsection (E), no person sentenced pursuant to this section shall be eligible for early release or discharge in any form, whether by parole, work release, release to ameliorate prison overcrowding, or any other early release program, nor shall they be eligible for earned work credits, education credits, good conduct credits, or any similar program for early release.

(E) For the purpose of this section only, a person sentenced pursuant to this section may be paroled if:

(1) the Department of Corrections requests the Department of Probation, Parole, and Pardon Services to consider the person for parole; and

(2) the Department of Probation, Parole, and Pardon Services determines that due to the person’s health or age he is no longer a threat to society; and

(a) the person has served at least thirty years of the sentence imposed pursuant to this section and has reached at least sixty‑five years of age; or

(b) the person has served at least twenty years of the sentence imposed pursuant to this section and has reached at least seventy years of age; or

(c) the person is afflicted with a terminal illness where life expectancy is one year or less; or

(d) the person can produce evidence comprising the most extraordinary circumstances.

(F) For the purpose of determining a prior or previous conviction under this section and Section 17‑25‑50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication. There is no requirement that the sentence for the prior or previous conviction must have been served or completed before a sentence of life without parole can be imposed under this section.

(G) The decision to invoke sentencing under ~~Section 17‑25‑45(B)~~ this section is in the discretion of the solicitor. ~~The provisions of Section 17‑25‑45(A) shall be mandatory.~~

(H) Where the solicitor is required to seek or determines to seek sentencing of a defendant under this section, written notice must be given by the solicitor to the defendant and defendant’s counsel not less than ten days before trial.”

SECTION 21. Sections 16‑3‑20(A) and (B) of the 1976 Code are amended to read:

“Section 16‑3‑20. (A) A person who is convicted of or pleads guilty to murder must be punished by death, ~~by imprisonment for life,~~ or by a mandatory minimum term of imprisonment for thirty years to life. If the State seeks the death penalty and a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (B) and (C), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, ‘life’ or ‘life imprisonment’ means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. In cases where the defendant is eligible for parole, the judge must charge the applicable parole eligibility statute. No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years to life required by this section. Under no circumstances may a female who is pregnant be executed so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death to life imprisonment under the provisions of Section 14 of Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.”

(B) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant of murder, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. If no statutory aggravating circumstance is found, the defendant must be sentenced to either life imprisonment or a mandatory minimum term of imprisonment for thirty years to life. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty‑four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pleaded guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only such evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the State of South Carolina or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.”

SECTION 22. Repeal Sections 16‑3‑30, 16‑3‑40, and 16‑3‑430 of the 1976 Code.

SECTION 23. Section 14‑25‑65 of the 1976 Code is amended to read:

“Section 14‑25‑65. If a municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of the court, he may impose a fine of not more than five hundred dollars or imprisonment for thirty days, or both. In addition, a municipal judge may order restitution in an amount not to exceed ~~five thousand dollars~~ the civil jurisdictional amount of magistrates court provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A municipal judge may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 24. Section 22‑3‑550(A) of the 1976 Code is amended to read:

“Section 22‑3‑550. (A) Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both. In addition, a magistrate may order restitution in an amount not to exceed ~~five thousand~~ ~~dollars~~ the civil jurisdictional amount provided in Section 22‑3‑10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A magistrate may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay.”

SECTION 25. Article 5, Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Section 16‑23‑500. (A) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State any firearm or ammunition to a person who has been convicted of a violent crime, as defined in Section 16‑1‑60.

(B) It is unlawful for a person who has been convicted of a violent crime, as defined in Section 16‑1‑60, to acquire or possess a firearm or ammunition within this State.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(D) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.”

SECTION 26. Section 16‑1‑60 of the 1976 Code is amended to read:

“Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10); attempted murder (Section 16-3-29); criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first and second degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16-3-600(B); kidnapping (Section 16‑3‑910); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); criminal domestic violence of a high and aggravated nature (Section 16‑25‑65); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); ~~accessory before the fact to commit any of the above offenses (Section 16‑1‑40); attempt to commit any of the above offenses (Section 16‑1‑80);~~ ~~and~~ taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑33‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); lewd act upon a child under 16 (Section 16‑15‑140); sexual exploitation of a minor first Degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic-control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.”

SECTION 27. Section 16‑23‑490(C) of the 1976 Code is amended to read:

“Section 16‑23‑490. (C) Except as provided in this subsection, ~~The~~ the person sentenced under this section is not eligible during this five‑year period for parole, work release, or extended work release. The person is eligible for work release, if the person is sentenced for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, and the person is within three years of release from imprisonment. The five years may not be suspended and the person may not complete his term of imprisonment in less than five years pursuant to good‑time credits or work credits, but may earn credits during this period.”

SECTION 28. Section 17‑25‑45(D) of the 1976 Code is amended to read:

“Section 17‑25‑45. (D) Except as provided in this subsection or subsection (E), no person sentenced pursuant to this section shall be eligible for early release or discharge in any form, whether by parole, work release, release to ameliorate prison overcrowding, or any other early release program, nor shall they be eligible for earned work credits, education credits, good conduct credits, or any similar program for early release. A person is eligible for work release, if the person is sentenced for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, and the person is within three years of release from imprisonment.”

SECTION 29. Section 24‑13‑125(A) of the 1976 Code is amended to read:

“Section 24‑13‑125. (A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, or as provided in this subsection, a prisoner convicted of a ‘no parole offense’, as defined in Section 24‑13‑100, and sentenced to the custody of the Department of Corrections, including a prisoner serving time in a local facility pursuant to a designated facility agreement authorized by Section 24‑3‑20, is not eligible for work release until the prisoner has served not less than eighty percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended. A person is eligible for work release if the person is sentenced for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, and the person is within three years of release from imprisonment. Except as provided in this subsection, ~~Nothing~~ nothing in this section may be construed to allow a prisoner convicted of murder or a prisoner prohibited from participating in work release by another provision of law to be eligible for work release.”

SECTION 30. Section 24‑13‑650 of the 1976 Code is amended to read:

“Section 24‑13‑650. (A) No offender committed to incarceration for a violent offense as defined in Section 16‑1‑60 or a ‘no parole offense’ as defined in Section 24‑13‑100 may be released back into the community in which the offender committed the offense under the work release program, except in those cases wherein, where applicable, the victim of the crime for which the offender is charged or the relatives of the victim who have applied for notification under Article 15, Chapter 3, Title 16 if the victim has died, the law enforcement agency which employed the arresting officer at the time of the arrest, and the circuit solicitor all agree to recommend that the offender be allowed to participate in the work release program in the community where the offense was committed. The victim or the victim’s nearest living relative, the law enforcement agency, and the solicitor, as referenced above, must affirm in writing that the offender be allowed to return to the community in which the offense was committed to participate in the work release program.

(B) An offender committed to incarceration for voluntary manslaughter (Section 16‑3‑50), kidnapping (Section 16‑3‑910), carjacking (Section 16‑3‑1075), burglary in the second degree (Section 16‑11‑312(B)), armed robbery (Section 16‑11‑330(A)), or attempted armed robbery (Section 16‑11‑330(B)), may be released under the work program back into the community in which the offender committed the offense , if the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16‑1‑60, the person is within three years of release from imprisonment, and the provisions of subsection (A) are fulfilled.”

SECTION 31. Section 24‑3‑20(B)(2) of the 1976 Code is amended to read:

“Section 24‑3‑20. (B)(2) the rates of pay and other conditions of employment will not be less than those paid and provided for work of similar nature in the locality in which the work is to be performed.

The department shall notify victims registered pursuant to Article 15, Chapter 3, Title 16 and the trial judge, solicitor, and sheriff of the county or the law enforcement agency of the jurisdiction where the offense occurred before releasing inmates on work release. However, the trial judge may waive his right to receive the notification contained in this section by notifying the department of this waiver in writing. The department has the authority to deny release based upon opinions received from these persons, if any, as to the suitability of the release.

A prisoner’s place of confinement may not be extended as permitted by this subsection ~~who~~ if the prisoner:

(a) is currently serving a sentence for or has a prior conviction for criminal sexual conduct in the first, second, or third degree; attempted criminal sexual conduct; assault with intent to commit criminal sexual conduct; criminal sexual conduct when the victim is his legal spouse; criminal sexual conduct with a minor; committing or attempting to commit a lewd act on a child; engaging a child for sexual performance; spousal sexual battery; ~~or a violent offense as defined in Section 16‑1‑60,~~ a harassment or stalking offense pursuant to Article 17, Chapter 3 of Title 16, or a burglary offense pursuant to Section 16‑11‑311 or 16‑11‑312(B)~~.~~ ; or

(b) is currently serving a sentence for a violent offense as defined in Section 16‑1‑60, except that a prisoner serving a sentence for kidnapping, pursuant to Section 16‑3‑910, voluntary manslaughter, pursuant to Section 16‑3‑50, armed robbery, pursuant to Section 16‑11‑330(A), attempted armed robbery, pursuant to Section 16‑11‑330(B), burglary in the second degree, pursuant to Section 16‑11‑312(B), or carjacking, pursuant to Section 16‑3‑1075 may be eligible to participate in the work release programs so long as the prisoner is within three years from the date of his release from incarceration, and the prisoner is not serving a sentence involving criminal sexual conduct or other violent crime, as classified under Section 16‑1‑60.

(3) A prisoner who is serving a sentence for a ‘no parole offense’ as defined in Section 24‑13‑100 and who is otherwise eligible for work release shall not have his place of confinement extended until he has served the minimum period of incarceration as set forth in Section 24‑13‑125.”

SECTION 32. Section 24‑19‑10 of the 1976 Code is amended to read:

“Section 24‑19‑10. As used herein:

(a) ‘Department’ means the Department of Corrections.

(b) ‘Division’ means the Youthful Offender Division.

(c) ‘Director’ means the Director of the Department of Corrections.

(d) Youthful offender’ means an offender who is:

(i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16‑1‑20, or a felony which provides for a maximum term of imprisonment of fifteen years or less~~, or~~;

(ii) seventeen but less than twenty‑five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16‑1‑60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(iii) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

(iv) seventeen but less than twenty‑one years of age at the time of conviction for burglary in the second degree (Section 16‑11‑312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three‑year minimum sentence;

(v) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63‑19‑1210 for allegedly committing a lewd act upon a child pursuant to Section 16‑15‑140, and the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; or

(vi) seventeen but less than twenty‑five years of age at the time of conviction for committing a lewd act upon a child pursuant to Section 16‑15‑140, and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act.

(e) ‘Treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this may also include vocational and other training considered appropriate and necessary by the division.

(f) ‘Conviction’ means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge where the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment.”

SECTION 33. Section 22-5-920(B) of the 1976 Code is amended to read:

“(B) Following a first offense conviction as a youthful offender for which a defendant is sentenced pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, the defendant, after five years from the date of completion of his sentence, including probation and parole, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction. However, this section does not apply to an offense involving the operation of a motor vehicle, to a violation of Title 50 or the regulations promulgated under it for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses authorized, to an offense classified as a violent crime in Section 16‑1‑60, or to an offense contained in Chapter 25, Title 16, except as otherwise provided in Section 16‑25‑30. If the defendant has had no other conviction during the five-year period following completion of his sentence, including probation and parole, for a first offense conviction as a youthful offender for which the defendant was sentenced pursuant to the provisions of Chapter 19, title 24, Youthful Offender Act, the circuit court may issue an order expunging the records. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred before the effective date of this section. A person eligible for a sentence pursuant to the provisions of Chapter 19, Title 24, Youthful Offender Act, and who is not sentenced pursuant to those provisions, is not eligible to have his record expunged pursuant to the provisions of this section.”

SECTION 34. Section 24‑19‑110 of the 1976 Code is amended to read:

“Section 24‑19‑110. (A) The division may at any time after reasonable notice to the director release conditionally under supervision a committed youthful offender. When, in the judgment of the director, a committed youthful offender should be released conditionally under supervision he shall so report and recommend to the division.

(B) The division may regularly assess a reasonable fee to be paid by the youthful offender who is on conditional release to offset the cost of his supervision.

(C) The division may discharge a committed youthful offender unconditionally at the expiration of one year from the date of conditional release.

(D) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender. The division has the authority to deny conditional release and unconditional discharge based upon information received from the victim as to the suitability of the release.”

SECTION 35. Section 24‑19‑120 of the 1976 Code is amended to read:

“Section 24‑19‑120. (A) A youthful offender shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction.

(B) The division must notify a victim registered pursuant to Article 15, Chapter 3, Title 16 before conditionally releasing or unconditionally discharging a youthful offender.”

SECTION 36. Section 14‑1‑213(A) of the 1976 Code is amended to read:

“Section 14‑1‑213. (A) In addition to all other assessments and surcharges required to be imposed by law, a ~~one‑hundred‑dollar~~ one hundred and fifty dollarsurcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court or in magistrates or municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.”

SECTION 37. Section 44‑53‑160(4) of the 1976 Code of Laws is amended to read:

“Section 44‑53‑160. (4) If any substance is added, deleted, or rescheduled as a controlled substance under Federal law or regulation ~~and notice of the designation is given to the Department~~, the Department shall by rule, at its first regular or special meeting ~~recommend that a corresponding change in South Carolina law be made by the next regular session of the General Assembly not less than thirty days~~ after publication in the Federal register of ~~a~~ the final order designating ~~a~~ the substance as a controlled substance or rescheduling or deleting ~~a~~ the substance, ~~unless the Department objects to the change. In that case, the Department shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Department shall announce its decision and shall notify the General Assembly in writing of the change in Federal law or regulations and of the Department’s recommendation that a corresponding change in South Carolina law be made, or not be made, as the case may be~~.

~~If the Department does not object to the change of schedule, it shall by rule, at its first regular or special meeting after the final order by the Bureau or its successor agency is published in the Federal register,~~ reschedule the substance into the appropriate schedule, such rule having force of law unless overturned by the General Assembly~~; in such case, no hearing need be given unless requested by an interested party~~. This rule issued by the Department shall be in substance identical with the order published in the Federal register effecting the change in Federal status of the substance. The Department shall notify the General Assembly in writing of the change in Federal law or regulation and of the corresponding change in South Carolina law.”

SECTION 38. Section 44‑53‑370 of the 1976 Code is amended to read:

“Section 44‑53‑370. (a) Except as authorized by this article it shall be unlawful for any person:

(1) to manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;

(2) to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

(b) A person who violates subsection (a) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty‑five thousand dollars, or both. For a second offense, or if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned not less than ~~fifteen~~ ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both. ~~Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted~~ Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(2) any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, or, if, in the case of a first conviction of violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, or, if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. ~~Except in the case of conviction for a first offense, the sentence must not be suspended and probation must not be granted~~ Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(3) a substance classified in Schedule IV except for flunitrazepam is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than three years or fined not more than three thousand dollars, or both. In the case of second or subsequent offenses, the person is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than six thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(4) a substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than one year or fined not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence must be twice the first offense. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(c) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article.

(d) A person who violates subsection (c) with respect to:

(1) a controlled substance classified in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(2) any other controlled substance classified in Schedules I through V is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than two thousand dollars, or both, except as provided in subsection (d)(4). Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(3) cocaine is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense, the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(4) possession of more than: ten grains of cocaine, one hundred milligrams of alpha‑ or beta‑eucaine, four grains of opium, four grains of morphine, two grains of heroin, one hundred milligrams of isonipecaine, twenty‑eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4‑methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty‑ eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars. Conditional discharge may be granted in accordance with the provisions of Section 44‑53‑450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17‑22‑10 through 17‑22‑160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14‑1‑205. The assessment portion of the bail must be distributed as provided in Section 14‑1‑206, 14‑1‑207, or 14‑1‑208, whichever is applicable.

(e) Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of:

(1) ten pounds or more of marijuana is guilty of a felony which is known as “trafficking in marijuana” and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten pounds or more, but less than one hundred pounds:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifteen thousand dollars;

3. for a third or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred pounds or more, but less than two thousand pounds, or one hundred to one thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) two thousand pounds or more, but less than ten thousand pounds, or more than one thousand marijuana plants, but less than ten thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) ten thousand pounds or more, or ten thousand marijuana plants, or more than ten thousand marijuana plants regardless of weight, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(2) ten grams or more of cocaine or any mixtures containing cocaine, as provided in Section 44‑53‑210(b)(4), is guilty of a felony which is known as “trafficking in cocaine” and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten grams or more, but less than twenty‑eight grams:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(3) four grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44‑53‑190 or 44‑53‑210, or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as “trafficking in illegal drugs” and, upon conviction, must be punished as follows if the quantity involved is:

(a) four grams or more, but less than fourteen grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(b) fourteen grams or more but less than twenty‑eight grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(c) twenty‑eight grams or more, a mandatory term of imprisonment of not less than twenty‑five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(4) fifteen grams or more of methaqualone is guilty of a felony which is known as “trafficking in methaqualone” and, upon conviction, must be punished as follows if the quantity involved is:

(a) fifteen grams but less than one hundred fifty grams:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred fifty grams but less than fifteen hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) fifteen hundred grams but less than fifteen kilograms, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) fifteen kilograms or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(5) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of lysergic acid diethylamide (LSD) is guilty of a felony which is known as “trafficking in LSD” and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(6) one gram or more of flunitrazepam is guilty of a felony which is known as ‘trafficking in flunitrazepam’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one gram but less than one hundred grams;

1. for a first offense a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) one hundred grams but less than one thousand grams, a mandatory term of imprisonment of twenty years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(c) one thousand grams but less than five kilograms, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) five kilograms or more, a term of imprisonment of not less than twenty‑five years, nor more than thirty years, with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(7) fifty milliliters or milligrams or more of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid is guilty of a felony which is known as “trafficking in gamma hydroxybutyric acid” and, upon conviction, must be punished as follows:

(a) for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

(b) for a second or subsequent offense, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars.

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty‑five years, a mandatory minimum term of imprisonment of twenty‑five years, or a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years is not eligible for parole, extended work release, as provided in Section 24‑13‑610, or supervised furlough, as provided in Section 24‑13‑710. Notwithstanding Section 44‑53‑420, a person convicted of conspiracy pursuant to this subsection must be sentenced as provided in this section with a full sentence or punishment and not one‑half of the sentence or punishment prescribed for the offense.

The weight of any controlled substance in this subsection includes the substance in pure form or any compound or mixture of the substance.

The offense of possession with intent to distribute described in Section 44‑53‑370(a) is a lesser included offense to the offenses of trafficking based upon possession described in this subsection.

(8) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of 3, 4‑methalenedioxymethamphetamine (MDMA) is guilty of a felony which is known as ‘trafficking in MDMA or ecstasy’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars.

(f) It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:

(1) kidnapping, Section 16‑3‑910;

(2) criminal sexual conduct in the first, second, or third degree, Sections 16‑3‑652, 16‑3‑653, and 16‑3‑654;

(3) criminal sexual conduct with a minor in the first or second degree, Section 16‑3‑655;

(4) criminal sexual conduct where victim is legal spouse (separated), Section 16‑3‑658;

(5) spousal sexual battery, Section 16‑3‑615;

(6) engaging a child for a sexual performance, Section 16‑3‑810;

(7) committing lewd act upon child under sixteen, Section 16‑15‑140;

(8) petit larceny, Section 16‑13‑30 (A); or

(9) grand larceny, Section 16‑13‑30 (B).

(g) A person who violates subsection (f) with respect to:

(1) a controlled substance classified in Schedule I (b) or (c) which is a narcotic drug or lysergic acid diethylamide (LSD), or in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentencein this subsection must not be suspended and probation must not be granted;

(2) any other controlled substance or gamma hydroxy butyrate is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than twenty‑five years, or fined not more than forty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this subsection must not be suspended and probation must not be granted.”

SECTION 39. Section 44‑53‑375 of the 1976 Code is amended to read:

“Section 44‑53‑375. (A) A person possessing ~~or attempting to possess~~ less than one gram of methamphetamine or cocaine base, as defined in Section 44‑53‑110, is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of Section 44‑53‑370, is guilty of a felony and, upon conviction:

(1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty‑five thousand dollars, or both;

(2) for a second offense or if, in the case of a first conviction of a violation of this section, the offender has been convicted of any of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(3) for a third or subsequent offense or if the offender has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than ~~fifteen~~ ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(C) A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44‑53‑110, 44‑53‑210(d)(1), or 44‑53‑210(d)(2), is guilty of a felony which is known as ‘trafficking in methamphetamine or cocaine base’ and, upon conviction, must be punished as follows if the quantity involved is:

(1) ten grams or more, but less than twenty‑eight grams:

(a) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(b) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(2) twenty‑eight grams or more, but less than one hundred grams:

(a) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(3) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(4) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(5) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(D) Possession of equipment or paraphernalia used in the manufacture of cocaine, cocaine base, or methamphetamine is prima facie evidence of intent to manufacture.

(E)(1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains ~~twelve~~ nine grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony known as ‘trafficking in ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances’ and, upon conviction, must be punished as follows if the quantity involved is:

(a) ~~twelve~~ nine grams or more, but less than twenty‑eight grams:

(i) for a first offense, a term of imprisonment of not ~~less than three years nor~~ more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty‑five thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years, no part of which may be suspended nor probation granted,and a fine of fifty thousand dollars;

(b) twenty‑eight grams or more, but less than one hundred grams:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty‑five years, no part of which may be suspended nor probation granted, *a*nd a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty‑five years and not more than thirty years, no part of which may be suspended nor probation granted,and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty‑five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty‑five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(2) This subsection does not apply to:

(a) a consumer who possesses products:

(i) containing ephedrine, pseudoephedrine, or phenylpropanolamine in a manner consistent with typical medicinal or household use, as indicated by storage location, and possession of the products in a variety of strengths, brands, types, purposes, and expiration dates; or

(ii) for agricultural use containing anhydrous ammonia if the consumer has reformulated the anhydrous ammonia by means of additive so as effectively to prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances; or

(b) products labeled for pediatric use pursuant to federal regulations and according to label instructions primarily intended for administration to children under twelve years of age; or

(c) products that the Drug Enforcement Administration and the Department of Health and Environmental Control, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors’ salts, isomers, or salts of isomers, or a combination of any of these substances.

(3) This subsection preempts all local ordinances or regulations governing the possession of any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine.

(F)~~Except for a first offense, as provided in subsection (A) of this section, sentences~~ Sentences for violation of the provisions of ~~this section~~ subsections (C) and (E) may not be suspended and probation may not be granted. A person convicted and sentenced under ~~this subsection~~ (C) and (E) to a mandatory term of imprisonment of twenty‑five years, a mandatory minimum term of imprisonment of twenty‑five years, or a mandatory minimum term of imprisonment of not less than twenty‑five years nor more than thirty years is not eligible for parole, extended work release as provided in Section 24‑13‑610, or supervised furlough as provided in Section 24‑13‑710.

(G) A person eighteen years of age or older may be charged with unlawful conduct toward a child pursuant to Section 63‑5‑70, if a child was present at any time during the unlawful manufacturing of methamphetamine.”

SECTION 40. Section 44‑53‑445 of the 1976 Code is amended to read:

“Section 44‑53‑445. (A) It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(B) For a person to be convicted of an offense pursuant to subsection (A), the person must:

(1) have knowledge that that he is in, on, or within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university; and

(2) actually distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, the controlled substance within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(C) A person must not be convicted of an offense pursuant to subsection (A) if the person is stopped by a law enforcement officer for the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university, but did not actually commit the controlled substance offense within a one‑half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

~~(B)(1)~~(D)(1) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.

~~(2)~~ ~~When a violation involves the distribution, sale, manufacture, or possession with intent to distribute crack cocaine, the person is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and imprisoned not less than ten nor more than fifteen years.~~

(~~3~~2) When a violation involves only the purchase of a controlled substance, ~~including crack cocaine,~~ the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(~~C~~E) For the purpose of creating inferences of intent to distribute, the inferences set out in Sections 44‑53‑370 and 44‑53‑375 apply to criminal prosecutions under this section.”

SECTION 41. Section 44‑53‑450 of the 1976 Code is amended to read:

“Section 44‑53‑450. ~~(a~~A) Whenever any person who has not previously been convicted of any offense under this article or any offense under any State or Federal statute relating to marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 44‑53‑370 (c) and (d), or Section 44‑53‑375 (A) ~~except narcotic drugs classified in Schedule I (b) and (c) and narcotic drugs classified in Schedule II~~, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a State‑supported facility or a facility approved by the Commission, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

~~(b~~B) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), ~~and if the offense did not involve a controlled substance classified in Schedule I which is a narcotic drug and Schedule II which is a narcotic drug,~~ the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (A)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.”

SECTION 42. Section 44‑53‑470 of the 1976 Code is amended to read:

“Section 44‑53‑470. (A) An offense is considered a second or subsequent offense if:

~~(1)~~ ~~for a possession offense pursuant to the provisions of this article, the offender has been convicted within the previous ten years of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs; and~~

~~(2)~~ ~~for all other offenses pursuant to the provisions of this article, the offender has at any time been convicted of a violation of a provision of this article or of another state or federal statute relating to narcotic drugs, marijuana, depressants, stimulants, or hallucinogenic drugs.~~”

(1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;

(2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;

(3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance, offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

(B) If a person is sentenced to confinement as the result of a conviction pursuant to this article, the time period specified in this section begins on the date of the conviction or on the date the person is released from confinement imposed for the conviction, whichever is later.”

SECTION 43. Section 44‑53‑582 of the 1976 Code is amended to read:

“Section 44‑53‑582. All monies used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation must be returned to the State or local agency or unit of government furnishing the monies upon a determination by the court that the monies were used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation. The court may order a defendant to return the monies to the state or local agency or unit of government at the time of sentencing.”

SECTION 44. Section 56‑1‑745(A) of the 1976 Code of Laws is amended to read:

“Section 56‑1‑745. (A) The driver’s license of a person convicted of a controlled substance violation ~~involving hashish or marijuana~~ must be suspended for a period of six months. ~~The driver’s license of a person convicted of any other controlled substance violation must be suspended for a period of one year.~~ If the person does not have a driver’s license, the court shall order the Department of Motor Vehicles not to issue a driver’s license for six months after the person legally is eligible for the issuance of a driver’s license ~~if the offense involves hashish or marijuana. If the offense involves any other controlled substance, the court shall order the department not to issue a driver’s license for one year after the person legally is eligible for the issuance of a driver’s license~~. For each subsequent conviction under this section, the court shall order the driver’s license to be suspended for an additional six months ~~or one year, as the case may be~~. The additional period of suspension for a subsequent offense runs consecutively and does not commence until the expiration of the suspension for the prior offense.”

PART II

Release and Supervision Revisions

SECTION 45. It is the intent of the General Assembly that the provisions in PART II of this Act shall provide cost‑effective prison release and community supervision mechanisms and cost‑effective and incentive‑based strategies for alternatives to incarceration in order to reduce recidivism and improve public safety.

SECTION 46. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑5. As used in this chapter:

(1) ‘Administrative monitoring’ means a form of monitoring by the department beyond the end of the term of supervision in which the only remaining condition of supervision not completed is the payment of financial obligations. Under administrative monitoring, the only condition of the monitoring shall be the requirement that reasonable progress be made towards the payment of financial obligations. The payment of monitoring mandated fees shall continue. When an offender is placed on administrative monitoring, he shall register with the department’s representative in his county, notify the department of his current address each quarter, and make payments on financial obligations owed, until the financial obligations are paid in full or a consent order of judgment is filed.

(2) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(3) ‘Department’ means the Department of Probation, Parole and Pardon Services.

(4) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.

(5) ‘Financial obligations’ mean fines, fees, and restitution either ordered by the court or statutorily imposed.

(6) ‘Hearing Officer’ means an employee of the department who conducts preliminary hearings to determine probable cause on alleged violations committed by an individual under the supervision of the department and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law.”

SECTION 47. Section 24‑21‑10 of the 1976 Code is amended to read:

“Section 24‑21‑10. (A) The department ~~Department of Probation, Parole, and Pardon Services, hereafter referred to as the ‘department’,~~ is governed by ~~the~~ its director ~~of the department~~. The director must be appointed by the Governor with the advice and consent of the Senate. To qualify for appointment, the director must have a baccalaureate or more advanced degree from an institution of higher learning that has been accredited by a regional or national accrediting body, which is recognized by the Council for Higher Education Accreditation and must have at least ten years of training and experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work.

(B) The Board of Probation, Parole, and Pardon Services is composed of seven members. The terms of office of the members are for six years. Six of the seven members must be appointed from each of the congressional districts and one member must be appointed at large. The at‑large appointee shall have at least five years of work or volunteer experience in one or more of the following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work. Vacancies must be filled by gubernatorial appointment with the advice and consent of the Senate for the unexpired term. If a vacancy occurs during a recess of the Senate, the Governor may fill the vacancy by appointment for the unexpired term pending the consent of the Senate, provided the appointment is received for confirmation on the first day of the Senate’s next meeting following the vacancy. A chairman must be elected annually by a majority of the membership of the board. The chairman may serve consecutive terms.

(C) The Governor shall deliver an appointment within sixty days of the expiration of a term, if an individual is being reappointed, or within ninety days of the expiration of a term, if an individual is an initial appointee. If a board member who is being reappointed is not confirmed within sixty days of receipt of the appointment by the Senate, the appointment is considered rejected. For an initial appointee, if confirmation is not made within ninety days of receipt of the appointment by the Senate, the appointment is deemed rejected. The Senate may by resolution extend the period after which an appointment is considered rejected. If the failure of the Senate to confirm an appointee would result in the lack of a quorum of board membership, the seat for which confirmation is denied or rejected shall not be considered when determining if a quorum of board membership exists.

(D) Within ninety days of a parole board member’s appointment by the Governor and confirmation by the Senate, the board member must complete a comprehensive training course developed by the department using training components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training course must include classes regarding the following: 1) the elements of the decision making process, through the use of evidence-based practices for determining offender risk, needs and motivations to change, including the actuarial assessment tool that is used by the parole agent; 2) security classifications as established by the Department of Corrections; 3) programming and disciplinary processes and the department’s supervision, case planning, and violation process; 4) the dynamics of criminal victimization; and 5) collaboration with corrections related stakeholders, both public and private, to increase offender success and public safety. The department must promulgate regulations setting forth the minimum number of hours of training required for the board members and the specific requirements of the course that the members must complete.

(E)(1) Each parole board member is also required to complete a minimum of eight hours of training annually, which shall be provided for in the department’s annual budget. This annual training course must be developed using the training components consistent with those offered by the National Institute of Corrections or American Probation and Parole Association and must offer classes regarding: 1) a review and analysis of the effectiveness of the assessment tool used by the parole agents; 2) a review of the department’s progress toward public safety goals; 3) the use of data in decision making; and 4) any information regarding promising and evidence‑based practices offered in the corrections related and crime victim dynamics field. The department must promulgate regulations setting forth the specific criteria for the course that the members must complete.

(2) If a parole board member does not fulfill the training as provided in this section, the governor, upon notification, must remove that member from the board unless the Governor grants the parole board member an extension to complete the training, based upon exceptional circumstances.

(F) The department must develop a plan that includes the following:

(1) establishment of a process for adopting a validated actuarial risk and needs assessment tool consistent with evidence-based practices and factors that contribute to criminal behavior, which the Parole Board shall use in making parole decisions, including additional objective criteria that may be used in parole decisions;

(2) establishment of procedures for the department on the use of the validated assessment tool to guide the department, Parole Board, and agents of the department in determining supervision management and strategies for all offenders under the department’s supervision, including offender risk classification, and case planning and treatment decisions to address criminal risk factors and reduce offender risk of recidivism; and

(3) establishment of goals for the department, which include training requirements, mechanisms to ensure quality implementation of the validated assessment tool, and performance safety performance indicators.

(G) The director shall submit the plan in writing to the Sentencing Reform Oversight Committee no later than July 1, 2011. Thereafter, the department must submit an annual report to the Sentencing Reform Oversight Committee on its performance for the previous fiscal year and plans for the upcoming year. The department must collect and report all relevant data in a uniform format of both board decisions and field services and must annually compile a summary of past practices and outcomes.”

SECTION 48. Section 24‑21‑13 of the 1976 Code is amended to read:

“Section 24‑21‑13. (A) It is the duty of the director to oversee, manage, and control the department. The director shall develop written policies and procedures for the following:

(1) the supervising of offenders on probation, parole, community supervision, and other offenders released from incarceration prior to the expiration of their sentence, which supervising shall be based on a structured decision‑making guide designed to enhance public safety, which uses evidence based practices and focuses on considerations of offenders’ criminal risk factors;

(2) the consideration of paroles and pardons and the supervision of offenders in the community supervision program, and other offenders released from incarceration prior to the expiration of their sentence. The requirements for an offender’s participation in the community supervision program and an offender’s progress toward completing the program are to be decided administratively by the Department of Probation, Parole, and Pardon Services. No inmate or future inmate shall have a ‘liberty interest’ or an ‘expectancy of release’ while in a community supervision program administered by the department;

(3) the operation of community‑based correctional services and treatment programs; and

(4) the operation of public work sentence programs for offenders as provided in item (1) of this subsection. This program also may be utilized as an alternative to technical revocations. The director shall establish priority programs for litter control along state and county highways. This must be included in the ‘public service work’ program.

(B) It is the duty of the board to consider cases for parole, pardon, and any other form of clemency provided for under law.”

SECTION 49. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑32. (A) For purposes of this section, ‘release date’ means the date determined by the South Carolina Department of Corrections on which an inmate is released from prison, based on the inmate’s sentence and all earned credits allowed by law.

(B) Notwithstanding the provisions of this chapter, an inmate, who is not required to participate in a community supervision program pursuant to Article 6, Chapter 21, Title 24, shall be placed on reentry supervision with the department before the expiration of the inmate’s released date. Inmates who have been incarcerated for a minimum of two years shall be released to reentry supervision one hundred and eighty days before their release date. For an inmate whose sentence includes probation, the period of reentry supervision is reduced by the term of probation.

(C) The individual terms and conditions of reentry supervision shall be developed by the department using an evidence‑based assessment of the inmate’s needs and risks. An inmate placed on reentry supervision must be supervised by a probation agent of the department. The department shall promulgate regulations for the terms and conditions of reentry supervision. Until such time as regulations are promulgated, the terms and conditions shall be based on guidelines developed by the director.

(D) If the department determines that an inmate has violated a term or condition of reentry supervision sufficient to revoke the reentry supervision, a probation agent must initiate a proceeding before a department administrative hearing officer. The proceeding must be initiated pursuant to a warrant or a citation describing the violations of the reentry supervision. No inmate arrested for violation of a term or condition of reentry supervision may be released on bond; however, he shall be credited with time served as set forth in Section 24‑13‑40 toward his release date. If the administrative hearing officer determines the inmate has violated a term or condition of reentry supervision, the hearing officer may impose other terms or conditions set forth in the regulations or department guidelines, and may continue the inmate on reentry supervision, or the hearing officer may revoke the inmate’s reentry supervision and the inmate shall be incarcerated up to one hundred eighty days, but the maximum aggregate time that the inmate shall serve on reentry supervision or for revocation of the reentry supervision shall not exceed an amount of time equal to the length of incarceration imposed by the court for the offense that the inmate was serving at the time of his initial reentry supervision. The decision of the administrative hearing officer on the reentry supervision shall be final and there shall be no appeal of his decision.”

SECTION 50. Section 24‑21‑220 of the 1976 Code is amended to read:

“Section 24‑21‑220. The director is vested with the exclusive management and control of the department and is responsible for the management of the department and for the proper care, assessment, treatment, supervision, and management of offenders under its control. The director shall manage and control the department and it is the duty of the director to carry out the policies of the department. The director is responsible for scheduling board meetings, assuring that the proper cases and investigations are prepared for the board, maintaining the board’s official records, and performing other administrative duties relating to the board’s activities. The director must employ within his office such personnel as may be necessary to carry out his duties and responsibilities including the functions of probation, parole, and community supervision, community‑based programs, financial management, research and planning, staff development and training, and internal audit. The director shall make annual written reports to the board, the Governor, and the General Assembly providing statistical and other information pertinent to the department’s activities.”

SECTION 51. Section 24‑21‑280 of the 1976 Code is amended to read:

“Section 24‑21‑280. (A) A probation agent must investigate all cases referred to him for investigation by the judges or director and report in writing. He must furnish to each person released on probation, parole, or community supervision under his supervision a written statement of the conditions of probation, parole, or community supervision and must instruct him regarding them. He must keep informed concerning the conduct and condition of each person on probation, parole, or community supervision under his supervision by visiting, requiring reports, and in other ways, and must report in writing as often as the court or director may require. He must use practicable and suitable methods that are consistent with evidence-based practices to aid and encourage persons on probation, parole, or community supervision to bring about improvement in their conduct and condition and to reduce the risk of recidivism for the offenders under his supervision. A probation agent must keep detailed records of his work, make reports in writing, and perform other duties as the director may require.

(B) A probation agent has, in the execution of his duties, the power to issue an arrest warrant or a citation charging a violation of conditions of supervision, the powers of arrest, and, to the extent necessary, the same right to execute process given by law to sheriffs. A probation agent has the power and authority to enforce the criminal laws of the State. In the performance of his duties of probation, parole, community supervision, and investigation, he is regarded as the official representative of the court, the department, and the board.

(C) A probation agent must conduct an actuarial assessment of offender risks and needs, including criminal risk factors and specific needs of each individual, under the supervision of the department, which shall be used to make objectively based decisions that are consistent with evidence-based practices on the type of supervision and services necessary. The actuarial assessment tool shall include screening and comprehensive versions. The screening version shall be used as a triage tool to determine offenders who require the comprehensive version. The director shall also require each agent to receive annual training on evidence-based practices and criminal risks factors and how to target these factors to reduce recidivism.

(D) A probation agent, in consultation with his supervisor, shall identify each individual under the supervision of the department, with a term of supervision of more than one year, and shall calculate and award compliance credits as provided in this section. Credits may be earned from the first day of supervision on a thirty-day basis, but shall not be applied until after each thirty-day period of supervision has been completed. Compliance credits may be denied for noncompliance on a thirty-day basis as determined by the department. The denial of non-earned compliance credits is a final decision of the department and is not subject to appeal. An individual may earn up to twenty days of compliance credits for each thirty-day period in which he has fulfilled all of the conditions of his supervision, has no new arrests, and has made all scheduled payments of his financial obligations.

(E) Any portion of the earned compliance credits are subject to be revoked by the department if an individual violates a condition of supervision during a subsequent thirty-day period.

(F) The department shall provide annually to the Sentencing Reform Oversight Committee the number of offenders who qualify for compliance credits and the amount of credits each has earned within a fiscal year.”

SECTION 52. Section 24‑21‑230 of the 1976 code is amended to read:

“Section 24‑21‑230. (A) The director must employ probation agents required for service in the State and clerical assistants as necessary. The probation agents must take and pass psychological and qualifying examinations as directed by the director. The director must ensure that each probation agent receives adequate training. Until the initial employment requirements are met, no person may take the oath of a probation agent nor exercise the authority granted to them.

(B) The director must employ administrative hearing officers who conduct preliminary hearings to determine probable cause on violations committed by individuals under the supervision of the department and as otherwise provided by law. This includes, but is not limited to, violations concerning probation, parole, and community supervision. The hearing officer also conducts preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law. The department shall promulgate regulations for the qualifications of the administrative hearing officers and the procedures for the preliminary hearings. Until regulations are adopted, the qualifications and procedures shall be based on guidelines developed by the director.”

SECTION 53. Article 1, Chapter 21, Title 24 is amended by adding:

“Section 24‑21‑100. (A) Notwithstanding the provisions of Sections 24‑19‑120, 24‑21‑440, 24‑21‑560(B), or 24‑21‑670, when an individual has not fulfilled his obligations for payment of financial obligations by the end of his term of supervision, then the individual shall be placed under quarterly administrative monitoring, as defined in Section 24‑21‑5, by the department until such time as those financial obligations are paid in full or a consent order of judgment is filed. If the individual under administrative monitoring fails to make reasonable progress towards the payment of such financial obligations, as determined by the department, the department may petition the court to hold an individual in civil contempt for failure to pay the financial obligations. If the court finds the individual has the ability to pay but has not made reasonable progress towards payment, the court may hold the individual in civil contempt of court and may impose a term of confinement in the local detention center until payment of the financial obligations, but in no case to exceed ninety days of confinement. Following any term of confinement, the individual shall be returned to quarterly administrative monitoring by the department. If the individual under administrative monitoring does not have the ability to pay the financial obligations and has no reasonable likelihood of being able to pay in the future, the Department may submit a consent order of judgment to the court, which shall relieve the individual of any further administrative monitoring.

(B) An individual placed on administrative monitoring shall pay a regular monitoring fee towards offsetting the cost of his administrative monitoring for the period of time that he remains under monitoring. The regular monitoring fee must be determined by the department based upon the ability of the person to pay. The fee must not be more than ten dollars a month. All regular monitoring fees must be retained by the department, carried forward, and applied to the department’s operation.”

SECTION 54. Article 1, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑110. (A) In response to a violation of the terms and conditions of any supervision program operated by the department, whether pursuant to statute or contract with another state agency, the probation agent may, with the concurrence of his supervisor and, as an alternative to issuing a warrant or citation, serve on the offender a notice of administrative sanctions. The agent must not serve a notice of administrative sanctions on an offender for violations of special conditions if a sentencing court provided that those violations would be heard by the court. The administrative sanctions must be equal to or less restrictive than the sanctions available to the revoking authority, with the exception of revocation.

(B) If the offender agrees in writing to the additional conditions set forth in the notice or order of administrative sanctions, the conditions must be implemented with swiftness and certainty. If the offender does not agree, or if after agreeing the offender fails to fulfill the additional conditions to the satisfaction of the probation agent and his supervisor, then the probation agent may commence revocation proceedings.

(C) In addition to the notice of administrative sanctions, a hearing officer with the department may, as an alternative to sending a case forward to the revoking authority, impose on the offender an order of administrative sanctions. The order may be made only after the hearing officer has made a finding of probable cause at a preliminary hearing that an offender has violated the terms and conditions of any supervision program operated by the department, whether pursuant to statute or a contract with another state agency. The administrative sanctions must be equal to or less restrictive that the sanctions available to the revoking authority, with the exception of revocation. The sanctions must be implemented with swiftness and certainty.

(D) The administrative sanctions shall be established by regulations of the department, as set forth by established administrative procedures. The department shall delineate in the regulations a listing of administrative sanctions for the most common types of supervision violations including, but not limited to: failure to report; failure to pay fines, fees, and restitution; failure to participate in a required program or service; failure to complete community service; and failure to refrain from the use of alcohol or controlled substances. The sanctions shall consider the severity of the current violation, the offender’s previous criminal record, the number and severity of previous supervision violations, the offender’s assessment, and the extent to which administrative sanctions were imposed for previous violations. The department, in determining the list of administrative sanctions to be served on an offender, shall ascertain the availability of community-based programs and treatment options including, but not limited to: inpatient and outpatient substance abuse treatment facilities; day reporting centers; restitution centers; intensive supervisions; electronic monitoring; community service; programs to reduce criminal risk factors; and other community-based options consistent with evidence-based practices.

(E) The department shall provide annually to the Sentencing Reform Oversight Committee:

(1) the number of offenders who were placed on administrative sanctions during the prior fiscal year, and who were not returned to incarceration within that fiscal year;

(2) the number and percentage of offenders whose supervision programs were revoked for violations of the conditions of supervision and ordered to serve a term of imprisonment. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010; and

(3) the number and percentage of offenders who were convicted of a new offense and sentenced to a term of imprisonment. This calculation shall be based on the fiscal year prior to the fiscal year in which the report is required. The baseline revocation rate shall be the revocation rate in fiscal year 2010.”

SECTION 55. Section 24‑21‑490 of the 1976 Code is amended to read:

“Section 24‑21‑490 (A) The Department of Probation, Parole and Pardon Services shall collect and distribute restitution on a monthly basis from all offenders under probationary and intensive probationary supervision.

(B) Notwithstanding Section 14‑17‑725, the department shall assess a collection fee of twenty percent of each restitution program and deposit this collection fee into a separate account. The department shall maintain individual restitution accounts that reflect each transaction and the amount paid, the collection fee, and the unpaid balance of the account. A summary of these accounts must be reported to the Governor’s Office, the President of the Senate, the Speaker of the House, the Chairman of the House Judiciary Committee, and the Chairman of the Senate Corrections and Penology Committee every six months following the enactment of this section.

(C) The department may retain the collection fees described in subsection (B) and expend the fees for the purpose of collecting and distributing restitution. Unexpended funds at the end of each fiscal year may be retained by the department and carried forward for use for the same purpose by the department.

(D) For financial obligations collected by the department pursuant to administrative monitoring requirements, payments shall be distributed by the department proportionately to pay restitution and fees based on the ratio of each category to the total financial obligation owed. Fines shall continue to be paid and collected pursuant to the provisions of Chapter 17 of Title 14.”

SECTION 56. Article 7, Chapter 21, Title 24 of the 1976 Code is amended by adding:

“Section 24‑21‑715. (A) As contained in this section:

(1) ‘terminally ill’ means an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing or, since the time of sentencing, has progressed to render the inmate terminally ill, and that will likely produce death within two years, and that is so debilitating that the inmate does not pose a public safety risk;

(2) ‘geriatric’ means an inmate who is seventy years of age or older and suffers from chronic infirmity, illness, or disease related to aging, which has progressed so the inmate is incapacitated as determined by a licensed physician to the extent that the inmate does not pose a public safety risk; and

(3) ‘permanently incapacitated’ means an inmate who no longer poses a public safety risk because of a medical condition that is not terminal but that renders him permanently and irreversibly incapacitated as determined by a licensed physician and which requires immediate and long term residential care.

(B) Notwithstanding another provision of law, only the full Parole Board, upon a petition filed by the Director of the Department of Corrections, may order the release of an inmate who is terminally ill, geriatric, permanently incapacitated, or any combination of these conditions.

(C) The parole order issued by the Parole Board pursuant to this section must include findings of fact that substantiate a legal and medical conclusion that the inmate is terminally ill, geriatric, permanently incapacitated, or a combination of these conditions, and does not pose a threat to society or himself. It also must contain the requirements for the inmate’s supervision and conditions for his participation and removal.

(D) An inmate granted a parole pursuant to this section is under the supervision of the Department of Probation, Parole and Pardon. The inmate must reside in an approved residence and abide by all conditions ordered by the Parole Board. The department is responsible for supervising an inmate’s compliance with the conditions of the parole board’s order as well as monitoring the inmate in accordance with the department’s policies.

(E) The department shall retain jurisdiction for all matters relating to the parole granted pursuant to this section and conduct an annual review of the inmate’s status to ensure that he remains eligible for parole pursuant to this section. If the department determines that the inmate is no longer eligible to participate in the parole set forth in this section, a probation agent must issue a warrant or citation charging a violation of parole and the board shall proceed pursuant to the provisions of Section 24‑21‑680.”

SECTION 57. Chapter 22, Title 17 of the 1976 Code is amended by adding:

“Article 11

Section 17‑22‑1110. As used in this chapter:

(1) ‘Criminal risk factors’ mean characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include, but not be limited to, the following risk and criminogenic need factors: antisocial behavior patterns; criminal personality; antisocial attitudes, values, and beliefs; poor impulse control; criminal thinking; substance abuse; criminal associates; dysfunctional family or marital relationships; or low levels of employment or education.

(2) ‘Evidence‑based practices’ mean supervision policies, procedures, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post‑correctional supervision.

Section 17‑22‑1120. (A) In addition to the information collected and processed by the Office of Pretrial Intervention Coordinator within the Commission on Prosecution Coordination pursuant to Articles 1, 3, 5 and 7, Chapter 22, Title 17, the Office of Pretrial Intervention Coordination shall be responsible for collecting data on all programs administered by a circuit solicitor, the Commission on Prosecution Coordination, or a court, which divert offenders from prosecution to an alternative program or treatment.

(B) This shall include programs administered by circuit solicitors, which are either statutorily mandated or established by judicial order, and shall include, but are not limited to: alcohol education programs; drug courts for adults or juveniles; traffic education programs; worthless checks units; pre‑trial intervention; mental health courts; or juvenile arbitration.

(C) Notwithstanding the provisions of Section 17‑22‑130, Section 17‑22‑360, Section 17‑22‑370, or Section 17‑22‑560, the Office of Pretrial Intervention Coordinator shall collect and make available for public inspection an annual report on the numbers of individuals who apply for a diversion program, the number of individuals who begin a diversion program or treatment, the number of individuals who successfully complete a program or treatment within a twelve-month period, the number of individuals who do not successfully complete a program or treatment within the same twelve-month period, but who are still participating in the program or treatment, the number of individuals who did not complete the program within the twelve-month period and who have been prosecuted for the offense committed, and the number of individuals with fees fully or partially waived for indigence. The data collected and made available for public inspection shall be listed by each county, by each program or treatment, and the offense originally committed, but shall not contain any identifying information of the participant.

(D) A copy of the report shall be sent to the Sentencing Reform Oversight Committee for evaluation of the diversion programs and treatments being administered in the State by the circuit solicitors or a court, the effectiveness of each program, and to ascertain the need for additional programs, program modifications, or repeal of existing programs. In evaluating the programs and treatments, the Sentencing Reform Oversight Committee may request information on the evidence‑based practices used in each program or treatment to identify offender risks and needs, and the specific interventions employed in each program or treatment to identify criminal risk factors and reduce recidivism.”

SECTION 58. Section 24‑13‑2130 of the 1976 Code is amended to read:

“Section 24‑13‑2130. (A) The memorandum of understanding between the South Carolina Department of Corrections, Probation, Parole and Pardon Services, the Department of Vocational Rehabilitation, Employment Security Commission, Alston Wilkes Society, and other private sector entities shall establish the role of each agency in:

(1) ascertaining an inmate’s opportunities for employment after release from confinement and providing him with vocational and academic education and life skills assessments based on evidence-based practices and criminal risk factors analysis as may be appropriate;

(2) developing skills enhancement programs for inmates, as appropriate;

(3) coordinating job referrals and related services to inmates prior to release from incarceration;

(4) encouraging participation by inmates in the services offered;

(5) developing and maintaining a statewide network of employment referrals for inmates at the time of their release from incarceration and aiding inmates in the securing of employment;

(6) identifying and facilitating other transitional services within both governmental and private sectors;

(7) surveying employment trends within the State and making proposals to the Department of Corrections regarding potential vocational training activities.

(B) Further, the Department of Corrections and the Department of Probation, Parole and Pardon Services are directed to work with the Department of Motor Vehicles to develop and implement a plan for providing inmates who are being released from a correctional facility with a valid photo identification card. To the extent that funds are available from an individual inmate’s account, the Department of Corrections shall transfer five dollars to the Department of Motor Vehicles to cover the cost of issuing the photo identification card. The Department of Motor Vehicles shall use existing resources and technology to produce the photo identification card.”

PART III

Oversight Established

SECTION 59. It is the intent of the General Assembly that the provisions in PART III provide oversight revisions to fiscal impact statements and also a committee to continue oversight of the implementations of the Sentencing Reform Commission recommendations.

SECTION 60. Article 1, Chapter 7, Title 2 of the 1976 Code is amended by adding:

“Section 2‑7‑74. (A) As used in this section, ‘statement of estimated fiscal impact’ means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.

(B) The principal author of legislation that would establish a new criminal offense or that would amend the sentencing provisions of an existing criminal offense may affix a statement of estimated fiscal impact of the proposed legislation. Upon request from the principal author of the legislation, the Office of State Budget shall assist in preparing the fiscal impact statement.

(C) If a fiscal impact statement is not affixed to legislation at the time of introduction, the committee to which the legislation is referred shall request a fiscal impact statement from the Office of State Budget. The Office of State Budget shall have at least fifteen calendar days from the date of the request to deliver the fiscal impact statement to the Senate or House of Representatives committee to which the legislation is referred, unless the Office of State Budget requests an extension of time. The Office of State Budget shall not unreasonably delay the delivery of a fiscal impact statement.

(D) The committee shall not take action on the legislation until the committee has received the fiscal impact statement.

(E) If the legislation is reported out of the committee, the committee shall attach the fiscal impact statement to the legislation. If the legislation has been amended, the committee shall request a revised fiscal impact statement from the Office of State Budget and shall attach the revised fiscal impact statement to the legislation.

(F) State agencies and political subdivisions shall cooperate with the Office of State Budget in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the Office of State Budget in a timely fashion.

(G) In preparing fiscal impact statements, the Office of State Budget shall consider and evaluate information as submitted by state agencies and political subdivisions. The Office of State Budget shall provide to the requesting Senate or House of Representative committee any estimates provided by a state agency or political subdivision, which are substantially different from the fiscal impact as issued by the Office of State Budget.

(H) The Office of State Budget may request information from non‑governmental agencies and organizations to assist in preparing the fiscal impact statement.”

SECTION 61. Title 24 of the 1976 Code is amended by adding:

“Chapter 28

Sentencing Reform Oversight Committee

Section 24‑28‑10. There is hereby established a committee to be known as the Sentencing Reform Oversight Committee, hereinafter called the oversight committee, which must exercise the powers and fulfill the duties described in this chapter.

Section 24‑28‑20. (A) The oversight committee shall be composed of seven members, two of whom shall be members of the Senate, including the Chair of the Judiciary Committee or his designee; two of whom shall be members of the House of Representatives, including the Chair of the House Judiciary Committee or his designee; one of whom shall be appointed by the Chair of the Senate Judiciary Committee from the general public at large; one of whom shall be appointed by the Chair of the House Judiciary Committee from the general public at large; and one of whom shall be appointed by the Governor. Provided, however, that in making appointments to the oversight committee, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent of all segments of the population of the State. The members of the general public appointed by the chairs of the Judiciary Committees must be representative of all citizens of this State and must not be members of the General Assembly.

(B) The oversight committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chair and such other officers as the oversight committee may consider necessary. Thereafter, the oversight committee must meet at least annually and at the call of the chair or by a majority of the members. A quorum consists of four members.

(C) The oversight committee terminates five years after its first meeting, unless the General Assembly, by joint resolution, continues the oversight committee for a specified period of time.

Section 24‑28‑30. The oversight committee has the following powers and duties:

(1) to review the implementation of the recommendations made in the Sentencing Reform Commission report of February 2010 including, but not limited to:

(a) the plan required from the Department of Probation, Parole and Pardon Services on the Parole Board training and other goals identified in Section 24‑21‑10;

(b) the report from the Department of Probation, Parole and Pardon Services on its goals and development of assessment tools consistent with evidence‑based practices;

(c) the report from the Office of Pretrial Intervention Coordinator in the Commission on Prosecution Coordination on diversion programs required by the provisions of Article 11, Chapter 22, Title 17; and

(d) the report from the Department of Probation, Parole and Pardon Services on

(i) the number and percentage of individuals placed on administrative sanctions and the number and percentage of individuals who have earned compliance credits; and

(ii) the number and percentage of probationers and parolees whose probation or parole have been revoked for violations of conditions or for convictions of new offenses;

(2) to request data similar to the information contained in the report required by Section 17‑22‑1120 from private organizations whose programs are operated through a court and that divert individuals from prosecution, incarceration or confinement, such as diversion from incarceration for failure to pay child support, and whose programs are sanctioned by, coordinated with, or funded by federal, state or local governmental agencies;

(3)(a) (i) to annually calculate:

(1) any state expenditures that have been avoided by reductions in the revocation rate as calculated by the Department of Probation, Pardon and Parole and reported under Sections 24‑21‑450 and 24‑21‑680*.*

(2) any state expenditures that have been avoided by reductions in the new felony offense conviction rate as calculated by the Department of Probation, Pardon and Parole and reported under Sections 24‑21‑450 and 24‑21‑680*.*

(ii) to develop rules and regulations for calculating the savings in sub‑subitem (3)(a)(i), which shall account at a minimum for the variable costs averted, such as food and medical expenses, and also consider fixed expenditures that are avoided if larger numbers of potential inmates are avoided.

(b)(i) on or before December 1 of each year, beginning in 2011, to report the calculations made pursuant to sub‑subitem 3(a)(i) of this title to the President of the Senate, the Speaker of the House of Representatives, the chief justice of the South Carolina Supreme Court, and the Governor. The report shall also recommend whether to appropriate up to thirty‑five percent of any state expenditures that are avoided as calculated in sub‑subitem (3)(a)(i) to the Department of Probation, Pardon and Parole.

(ii) with respect to the recommended appropriations in sub‑subitem (3)(b)(i), none of the calculated savings shall be recommended for appropriation for that fiscal year if there is an increase in the percentage of individuals supervised by the Department of Probation, Pardon and Parole who are convicted of a new felony offense as calculated in sub‑subitem (3) (a)(i)(2).

(iii) any funds appropriated pursuant to the recommendations in sub‑subitem (3)(b)(i) shall be used to supplement, not replace, any other state appropriations to the Department of Probation, Pardon and Parole.

(c) funds received through appropriations pursuant to this item shall be used by the Department of Probation, Pardon and Parole for the following purposes:

(i) implementation of evidence-based practices;

(ii) increasing the availability of risk reduction programs and interventions, including substance abuse treatment programs, for supervised individuals; or

(iii) grants to nonprofit victim services organizations to partner with the Department of Probation, Pardon and Parole and courts to assist victims and increase the amount of restitution collected from offenders.

(4) to submit to the General Assembly, on an annual basis, the oversight committee’s evaluation of the implementation of the recommendations of the Sentencing Reform Commission report of February 2010;

(5) to make reports and recommendations to the General Assembly on matters relating to the powers and duties set forth in this section, including recommendations on transfers of funding based on the success or failure of implementation of the recommendations; and

(6) to undertake such additional studies or evaluations as the oversight committee considers necessary to provide sentencing reform information and analysis.

Section 24‑28‑40. (A) The oversight committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chair of the oversight committee and payable by the authorities from which a member is appointed.

(B) The oversight committee is encouraged to apply for and may expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

Section 24‑28‑50. (A) The oversight committee must use clerical and professional employees of the General Assembly for its staff, who must be made available to the oversight committee.

(B) The oversight committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the oversight committee.

(C) The oversight committee may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations of the Sentencing Reform Commission report of February 2010.”

PART IV

SECTION 62. The General Assembly finds that all the provisions contained in this act related to one subject as required by Article III, Section 17 of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of sentencing reform as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 63. The provisions of this act are severable. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 64. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 65. The provisions of PART I and PART II take effect on January 1, 2011, for offenses occurring on or after that date, except that the provisions of SECTION 15 for implementation of a driver’s license reinstatement payment plan and the provisions of SECTION 18 for implementation of route restricted licenses shall become effective January 1, 2011. or six months after the signature of the Governor, whichever event occurs later in time. Regulations required pursuant to this act shall be submitted to the General Assembly no later than January 11, 2011, or six months after enactment, whichever event occurs later in time. All other provisions become effective upon signature of the Governor. Cases and appeals arising or pending under the law as it existed prior to the effective date of this act are saved./

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

The question then was the second reading of the Bill.

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

**Ayes 41; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Coleman

Courson Davis Elliott

Fair Ford Grooms

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--41**

**NAYS**

**Total--0**

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

**Objection**

Senator KNOTTS asked unanimous consent to make a motion that the Bill receive a third reading on Friday, March 26, 2010.

Senator LOURIE objected.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

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.

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

The Committee on Finance proposed the following amendment (4511FIN001.HKL), which was adopted:

Amend the bill, as and if amended, page 4, by striking lines 25 through 40 and inserting:

/ (1) six members who reside in counties designated as distressed or least developed pursuant to Section 12‑6‑3360 for 2009; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and two appointed by the Governor; and

(2) the Secretary of Commerce, ex officio, who shall serve as chairman.

Appointed members shall serve for terms of four years and until their successors are appointed and qualify except that of the members first appointed by the Speaker of the House, President Pro Tempore of the Senate, and one of the members first appointed by the Governor, the member shall serve for a term of two years and the term must be noted on the appointment. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation but are allowed mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. /

Renumber sections to conform.

Amend title to conform.

Senator O'DELL explained the committee amendment.

The committee amendment was adopted.

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

**Objection**

Senator SCOTT asked unanimous consent to make a motion that the Bill be given a third reading on Friday, March 26, 2010.

Senator McCONNELL objected.

**AMENDMENT PROPOSED, OBJECTION**

H. 4514 -- Rep. Cooper: A BILL TO AMEND SECTION 12‑44‑30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE THE DEFINITION OF “TERMINATION DATE”; AND TO AMEND SECTION 12‑6‑590, AS AMENDED, RELATING TO TREATMENT OF “S” CORPORATIONS FOR TAX PURPOSES, SO AS TO PROVIDE THAT A SPECIFIED AMOUNT OF INCOME TAXES PAID BY RESIDENT AND NONRESIDENT SHAREHOLDERS OF CERTAIN “S” CORPORATIONS MUST BE DEPOSITED INTO A SPECIAL FUND AND DISTRIBUTED BY THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT AS GRANTS FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS, WHICH DIRECTLY SUPPORT THE PROJECTS, AND TO PROVIDE FOR GUIDELINES TO ADMINISTER THE FUND AND APPLICATIONS FOR THE GRANTS.

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

Senator LEVENTIS proposed the following amendment (S-Resmin\amend\4514):

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

/ SECTION . Section 12-44-40 of the 1976 Code is amended by adding:

(K) Economic development property must be reassessed every ten years.

/ termination date is the date the agreement is terminated. ”

Renumber sections to conform.

Amend title to conform.

Senator LEVENTIS explained the amendment.

Senator O’DELL spoke on the Bill.

Senator BRIGHT objected to further consideration of the Bill.

**CARRIED OVER**

S. 266 -- Senator Leventis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑1‑490 SO AS TO REQUIRE THE DEPARTMENT OF EDUCATION TO DEVELOP A MODEL DATING VIOLENCE POLICY TO ASSIST SCHOOL DISTRICTS IN DEVELOPING SUCH POLICIES, TO REQUIRE THE POLICY TO BE PUBLISHED IN SCHOOL DISTRICTS AND SCHOOL HANDBOOKS, TO REQUIRE EACH DISTRICT TO PROVIDE DATING VIOLENCE TRAINING ANNUALLY TO ADMINISTRATORS, TEACHERS, NURSES, GUIDANCE COUNSELORS, AND SOCIAL WORKERS, AND TO REQUIRE SCHOOL DISTRICTS TO INFORM THE PARENTS OF STUDENTS OF THIS POLICY; AND BY ADDING SECTION 59‑32‑100 SO AS TO REQUIRE EACH SCHOOL DISTRICT ANNUALLY TO INCLUDE DATING VIOLENCE EDUCATION IN ITS COMPREHENSIVE HEALTH EDUCATION CURRICULUM, TO PROVIDE THAT THE DEPARTMENT SHALL REVIEW AND APPROVE GRADE LEVEL TOPICS RELATING TO DATING VIOLENCE AND HEALTHY RELATIONSHIPS; AND TO REQUIRE A SCHOOL, UPON REQUEST, TO PERMIT THE PARENT OR GUARDIAN OF A STUDENT TO EXAMINE THE DATING VIOLENCE EDUCATION PROGRAM INSTRUCTION MATERIALS.

On motion of Senator MALLOY, the Bill 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.

**HAVING DISPENSED WITH THE MOTION PERIOD, THE SENATE PROCEEDED TO A CONSIDERATION OF REPORTS OF COMMITTEES OF CONFERENCE AND FREE CONFERENCE.**

**Message from the House**

Columbia, S.C., March 4, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has appointed Reps. Sandifer, Hayes and Huggins to the Committee of Conference on the part of the House on:

S. 454 -- Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

Very respectfully,

Speaker of the House

Received as information.

**S. 454--FREE CONFERENCE POWERS GRANTED**

**FREE CONFERENCE COMMITTEE APPOINTED**

**REPORT OF THE COMMITTEE**

**OF FREE CONFERENCE ADOPTED**

S. 454 -- Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

On motion of Senator PEELER, with unanimous consent, the Report of the Committee of Free Conference was taken up for immediate consideration.

Senator PEELER spoke on the report.

On motion of Senator PEELER, Free Conference Powers were granted.

Whereupon, Senators PEELER, BRYANT and NICHOLSON were appointed to the Committee of Free Conference on the part of the Senate and a message was sent to the House accordingly.

The question then was the adoption of the Report of the Committee of Free Conference.

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

**Ayes 44; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Mulvaney Nicholson

O’Dell Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--44**

**NAYS**

**Total--0**

The Report of the Committee of Free Conference to S. 454 was adopted as follows:

**S. 454--Free Conference Report**

The General Assembly, Columbia, S.C., March 24, 2010

The COMMITTEE OF CONFERENCE, to whom was referred:

S. 454 ‑‑ Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments:

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

/ SECTION 1. Chapter 56, Title 40 of the 1976 Code is amended to read:

“CHAPTER 56

State Board of Pyrotechnic ~~Regulations~~ Safety

Section 40‑56‑1. It is the policy of this State, and the purpose of this chapter, to promote the safety of the public and the environment by effective regulation of pyrotechnics. Public safety requires that persons who handle pyrotechnics have demonstrated their qualifications, that they adhere to reliable safety standards, and that the sites where pyrotechnics are manufactured, stored, and sold adhere to reliable safety standards. It is neither the policy of this State nor the purpose of this chapter to place undue restrictions upon entry into the business of handling pyrotechnics.

Section 40‑56‑5. Unless otherwise provided for in this chapter, Chapter 1, Title 40 applies to the Board of Pyrotechnic Safety and licensees regulated under this chapter. If there is a conflict between this chapter and Chapter 1, the provisions of this chapter control.

Section 40‑56‑10. (A) ~~There is created~~ The State Board of Pyrotechnic Safety ~~to be~~ is composed of ~~six~~ seven members appointed by the Governor. One ~~of the appointees~~ appointee must be ~~a fireman~~ employed by a local fire authority, one must be a pyrotechnics retailer, one must be a pyrotechnics wholesaler, one must be a law enforcement representative, and three must be members of the public who shall not possess any pecuniary interest in any entity engaged in a business directly involving the sale of pyrotechnics. ~~The board shall elect from its members a chairman, vice‑chairman, and such other officers as it may consider necessary to serve for terms of one year and until their successors are elected and qualify.~~ A seat on the board that remains vacant for sixty days must be filled through an appointment by the chairman of the House Labor, Commerce and Industry Committee, and the chairman of the Senate Labor, Commerce and Industry Committee.

(B) The terms of office for members are for ~~two~~ four years and until their successors are appointed and ~~qualify~~ qualified. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(C) The board shall meet at least annually and not more than once per month. All meetings must be scheduled at the call of the chairman. The board shall elect from its members a chairman, vice chairman, and other officers as it considers necessary to serve for terms of one year and until their successors are elected and qualified. All members shall receive mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions for days on which they are transacting official business, to be paid ~~from the general fund of the state~~ by the board. ~~The Director of the Department of Labor, Licensing, and Regulation, pursuant to Section 40‑73‑15, shall employ such personnel as necessary to carry out the duties of the board.~~

(D) The Department’s Office of State Fire Marshal shall provide administrative support as required by the board to perform its prescribed functions. The State Fire Marshal is an official consultant and is authorized to attend all meetings.

Section 40‑56‑20. As used in this chapter:

(1) ‘APA’ means the American Pyrotechnics Association.

(2) ‘Board’ means the State Board of Pyrotechnic Safety.

(3) ‘Consumer fireworks’ means any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507 and APA Standard 87‑1. Some small devices designed to produce audible effects are consumer fireworks, including, but not limited to, whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 C.F.R. 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4G. These fireworks were formerly known as ‘Class C Fireworks’.

(4) ‘CPSC’ means The U.S. Consumer Product Safety Commission.

(5) ‘Department’ means the Department of Labor, Licensing and Regulation.

(6) ‘Display fireworks’ means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as ‘consumer fireworks’. Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 C.F.R. 172.101. This term also includes fused setpieces containing components which together exceed 50 mg of salute powder. Display fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3G. These fireworks were formerly known as ‘Class B Fireworks’.

(7) ‘DOT’ means the U.S. Department of Transportation.

(8) ‘Fireworks’ means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of ‘consumer fireworks’ or ‘display fireworks’ as defined by this section.

(9) ‘Licensee’ means a person, firm, or entity that has been issued a license by the board under the provisions of this chapter to manufacture, sell, or store fireworks.

(10) ‘NFPA’ means National Fire Protection Association.

(11) ‘Pyrotechnics’ means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

(12) ‘Small bottle rocket’ is a consumer firework with a motor less than one‑half inch in diameter and three inches in length, a stabilizing stick less than fifteen inches in length, and a total pyrotechnic composition not exceeding twenty grams in weight.

Section 40‑56‑30. It is unlawful for a person to engage in the manufacturing, storage, or sale of pyrotechnics unless in compliance with this chapter.

Section 40‑56‑35. (A) Except as otherwise provided for in this section, a person, firm, or entity that manufactures, sells, or stores fireworks shall obtain a license issued by the board pursuant to this chapter. General license requirements are as follows:

(1) A license may not be issued to anyone under the age of eighteen.

(2) An application for licensure must be submitted on forms prescribed by the board accompanied by applicable fees.

(3) A license is required for each physical address or site at which fireworks are manufactured, sold, or stored.

(4) A copy of the appropriate license issued by the South Carolina Department of Revenue for retail sales of fireworks must accompany each application for a retail fireworks sales license.

(5) Initial license applications and applications for license renewal may be approved only after an authorized agent of the board inspects the buildings and facilities where fireworks are to be manufactured, sold, or stored for compliance with the current codes and standards.

(6) All licenses and permits may only be issued for one calendar year.

(7) Licenses must be prominently displayed at the licensee’s place of business approved for the manufacture, sales, or storage of fireworks.

(8) Licenses issued by the board are nontransferable.

(B) A license is not required for the:

(1) manufacture, sale, storage, transportation, handling, or a combination of these, including, but not limited to, railroad torpedoes, automotive, aeronautical, and marine flares and smoke signals;

(2) transportation, storage, handling, or use of fireworks, or a combination of these, by the Armed Forces of the United States;

(3) transportation, handling, or use of fireworks, or a combination of these, by the State Fire Marshal, his employees, or a commissioned law enforcement officer acting within his official capacity; or

(4) fireworks deregulated by the U.S. Department of Transportation.

Section 40‑56‑50. The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspection, clerical, secretarial, and license renewal operations and activities of the board pursuant to Chapter 1.

Section 40‑56‑70. (A) It ~~shall be~~ is the duty and responsibility of the board ~~created in Section 40‑56‑10~~ to promulgate, pursuant to the Administrative Procedures Act, regulations relating to ~~the sale of~~ pyrotechnics in this State, including the manufacture, sales, storage, and fire safety of ~~such~~ these products. These regulations must be adjusted using the procedures in Chapter 34, Title 1.

(B) The board may conduct hearings on alleged violations by licensees of this chapter or regulations promulgated pursuant to this chapter and may discipline these licensees.

(C) The board also shall ~~also~~ recommend to the General Assembly legislation it ~~deems~~ considers necessary for the safety and control of the sale of pyrotechnics.

Section 40‑56‑80. (A) The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Chapter 1.

(B) During reasonable business hours, the department or its authorized agent may enter the premises or vehicle of a person engaged in the manufacture, sale, or storage of pyrotechnics to inspect, investigate, or examine the property or installation it considers necessary. When an emergency exists, as declared by the department, the inspector may enter the premises of a person and take necessary action for public safety including, but not limited to, the evacuation of the area where the emergency exists.

(C) A fire chief and his inspector, a sheriff and his deputy, a chief of police and his officer, and an agent of SLED may inspect a building, facility, or vehicle where fireworks may be manufactured, stored, or sold and a records of manufacturing, storage, sales, and purchases that must be maintained.

(D) An official named in this section who has the authority to inspect may confiscate illegal fireworks being manufactured, offered for sale, stored, or possessed.

(E) The board may compel the attendance of witnesses to testify in relation to a matter within its jurisdiction.

Section 40‑56‑100. In addition to other remedies provided for in this chapter, the board pursuant to Chapter 1 may issue a cease and desist order or may petition the Administrative Law Court for a temporary restraining order or other equitable relief to enjoin a violation of this chapter or a regulation promulgated pursuant to this chapter.

Section 40‑56‑115. The board has jurisdiction over the actions of licensees and former licensees as provided for in Chapter 1.

Section 40‑56‑120. (A) Upon a determination by the board that grounds for discipline exist, the board is authorized to:

(1) issue a public reprimand;

(2) impose a civil penalty not to exceed two thousand five hundred dollars;

(3) place a licensee on probation or restrict or suspend a license for a definite or indefinite time period and prescribe conditions to be met during this period including, but not limited to, satisfactory completion of additional education, or a supervisory period; or

(4) revoke the license.

(B) The board may take disciplinary action against a person for:

(1) the grounds stated in Chapter 1; or

(2) a condition found as a result of an inspection, examination, or investigation provided for in Section 40‑56‑80 that is hazardous to public safety.

Section 40‑56‑130. The board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

Section 40‑56‑140. A license may be denied based on a person’s prior criminal record only as provided for in Chapter 1.

Section 40‑56‑150. A licensee under investigation for a violation of this chapter or a regulation promulgated pursuant to this chapter may voluntarily surrender the license pursuant to Chapter 1.

Section 40‑56‑160. A person aggrieved by a final action of the board may seek review of the decision pursuant to Chapter 1.

Section 40‑56‑170. A person found in violation of this chapter or a regulation promulgated pursuant this chapter may be required to pay costs associated with the investigation and prosecution of the case pursuant to Chapter 1.

Section 40‑56‑180. All costs and fines imposed pursuant to this chapter must be paid in accordance with, and are subject to, the collection and enforcement provisions of Chapter 1.

Section 40‑56‑190. Investigations and proceedings conducted under the provisions of this chapter are confidential, and all communications are privileged as provided for in Chapter 1.

Section 40‑56‑200. (A) A person required by this chapter to obtain a license to do business in this State, who has not obtained a license or who operates while his license is suspended or revoked or who violates a provision of this chapter or a regulation promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars or imprisoned for not less than ninety days and not more than one year.

(B) This chapter does not repeal, amend, or otherwise affect fire codes and regulations adopted by the State Fire Marshal.

Section 40‑56‑210. In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief as provided for in Chapter 1.

Section 40‑56‑220. (A) All facilities for the manufacturing, sales, or storage of fireworks must comply with regulations established by the board.

(B) All consumer fireworks must comply with standards set by the U.S. Department of Transportation and the CPSC for consumer fireworks. The board may request fireworks be tested by a CPSC certified testing group to see that these standards are met.

(C) Retail sale and use of small bottle rockets are not legal within South Carolina.

(D) Fireworks may not be sold to anyone under the age of sixteen.

Section 40‑56‑230. (A) An application for a retail fireworks sales license must be accompanied by evidence that the applicant holds a policy that:

(1) provides public liability insurance coverage for retail sales activities at the location for the permitted sale period;

(2) is issued by an insurance company authorized to do business in this State; and

(3) provides coverage in the following minimum amounts:

(a) one million dollars for injuries or damage to any one person in one accident or occurrence;

(b) one million dollars for injuries to two or more persons in any accident or occurrence; and

(c) one million dollars combined single‑limit coverage for any one accident or occurrence.

(B) A policy, except those policies issued for fewer than ninety days’ use for seasonal permits, by its original term or an endorsement, must obligate the insurer to not cancel, suspend, or nonrenew the policy without thirty days’ written notice of the proposed cancellation, suspension, or nonrenewal being given to the board. The insured immediately shall give notice to the board if liability insurance is canceled, suspended, or nonrenewed.

Section 40‑56‑240. (A) A person may not store display fireworks in this State unless the person has obtained a wholesale license from the board.

(B) Only licensed wholesalers shall sell or provide fireworks for displays.

(C) All buildings and structures used to store display fireworks must meet regulations established by the board.

(D) These license holders also must comply with U.S. Bureau of Alcohol, Tobacco, and Firearms regulations.

Section 40‑56‑250. (A) If the board or its designee finds a condition as a result of an inspection, that is hazardous to the public safety or a violation of this chapter or regulations promulgated pursuant to this chapter, the board shall issue an order in writing to remove or correct the condition. If a person fails to comply with the terms of the order, the board may issue administrative citations and may assess administrative penalties against any licensee.

(B) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

(C) Administrative penalties assessed pursuant to this section may not exceed two thousand five hundred dollars for each violation.

(D) An entity or individual assessed administrative penalties by citation under this section may appeal the citation to the Board of Pyrotechnic Safety within fifteen days of receipt of the citation. The appeal must be filed in writing. If an appeal is filed, the board shall schedule a hearing, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order, and the administrative penalties must be paid within thirty days of receipt of the citation.

Section 40‑56‑260. An owner, manager, or operator of any location regulated by this chapter shall report to the board within twenty‑four hours of any fire or explosion of which the person has knowledge, with as complete detail as possible, together with evidence as he has obtained after investigation of the fire or explosion. No reports filed pursuant to this section may be disclosed unless disclosure is in compliance with the requirements of Chapter 4 of Title 30 of the South Carolina Code.

Section 40‑56‑270. If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter, which can be given effect without the invalid provisions, or application, and to this end the provisions of this chapter are severable.”

SECTION 2. The following sections of the 1976 Code are repealed: 23‑35‑10, 23‑35‑20, 23‑35‑30, 23‑35‑40, 23‑35‑50, 23‑35‑60, 23‑35‑70, 23‑35‑80, 23‑35‑90, 23‑35‑100, 23‑35‑110, 23‑35‑120, 23‑36‑140, and 23‑35‑160.

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

Amend title to conform.

/s/Sen. Harvey S. Peeler /s/Rep. William E. Sandifer

Sen. Kevin L. Bryant /s/Rep. Jackie E. Hayes

/s/Sen. Floyd Nicholson Rep. Chip Huggins

On Part of the Senate. On Part of the House.

, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., March 25, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has requested and was granted Free Conference Powers and has appointed Reps. Sandifer, Hayes and Huggins to the Committee of Free Conference on the part of the House on:

S. 454 -- Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., March 25, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has adopted the report of the Committee of Free Conference on:

S. 454 -- Senators Peeler and Ford: A BILL TO AMEND CHAPTER 56, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE BOARD OF PYROTECHNIC REGULATIONS, SO AS TO REVISE THE CHAPTER TITLE, TO PROVIDE STATE POLICY CONCERNING PYROTECHNICS, TO INCREASE THE STATE BOARD OF PYROTECHNIC SAFETY FROM SIX TO SEVEN MEMBERS, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO AUTHORIZE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION, TO REQUIRE LIABILITY INSURANCE, TO REQUIRE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS HANDLING FIREWORKS.

Very respectfully,

Speaker of the House

Received as information.

**H. 3442--REPORT OF THE**

**COMMITTEE OF CONFERENCE ADOPTED**

H. 3442 -- Reps. Bingham, Harrell, Duncan, Harrison, Owens, Toole, Merrill, Brady, E.H. Pitts, G.M. Smith, Daning, Haley, Huggins, Cato, Ballentine, D.C. Smith, J.R. Smith, Rice, T.R. Young, Horne, Wylie, Bedingfield, Clemmons, Bales, Lucas, Neilson, Long, J.M. Neal and M.A. Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑29‑300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO PROVIDE FOR THE FILLING OF A VACANCY, TO REQUIRE THE PRESENT MEMBERS OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION MUST CONSTITUTE THE INITIAL MEMBERSHIP OF THE NEW PANEL, TO PROVIDE THE PANEL SHALL DISSOLVE WHEN THE MEMBERS’ TERMS EXPIRE IN 2012, AND TO PROVIDE RELATED APPELLATE PROCEDURES; BY ADDING SECTION 41‑29‑310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH; TO AMEND SECTION 41‑29‑10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT CERTAIN CHAPTERS WITHIN TITLE 41 MUST BE ADMINISTERED BY THE DEPARTMENT OF WORKFORCE AND TO DELETE REFERENCES TO THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 41‑29‑20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR AT HIS DISCRETION BY EXECUTIVE ORDER; TO AMEND SECTION 41‑29‑30, RELATING TO THE APPOINTMENT OF A SECRETARY OF THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WORKFORCE OR HIS DESIGNEE MUST RECEIVE ANNUAL COMPENSATION AS PROVIDED BY THE GENERAL ASSEMBLY AND OFFICIAL EXPENSES AS PROVIDED BY LAW FOR EXECUTING THE DUTIES AND FUNCTIONS OF THE DEPARTMENT; TO AMEND SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCESS, SO AS TO INCLUDE EMPLOYEES OF THE DEPARTMENT OF WORKFORCE AMONG THOSE EXEMPTED; TO AMEND SECTIONS 41‑27‑10, 41‑27‑30, 41‑27‑150, 41‑27‑160, 41‑27‑190, 41‑27‑210, AS AMENDED, 41‑27‑230, 41‑27‑235, AS AMENDED, 41‑27‑260, AS AMENDED, 41‑27‑360, 41‑27‑370, AS AMENDED, 41‑27‑380, 41‑27‑390, 41‑27‑510, 41‑27‑550, 41‑27‑560, 41‑27‑570, 41‑27‑580, 41‑27‑600, 41‑27‑610, 41‑27‑620, 41‑27‑630, 41‑27‑670, 41‑29‑40, 41‑29‑50, 41‑29‑60, 41‑29‑70, 41‑29‑80, 41‑29‑90, 41‑29‑100, 41‑29‑110, 41‑29‑120, AS AMENDED, 41‑29‑130, 41‑29‑140, 41‑29‑150, 41‑29‑170, AS AMENDED, 41‑29‑180, 41‑29‑190, 41‑29‑200, 41‑29‑210, 41‑29‑220, 41‑29‑230, 41‑29‑240, 41‑29‑250, 41‑29‑270, 41‑29‑280, 41‑29‑290, 41‑33‑10, 41‑33‑20, 41‑33‑30, 41‑33‑40, 41‑33‑45, 41‑33‑80, AS AMENDED, 41‑33‑90, 41‑33‑100, 41‑33‑110, 41‑33‑120, 41‑33‑130, 41‑33‑170, 41‑33‑180, 41‑33‑190, 41‑33‑200, 41‑33‑210, 41‑33‑430, 41‑33‑460, 41‑33‑470, 41‑33‑610, 41‑33‑710, 41‑35‑10, 41‑35‑30, 41‑35‑100, 41‑35‑110, AS AMENDED, 41‑35‑115, AS AMENDED, 41‑35‑120, AS AMENDED, 41‑35‑125, 41‑35‑126, 41‑35‑130, AS AMENDED, 41‑35‑140, 41‑35‑330, 41‑35‑340, 41‑35‑410, 41‑35‑420, AS AMENDED, 41‑35‑450, 41‑35‑610, 41‑35‑630, 41‑35‑640, AS AMENDED, 41‑35‑670, 41‑35‑680, AS AMENDED, 41‑35‑690, 41‑35‑700, 41‑35‑710, AS AMENDED, 41‑35‑720, 41‑35‑730, 41‑35‑740, 41‑35‑750, AS AMENDED, 41‑37‑20, 41‑37‑30, 41‑39‑30, 41‑39‑40, 41‑41‑20, AS AMENDED, 41‑41‑40, AS AMENDED, 41‑41‑50, 41‑42‑10, 41‑42‑20, 41‑42‑30, AND 41‑42‑40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; AND TO REPEAL SECTION 41‑29‑260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES.

On motion of Senator RYBERG, with unanimous consent, the Report of the Committee of Conference was taken up for immediate consideration.

Senator RYBERG spoke on the report.

The question then was the adoption of the Conference Report.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Davis Elliott Fair

Grooms Hayes Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McConnell McGill

Mulvaney Nicholson O’Dell

Peeler Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin

**Total--38**

**NAYS**

**Total--0**

The Report of the Committee of Conference to H. 3442 was adopted as follows:

**H. 3442--Conference Report**

The General Assembly, Columbia, S.C., March 24, 2010

The COMMITTEE OF CONFERENCE, to whom was referred:

H. 3442 -- Reps. Bingham, Harrell, Duncan, Harrison, Owens, Toole, Merrill, Brady, E.H. Pitts, G.M. Smith, Daning, Haley, Huggins, Cato, Ballentine, D.C. Smith, J.R. Smith, Rice, T.R. Young, Horne, Wylie, Bedingfield, Clemmons, Bales, Lucas, Neilson, Long, J.M. Neal and M.A. Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑29‑300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO PROVIDE FOR THE FILLING OF A VACANCY, TO REQUIRE THE PRESENT MEMBERS OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION MUST CONSTITUTE THE INITIAL MEMBERSHIP OF THE NEW PANEL, TO PROVIDE THE PANEL SHALL DISSOLVE WHEN THE MEMBERS’ TERMS EXPIRE IN 2012, AND TO PROVIDE RELATED APPELLATE PROCEDURES; BY ADDING SECTION 41‑29‑310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH; TO AMEND SECTION 41‑29‑10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT CERTAIN CHAPTERS WITHIN TITLE 41 MUST BE ADMINISTERED BY THE DEPARTMENT OF WORKFORCE AND TO DELETE REFERENCES TO THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 41‑29‑20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR AT HIS DISCRETION BY EXECUTIVE ORDER; TO AMEND SECTION 41‑29‑30, RELATING TO THE APPOINTMENT OF A SECRETARY OF THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WORKFORCE OR HIS DESIGNEE MUST RECEIVE ANNUAL COMPENSATION AS PROVIDED BY THE GENERAL ASSEMBLY AND OFFICIAL EXPENSES AS PROVIDED BY LAW FOR EXECUTING THE DUTIES AND FUNCTIONS OF THE DEPARTMENT; TO AMEND SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCESS, SO AS TO INCLUDE EMPLOYEES OF THE DEPARTMENT OF WORKFORCE AMONG THOSE EXEMPTED; TO AMEND SECTIONS 41‑27‑10, 41‑27‑30, 41‑27‑150, 41‑27‑160, 41‑27‑190, 41‑27‑210, AS AMENDED, 41‑27‑230, 41‑27‑235, AS AMENDED, 41‑27‑260, AS AMENDED, 41‑27‑360, 41‑27‑370, AS AMENDED, 41‑27‑380, 41‑27‑390, 41‑27‑510, 41‑27‑550, 41‑27‑560, 41‑27‑570, 41‑27‑580, 41‑27‑600, 41‑27‑610, 41‑27‑620, 41‑27‑630, 41‑27‑670, 41‑29‑40, 41‑29‑50, 41‑29‑60, 41‑29‑70, 41‑29‑80, 41‑29‑90, 41‑29‑100, 41‑29‑110, 41‑29‑120, AS AMENDED, 41‑29‑130, 41‑29‑140, 41‑29‑150, 41‑29‑170, AS AMENDED, 41‑29‑180, 41‑29‑190, 41‑29‑200, 41‑29‑210, 41‑29‑220, 41‑29‑230, 41‑29‑240, 41‑29‑250, 41‑29‑270, 41‑29‑280, 41‑29‑290, 41‑33‑10, 41‑33‑20, 41‑33‑30, 41‑33‑40, 41‑33‑45, 41‑33‑80, AS AMENDED, 41‑33‑90, 41‑33‑100, 41‑33‑110, 41‑33‑120, 41‑33‑130, 41‑33‑170, 41‑33‑180, 41‑33‑190, 41‑33‑200, 41‑33‑210, 41‑33‑430, 41‑33‑460, 41‑33‑470, 41‑33‑610, 41‑33‑710, 41‑35‑10, 41‑35‑30, 41‑35‑100, 41‑35‑110, AS AMENDED, 41‑35‑115, AS AMENDED, 41‑35‑120, AS AMENDED, 41‑35‑125, 41‑35‑126, 41‑35‑130, AS AMENDED, 41‑35‑140, 41‑35‑330, 41‑35‑340, 41‑35‑410, 41‑35‑420, AS AMENDED, 41‑35‑450, 41‑35‑610, 41‑35‑630, 41‑35‑640, AS AMENDED, 41‑35‑670, 41‑35‑680, AS AMENDED, 41‑35‑690, 41‑35‑700, 41‑35‑710, AS AMENDED, 41‑35‑720, 41‑35‑730, 41‑35‑740, 41‑35‑750, AS AMENDED, 41‑37‑20, 41‑37‑30, 41‑39‑30, 41‑39‑40, 41‑41‑20, AS AMENDED, 41‑41‑40, AS AMENDED, 41‑41‑50, 41‑42‑10, 41‑42‑20, 41‑42‑30, AND 41‑42‑40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; AND TO REPEAL SECTION 41‑29‑260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments:

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

/ Part I

Creation of Workforce Department Appellate Panel,

Transfer of Workforce Management Act Program to Department of Workforce, Creation of Department of Workforce, and

Replacement of the Employment Security Department

With the Department of Workforce

SECTION 1. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑300. (A) There is created the Workforce Department Appellate Panel within the Department of Workforce, which is separate and distinct from the department’s divisions. The sole purpose of the panel is to hear and decide appeals from decisions of the department’s divisions.

(B)(1) The panel initially must be comprised of the members of the South Carolina Employment Security Commission serving on the day before the effective date of this act. These initial panel members may serve in that temporary capacity until their successors are elected pursuant to this section.

(2) The members of the appellate panel must be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year. Initial elections for members of the appellate panel must be held before May 22, 2010.

(3) The appellate panel must elect one of its members to be chairman. A vacancy must be filled by the Governor through a temporary appointment until the next session of the General Assembly, at which time a joint session of the General Assembly shall elect an appellate panelist to fill the unexpired term.

(4) The appellate panelists shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act but not to exceed compensation that is commensurate with their hearing duties.

(C)(1) A party may only appeal from a decision of the department directly to the panel. A party may only appeal a decision of the panel to administrative law court in the manner provided in Section 41‑35‑750.

(D) A quorum must consist of two panel members and is necessary to hear or decide an appeal under item (C)(1). A decision of the panel must be rendered in writing and is subject to disclosure under the Freedom of Information Act.

(E)(1) The Department of Workforce Review Committee must screen a person and find him qualified before he may be elected to serve as a member of the appellate panel. The qualifications that each panelist must possess, include, but are not limited to:

(a) a baccalaureate or more advanced degree from:

(i) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(ii) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(iii) an institution of higher learning chartered before 1962; or

(b) a background of at least five years in any combination of the following fields of expertise:

(i) general business administration;

(ii) general business management;

(iii) management at the Department of Workforce, or its predecessor;

(iv) human resources management;

(v) finance; or

(vi) law.

(2) A member of the General Assembly may not be elected to serve as a panelist or appointed to be a panelist while serving in the General Assembly; nor shall a member of the General Assembly be elected or appointed to be a panelist for a period of two years after the member either:

(a) ceases to be a member of the General Assembly; or

(b) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

(3) When screening an appellate panel candidate and making its findings regarding the candidate, the South Carolina Department of

Workforce Review Committee must give due consideration to a person’s ability, area of expertise, dedication, compassion, common sense, and integrity.

(F)(1) A panelist is bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8‑13‑320. A panelist must also comply with the applicable requirements of Chapter 13 of Title 8.

(2) A panelist and his administrative assistant must annually attend and successfully complete a workshop of at least three continuing education hours in ethics.

SECTION 2. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑310. The Workforce Investment Act program created by the Workforce Investment Act of 1988 and transferred to the Department of Commerce by Executive Order 2005‑09 is transferred to the Department of Workforce on the effective date of this section.”

SECTION 3. Section 1‑30‑10(A) of the 1976 Code is amended to read:

“(A) There are hereby created, within the executive branch of the state government, the following departments:

1. Department of Agriculture

2. Department of Alcohol and Other Drug Abuse Services

3. Department of Commerce

4. Department of Corrections

5. Department of Disabilities and Special Needs

6. Department of Education

7. Department of Health and Environmental Control

8. Department of Health and Human Services

9. Department of Insurance

10. Department of Juvenile Justice

11. Department of Labor, Licensing~~,~~ and Regulation

12. Department of Mental Health

13. Department of Natural Resources

14. Department of Parks, Recreation and Tourism

15. Department of Probation, Parole~~,~~ and Pardon Services

16. Department of Public Safety

17. Department of Revenue

18. Department of Social Services

19. Department of Transportation

20. Department of Workforce”

SECTION 4. Section 41‑29‑10 of the 1976 Code is amended to read:

“Section 41‑29‑10. Chapters 27 through 41 of this title shall be administered by the South Carolina ~~Employment Security Commission~~ Department of Workforce. ~~The Commission shall consist of three members to be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year. Any vacancy occurring shall be filled by appointment by the Governor for the temporary period until the next session of the General Assembly, whereupon the General Assembly shall elect a commissioner to fill the unexpired term. Each commissioner shall receive an annual salary payable in monthly installments.~~”

SECTION 5. Section 41‑29‑20 of the 1976 Code is amended to read:

“Section 41‑29‑20. ~~The Commission shall elect one of its members as chairman. Any two commissioners shall constitute a quorum and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the Commission through action of a quorum.~~ There is hereby created the South Carolina Department of Workforce which must be managed and operated by an executive director nominated by the State Department of Workforce Review Committee and appointed by the Governor. The term of the executive director is conterminous with that of the Governor and until a successor is appointed pursuant to this act. The executive director is subject to removal by the Governor as provided in Section 1‑3‑240(B). The executive director shall receive compensation as established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act. For the purposes of this chapter, ‘department’ means the South Carolina Department of Workforce.”

SECTION 6. Section 8‑17‑370 of the 1976 Code, is further amended by adding a new item at the end appropriately numbered to read:

“( ) the executive director, assistant directors, and the area directors of the South Carolina Department of Workforce created pursuant to Section 1‑30‑10(A)(20).”

SECTION 7. Chapter 27, Title 41 of the 1976 Code is amended by adding:

“Section 41‑27‑650. (A) The Department of Commerce and the Department of Workforce must work in conjunction to develop or procure computer hardware, software, and other equipment that are compatible with each other as needed to efficiently address the state’s policy goals as set forth in Section 41‑27‑20. Once information technology is attained, the departments must regularly develop reports that address relevant workforce issues and make the reports available to workforce training entities, including, but not limited to, the State Board for Technical and Comprehensive Education, the Commission on Higher Education, and the State Agency of Vocational Rehabilitation. Additionally, the departments must promptly respond to inquiries for information made by education and workforce training entities.

(B) The department must work in conjunction with the State Budget and Control Board to coordinate its computer system with computer systems of other state agencies so that the department may more efficiently match unemployed persons with available jobs. The department must provide a progress report concerning implementation of this subsection to the Chairman of the Senate Labor, Commerce and Industry Committee, the Chairman of the House of Representatives Ways and Means Committee, the Department of Workforce Review Committee, and the Governor every three months until fully implemented.

(C) This section is not intended to restrict or hinder the development of an unemployment benefits system financed in whole or in part by the United States Department of Labor.”

SECTION 8. Section 41‑33‑45 of the 1976 Code is amended to read:

“Section 41‑33‑45. (A) The ~~commission~~ department shall report, by October first of each year, to the ~~Senate Finance Committee~~ General Assembly, the Review Committee, and to the ~~House Ways and Means Committee~~ Governor the amount in the unemployment trust fund and make an assessment of its funding level.

(B)(1) The annual assessment report must contain a trend chart concerning the unemployment trust fund’s annual balance each year for at least the previous five years. The chart must compare the ending balance for each year with the minimum reserves needed to withstand an average recession and a severe recession.

(2) The annual assessment report must also contain an analysis of the cost paid to beneficiaries and cost‑shifting, if any, from companies without a negative balance in their account fund to companies with a negative balance in their fund account. The analysis must be conducted with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. The analysis must also include recommendations for adjusting the tax structure to address inequities that arise due to cost shifting.”

SECTION 9. Section 41‑31‑10(A) of the 1976 Code is amended to read:

“Section 41‑31‑10. (A) Each employer shall pay contributions equal to five and four‑tenths percent of wages paid by him during each year except as may be otherwise provided in Chapters 27 through 41 of this title. Employers may prepay their required contributions to the fund. The department must promulgate regulations regarding the methodology by which the allowed prepayment amounts will be calculated and the manner in which they will be credited to the employer’s account.”

SECTION 10. The department must file a report with the General Assembly, the Review Committee, and the Governor on or about January 1, 2011, making recommendations concerning restoration of the solvency of the unemployment trust fund.

Part II

Conforming and Miscellaneous Amendments

SECTION 11. Section 41‑27‑10 of the 1976 Code is amended to read:

“Section 41‑27‑10. Chapters 27 through 41 of this title shall be known and may be cited as the ‘South Carolina ~~Employment Security Law~~ Department of Workforce.”

SECTION 12. Section 41‑27‑30 of the 1976 Code is amended to read:

“Section 41‑27‑30. Nothing in Chapters 27 through 41 of this title ~~shall~~ must be construed to cause the ~~Commission~~ department or the courts of this State in interpreting ~~such~~ these chapters to be bound by interpretations as to liability or nonliability of employers by Federal administrative agencies, nor is it the intent of the General Assembly to require an identical coverage of employers under ~~such~~ these chapters with ~~that under~~ coverage requirements pursuant to Section 3101 et seq. of the Federal Internal Revenue Code.”

SECTION 13. Section 41‑27‑150 of the 1976 Code is amended to read:

“Section 41‑27‑150. ‘Base period’ means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year~~; provided that~~. However, in the case of a combined wage claim filed by an individual in accord with an arrangement entered into by the ~~commission under~~ department pursuant to the ~~provision~~ provisions of Section 41‑29‑140(2), the base period ~~shall be~~ is that applicable ~~under~~ provided by the law of the paying state.”

SECTION 14. Section 41‑27‑160 of the 1976 Code is amended to read:

“Section 41‑27‑160. ‘Benefit year’ means the one‑year period beginning with the day as of which an insured worker first files a request for determination of his insured status, and ~~thereafter~~ afterward the one‑year period beginning with the day ~~as of~~ by which he next files ~~such~~ this request after the end of his last preceding ‘benefit year’; provided, that in the case of a combined wage claim filed by an individual in accord with an arrangement entered into by the ~~commission under~~ department pursuant to the provisions of Section 41‑29‑140(2), the benefit year ~~shall be~~ is that applicable ~~under~~ provided by the law of the paying state. The filing of a notice of unemployment ~~shall be deemed~~ is considered a request for determination of insured status if a current benefit year has not previously been established. ~~Requests~~ A request for determination of insured status ~~shall~~ must be made ~~in accordance with such~~ pursuant to regulations as the ~~commission may prescribe~~ department prescribes.”

SECTION 15. Section 41‑27‑190 of the 1976 Code is amended to read:

“Section 41‑27‑190. ‘~~Commission~~ Department’ means the South Carolina ~~Employment Security Commission~~ Department of Workforce.”

SECTION 16. Section 41‑27‑210(11) of the 1976 Code is amended to read:

“(11) For purposes of paragraphs (2), (6), (7), and (8), employment ~~shall include~~ includes service ~~which~~ that would constitute employment but for the fact that ~~such~~ the service is ~~deemed~~ considered to be performed entirely within another state pursuant to an election ~~under~~ provided by an arrangement entered into in accordance with Section 41‑27‑550 by the ~~commission~~ department and an agency charged with the administration of ~~any other~~ another state or federal unemployment compensation law.”

SECTION 17. Section 41‑27‑230(10) of the 1976 Code is amended to read:

“(10) ~~Services~~ A service not covered under item 7 of this section and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of ~~any other~~ another state or of the federal government, ~~shall be deemed to be~~ is considered employment subject to Chapters 27 through 41 of this Title if the individual performing such services is a resident of this State and the department approves the election of the employing unit for whom ~~such~~ the services are performed that the entire service of ~~such~~ the individual ~~shall be deemed to be~~ is considered employment subject to Chapters 27 through 41 of this title.”

SECTION 18. Section 41‑27‑235(C)(2) of the 1976 Code, as last amended by Act 170 of 2004, is further amended to read:

“(2) A Native American ~~tribes~~ tribe or tribal ~~units~~ unit that ~~elect~~ elects to pay ~~benefits~~ a benefit attributable to service in their employ but ~~fail~~ fails to reimburse the required ~~payments~~ payment, including an interest and penalty ~~assessments~~ assessment, within ninety days of the receipt of a bill, ~~cause~~ causes the Native American tribe to lose the option to make ~~payments~~ a payment in lieu of ~~contributions~~ a contribution for the following tax year unless payment in full is received before the contribution rates for the next year are computed. The ~~commission~~ department shall notify the United States Internal Revenue Service and the United States Department of Labor of a tribe or tribal unit’s failure to make a required ~~payments~~ payment within ninety days of a final notice of delinquency.”

SECTION 19. Section 41‑27‑260 of the 1976 Code, as last amended by Act 306 of 2002, is further amended to read:

“Section 41‑27‑260. The term ‘employment’ as used in Chapters 27 through 41 of this title ~~shall~~ does not include:

(1) labor engaged in the seafood industry, which is defined as persons employed in the commercial netting, catching, and gathering of seafood, and the processing of such seafood for the fresh market;

(2) casual labor not in the course of the employing unit’s trade or business;

(3) service performed by an individual in the employ of his son, daughter, or spouse and service performed by a child under the age of eighteen in the employ of his father or mother;

(4) service performed in the employ of the United States Government or ~~any~~ an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by Chapters 27 through 41 of this title, except that to the extent that the Congress of the United States ~~shall permit~~ permits states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of Chapters 27 through 41 of this title ~~shall be~~ are applicable to ~~such~~ those instrumentalities and to services performed for ~~such~~ those instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers; provided, that if this State ~~shall not be~~ is not certified for ~~any~~ a year by the Secretary of Labor or his successors under the Federal Internal Revenue Code, the payments required of ~~such~~ those instrumentalities with respect to such year ~~shall~~ must be refunded by the ~~commission~~ department from the funds in the same manner and within the same period as is provided in Section 41‑31‑360 with respect to contributions erroneously collected;

(5) service performed after December 31, 1977, in the employ of a governmental entity referred to in Section 41‑27‑230(2)(b), if ~~such~~ the service is performed by an individual in the exercise of his duties~~;~~ as:

(a) ~~As~~ an elected official or as the appointed successor of an elected official;

(b) ~~As~~ a member of a legislative body, or a member of the judiciary of a state or political subdivision;

(c) ~~As~~ a member of the State National Guard or Air National Guard;

(d) ~~As~~ an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(e) in a position ~~which~~ that, ~~under or~~ pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking position the performance of the duties of which ordinarily does not require more than eight hours per week~~.~~;

(6) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; provided, that the ~~commission shall~~ department must enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten days after publication ~~thereof~~ of it in the manner provided in Section 41‑29‑130 for general rules, to provide reciprocal treatment to individuals who have after acquiring potential rights to benefits under Chapters 27 through 41 of this title, acquired rights to unemployment compensation under such act of Congress or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under Chapters 27 through 41 of this title;

(7) service other than service performed as defined in Section 41‑27‑230(3) performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), ~~any~~ a political campaign on behalf of ~~any~~ a candidate for public office, provided, that service performed in the employ of an organization operated for the primary purpose of carrying on a trade or business for profit ~~shall~~ may not be exempt on the ground that all of its profits are payable to one or more organizations exempt under this paragraph;

(8) service other than service performed as defined in Section 41‑27‑230(3) ~~which~~ that is performed in ~~any~~ a calendar quarter in the employ of ~~any~~ an organization exempt from federal income tax under Section 501(a) (other than an organization described in Section 401(a)) or under Section 521 of the Federal Internal Revenue Code of 1954, if the remuneration for such service is less than fifty dollars;

(9) the term ‘employment’ ~~shall~~ does not include:

(a) service performed in the employ of a school, college, or university, if ~~such~~ the service is performed by:

(i) ~~by~~ a student who is enrolled and is regularly attending classes at ~~such~~ the school, college or university~~,~~; or

(ii) ~~by~~ the spouse of ~~such~~ a student, if ~~such~~ the spouse is advised, at the time ~~such~~ the spouse commences to perform ~~such~~ the service that ~~(I)~~ the employment of ~~such~~ the spouse to perform ~~such~~ the service is provided under a program to provide financial assistance to ~~such~~ the student by ~~such~~ his school, college, or university, and ~~(II) such~~ the employment ~~will~~ is not ~~be~~ covered by ~~any~~ a program of unemployment insurance;

(b) service performed by an individual under the age of twenty‑two who is enrolled at a nonprofit or public educational institution ~~which~~ that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full‑time program, taken for credit at ~~such~~ the institution, which combines academic instruction with work experience, if ~~such~~ the service is an integral part of ~~such~~ the program, and ~~such~~ the institution has ~~so~~ certified this to the employer, except that this subparagraph ~~shall~~ does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(c) service performed in the employ of a hospital, if ~~such~~ the service is performed by a patient of the hospital, as defined in Section 41‑27‑280~~.~~;

(10) for the purposes of Section 41‑27‑230(2) and (3), ‘employment’ does not include service performed:

(a) in the direct employ of a church, convention, or association of churches or an organization operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church, convention, or association of churches; or

(b) by an ordained, a commissioned, or a licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by the order; or

(c) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be absorbed readily in the competitive labor market by an individual receiving rehabilitation or remunerative work; or

(d) before January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution; or

(e) as part of an unemployment work‑relief or work‑training program assisted or financed in whole or in part by a federal agency, an agency or political subdivision of a state, or an individual receiving work relief or work training, unless a federal law, rule, or regulation mandates unemployment insurance coverage to individuals in a particular work‑relief or work‑training program; or

(f) by an inmate who participates in a project designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90‑351~~.~~;

(11) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) service performed as a student nurse in the employ of a hospital or a nurses’ training school by an individual ~~who is~~ enrolled and ~~is~~ regularly attending classes in a nurses’ training school chartered or approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a ~~four years’~~ four‑year course in a medical school chartered and approved pursuant to state law;

(13) service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if ~~all such~~ this service is performed by ~~such~~ the individual for ~~such~~ his employer ~~is performed~~ for remuneration solely by way of ~~commission~~ department;

(14) service other than service performed as defined in Section 41‑27‑230(3) by an individual for an employer as a real estate salesman or agent, if ~~all such~~ this service is performed by ~~such~~ the individual for ~~such~~ his employer ~~is performed~~ for remuneration solely by way of ~~commission~~ department;

(15) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative~~.~~;

(16) ‘agricultural labor’ as ~~such term is~~ defined by Section 41‑27‑120 and when performed by students who are enrolled and regularly attending classes for at least five months during a particular year at a secondary school or at an accredited college, university, or technical school and also when performed by part‑time persons who do not qualify as students ~~hereunder~~ pursuant to this section but who at the conclusion of their agricultural labor would not qualify for ~~any~~ benefits ~~under~~ pursuant to the provisions of the ~~South Carolina Employment Security Law.~~ department;

(17) ~~services~~ service performed as a member of a Native American tribal council or ~~services~~ service in a fishing rights related activity of a Native American tribe by a member of ~~such~~ the tribe for another member of ~~such~~ the tribe or by a qualified Native American entity.”

SECTION 20. Section 41‑27‑360 of the 1976 Code is amended to read:

“Section 41‑27‑360. ‘Statewide average weekly wage’ means the amount computed by the ~~commission~~ department as of July first of each year ~~which shall be~~ that is the aggregate amount of wages, ~~(~~irrespective of the limitation on the amount of wages subject to contributions by reason of Section 41‑27‑380(2)~~)~~, reported by employers as paid during the first four of the last six completed calendar quarters ~~prior to such~~ before this date, divided by a figure representing fifty‑two times the twelve‑month average of the number of employees in the pay period containing the twelfth day of each month during the same four calendar quarters as reported by ~~such~~ those employers.”

SECTION 21. Section 41‑27‑370 of the 1976 Code, as last amended by Act 349 of 2000, is further amended to read:

“Section 41‑27‑370. (1) An individual is ~~deemed~~ considered ‘unemployed’ in ~~any~~ a week during which he performs no services and with respect to which no wages are payable to him or in ~~any~~ a week of less than full‑time work if the wages payable to him with respect to ~~such~~ that week are less than his weekly benefit amount. The ~~commission~~ department must prescribe regulations applicable to unemployed individuals, making such distinctions in the procedures as to total unemployment, part‑total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short‑time work, as the ~~commission deems~~ department considers necessary.

(2) An individual is ~~deemed~~ considered ‘unemployed’ in ~~any~~ a week during which no governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment ~~which is~~ attributable to his employment is payable to him or, if ~~such~~ that payment is payable to him with respect to ~~such~~ those weeks, the amount ~~thereof~~ of it is less than his weekly benefit amount. ~~Each~~ An eligible individual who is unemployed in ~~any~~ a week and ~~who~~ is receiving a ~~governmental~~ government or other pension, retirement or retired pay, annuity, or other similar periodic payment ~~which is~~ attributable to his employment must be paid with respect to ~~such~~ this week a benefit in an amount equal to his weekly benefit amount less the pension, retirement or retired pay, annuity, or other similar periodic payment payable to him with respect to such week. ~~Such~~ This benefit, if not a multiple of one dollar, must be computed to the next lower multiple of one dollar. The amount of benefits payable to an individual for ~~any~~ a week ~~which~~ that begins after the effective date of the applicable provision in the Federal Unemployment Tax Act and ~~which~~ that begins in a period with respect to which ~~such~~ this individual is receiving a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment ~~which is~~ based on the previous work of ~~such~~ the individual must be reduced ~~(but~~ not below zero~~)~~ but by an amount equal to the amount of ~~such~~ this pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week. However, if the provisions of the Federal Unemployment Tax Act permit, the requirements of this subsection shall ~~only~~ apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained, ~~(~~or contributed to,~~)~~ by a base period employer or chargeable employer.

In the event the individual has participated in ~~any~~ a pension, retirement or retired pay, annuity, or other similar plan of the base period employer or chargeable employer by having made contributions to ~~such~~ this plan, the weekly benefit amount payable to ~~such~~ the individual for ~~such~~ that week ~~shall~~ must be reduced, ~~(~~but not below zero~~)~~, by:

(a) ~~by~~ the pro‑rated weekly amount of the pension after deductions of that portion of the pension that is directly attributable to the percentage of the contributions made to the plan by such individual; or

(b) ~~by~~ no part of the pension if the entire contributions to the plan were provided by such individual, or by the individual and an employer, ~~(~~or any other person or organization~~)~~, who is not a base period employer or chargeable employer; or

(c) ~~by~~ the entire ~~pro‑rated~~ prorated weekly amount of the pension if ~~item~~ subitem (a) or ~~item~~ (b) does not apply.

This provision is effective for all weeks commencing on or after August 29, 1982.

For purposes of this subsection, social security benefits are not considered a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment attributable to the beneficiary’s employment. As a result, the offset of social security will be reduced from ~~50% to 0%~~ fifty to zero percent based on the fact that individuals are required to contribute to social security.

(3) ~~No~~ An individual may not be considered ~~as~~ unemployed in ~~any~~ a week in which the ~~commission~~ department finds that his unemployment is due to a vacation week with respect to which the individual is receiving or has received his regular wages. This subsection ~~is not applicable~~ does not apply to ~~any~~ a claimant whose employer fails to comply, in respect to ~~such~~ the vacation period, with the requirements of ~~all regulations~~ a regulation or ~~procedures~~ procedure of the ~~commission~~ department regarding the filing of ~~notices, reports~~ a notice, report, information, or ~~claims~~ claim in connection with individual, group, or mass ~~separations~~ separation arising from the vacation.

(4) ~~No~~ An individual may not be considered ~~as~~ unemployed in ~~any~~ a week, ~~(~~not to exceed two in any benefit year~~)~~, in which the ~~commission~~ department finds ~~that~~ his unemployment is due to a vacation week ~~which~~ that is constituted a vacation period without pay by reason of a written contract between the employer and the employees or by reason of the employer’s vacation policy and practice to his employees. This provision applies only if ~~it is found by~~ the ~~commission that~~ department finds employment will be available for the claimant with the employer at the end of a vacation period as described in this section. This subsection is not applicable to ~~any~~ a claimant whose employer fails to comply, in respect to ~~such~~ this vacation period, with the requirements of ~~all regulations~~ a regulation or ~~procedures~~ procedure of the ~~commission~~ department regarding the filing of ~~notices, reports~~ a notice, report, information, or ~~claims~~ claim in connection with an individual, group, or mass ~~separations~~ separation arising from the vacation.”

SECTION 22. Section 41‑27‑380 of the 1976 Code is amended to read:

“Section 41‑27‑380. ~~(1)~~(A) ‘Wages’ means ~~all~~ remuneration paid for personal services, including commissions and bonuses, ~~any~~ sums paid to an employee by an employer pursuant to an order of the National Labor Relations Board or by private agreement, consent, or arbitration for loss of pay by reason of discharge and cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration paid in ~~any~~ a medium other than cash is estimated and determined ~~in accordance with~~ pursuant to regulations prescribed by the ~~commission~~ department. ‘Wages’ includes all tip income, ~~(~~including charged tips~~)~~, ~~which are~~ received while performing ~~services which constitute~~ a service that constitutes employment and are included in a written statement furnished to the employer. ‘Wages’ does not include:

~~(a)~~(1) the amount of ~~any~~ a payment with respect to services performed in behalf of an individual in its employ ~~under~~provided by a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of individuals, ~~(~~including ~~any~~ an amount paid by an employing unit for insurance or annuities or into a fund to provide for any such payment~~)~~, ~~on account~~ because of:

~~(i)~~(a) retirement,

~~(ii)~~(b) sickness or accident disability,

~~(iii)~~(c) medical and hospitalization expenses in connection with sickness or accident disability, or

~~(iv)~~(d) death, provided the individual is in its employ has not the:

~~(A)~~(i) ~~has not the~~ option to receive, instead of provisions for death benefits, ~~any~~ part of payment or, if the death benefit is insured, ~~any~~ part of the premiums ~~(~~or contributions to premiums~~)~~ paid by his employing unit; and

~~(B)~~(ii) ~~has not the~~ right, under ~~the provisions~~ a provision of the plan, system, or policy of insurance providing for a death benefit, to assign the benefit or receive a cash consideration in lieu of the benefit either upon his withdrawal from the plan or system providing for the benefit or upon termination of the plan, system, or policy of insurance or of his ~~services~~ service with the employing unit~~.~~;

~~(b)~~(2) ~~Any amounts~~ an amount received from this State or the Federal Government by ~~members~~ a member of the South Carolina National Guard, the United States Naval Reserve, the Officers Reserve Corps, the Enlisted Reserve Corps, and the Reserve Corps of Marines as drill pay, including a longevity pay and ~~allowances~~ allowance~~.~~;

~~(c)~~(3) the payment by an employing unit, ~~(~~without deduction from the remuneration of the individual in its employ~~)~~, of the tax imposed upon an individual in its employ, ~~under~~ pursuant to Section 3101 of the Federal Internal Revenue Code, only if the service is agricultural labor or domestic service in a private home of the employer~~.~~;

~~(d)~~(4) ~~Any~~a payment, ~~(~~other than vacation pay or sick pay~~)~~, made to an employee after the month in which he attains the age of sixty‑five, if he did not work for the employer in the period for which payment is made~~.~~;

~~(e)~~(5) ~~Any~~a remuneration paid in a medium other than cash for a service performed in an agricultural labor or domestic service.

(2) For the purpose of Chapter 31, Article 1, of this title, ‘wages’ does not include ~~that part~~ a portion of remuneration ~~which~~ that, after remuneration equal to seven thousand dollars has been paid in a calendar year to an individual by an employer or his predecessor or with respect to employment during ~~any~~ a calendar year, is paid to the individual by the employer during the calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subsection, employment includes service constituting employment under any unemployment compensation law of another state.”

SECTION 23. Section 41‑27‑390 of the 1976 Code is amended to read:

“Section 41‑27‑390. ‘Week’ means calendar week or ~~such~~ a period of seven consecutive days ~~as~~ that the ~~commission may by~~ department prescribes by regulation ~~prescribe~~. The ~~commission may~~ department likewise may determine that a week ~~shall be deemed to be~~ is considered ‘in’, ‘within’, or ‘during’ that benefit year which includes the greater part of ~~such~~ that week.”

SECTION 24. Section 41‑27‑510 of the 1976 Code is amended to read:

“Section 41‑27‑510. The ~~commission~~ department ~~shall prescribe~~ must promulgate regulations applicable to unemployed individuals, making ~~such~~ distinctions in the procedures ~~as to~~ regarding total unemployment, part‑total unemployment, partial unemployment of the individuals attached to their regular jobs and other forms of short‑time work as the ~~commission deems~~ department considers necessary.”

SECTION 25. Section 41‑27‑550 of the 1976 Code is amended to read:

“Section 41‑27‑550. The ~~commission~~ department may enter into agreements with the appropriate agencies of other states or the Federal Government whereby individuals performing services in this and other States for a single employing unit under circumstances not specifically provided for in Section 41‑27‑230 or under similar provisions in the unemployment compensation laws of such other states shall be deemed to be engaged in employment performed entirely within this State or within one of such other states and whereby potential rights to benefits accumulative under the unemployment compensation laws of one or more states or under ~~such~~ the law of the Federal Government or both may constitute the basis for the payment of benefits through a single appropriate agency under terms which the ~~commission finds will be~~ department considers fair and reasonable as to all affected interests and will not result in ~~any~~ a substantial loss to the fund, and the ~~commission~~ department may enter into agreements with appropriate agencies of other states or the Federal Government administering unemployment compensation laws to provide that contributions on wages for services performed by an individual in more than one state for the same employer may be paid to the appropriate agency of one state.”

SECTION 26. Section 41‑27‑560 of the 1976 Code is amended to read:

“Section 41‑27‑560. ~~No~~ A report, communication, or ~~any~~ other ~~such~~ similar matter, either oral or written from an employee or employer to the other or to the ~~commission~~ department or ~~any of~~ its agents, representatives, or employees ~~which shall~~ that have been written, sent, delivered, or made in connection with the requirements and the administration of Chapters 27 through 41 of this title ~~shall~~ must not be made the subject matter or basis of ~~any~~ a suit for slander or libel in ~~any~~ a court of ~~the~~ this State.”

SECTION 27. Section 41‑27‑570 of the 1976 Code is amended to read:

“Section 41‑27‑570. In case of a suit to enjoin the collection of the contributions provided for in Chapters 27 through 41 of this title, to test the validity of ~~such~~ those chapters or for ~~any other~~ another purpose connected with its duties, the ~~commission shall~~ department must be made a party ~~thereto~~ to it and the Attorney General or counsel for the ~~commission~~ department shall defend ~~such~~ the suit in accordance with the provisions of Section 41‑27‑580.”

SECTION 28. Section 41‑27‑580 of the 1976 Code is amended to read:

“Section 41‑27‑580. In ~~any~~ a civil action to enforce the provisions of Chapters 27 through 41 of this title, the ~~commission~~ department and the State may be represented by ~~any~~ a qualified attorney ~~who is~~ employed by the ~~commission~~ department and is designated by it for this purpose or, at the ~~commission’s~~ department’s request, by the Attorney General.”

SECTION 29. Section 41‑27‑600 of the 1976 Code is amended to read:

“Section 41‑27‑600. The ~~commission~~ department may compromise ~~any~~ a civil penalty or cause ~~or~~ of action arising ~~under the provisions~~ pursuant to a provision of Chapters 27 through 41 of this title instead of commencing suit ~~thereon~~ on them and may compromise ~~any such~~ the case after suit ~~thereon has been commenced~~ on it commences. In ~~such~~ these cases the ~~commission~~ department shall keep on file in its office the reasons for settlement by compromise~~,~~; ~~together with~~ a statement on the amount of contribution imposed~~,~~; the amount of additional contribution, penalty, or interest imposed by law in consequence of neglect or delinquency; and the amount actually paid ~~in accordance with~~ pursuant to the terms of the compromise.”

SECTION 30. Section 41‑27‑610 of the 1976 Code is amended to read:

“Section 41‑27‑610. The failure to do ~~any~~ an act required ~~by or under the provisions~~ pursuant to a provision of Chapters 27 through 41 of this title ~~shall be deemed~~ is considered an act committed in part at the office of the ~~commission in Columbia~~ department.”

SECTION 31. Section 41‑27‑620 of the 1976 Code is amended to read:

“Section 41‑27‑620. The certificate of the ~~commission~~ department to the effect that a contribution has not been paid, that a report has not been made, that information has not been furnished, or that records have not been produced or made available for inspection, as required ~~under~~ pursuant to Chapters 27 through 41 of this title, ~~shall be~~ is prima facie evidence ~~thereof~~ of the alleged action.”

SECTION 32. Section 41‑27‑630 of the 1976 Code is amended to read:

“Section 41‑27‑630. ~~Benefits shall be deemed to be~~ A benefit is considered due and payable ~~under~~ pursuant to Chapters 27 through 41 of this title only to the extent provided in ~~such~~ those chapters and to the extent that ~~moneys are~~ money is available ~~therefor~~ for them to the credit of the unemployment compensation fund and neither the State nor the ~~commission shall~~ department must be liable for ~~any~~ an amount in excess of ~~such sums~~ that sum.”

SECTION 33. Section 41‑29‑40 of the 1976 Code is amended to read:

“Section 41‑29‑40. There are created under the ~~commission~~ department two coordinate divisions, the South Carolina State Employment Service Division created pursuant to Section 41‑5‑10, and a division to be known as the Unemployment Compensation Division. Each division ~~shall~~ must be administered by a full‑time salaried director, who ~~shall be~~ is subject to the supervision and direction of the ~~commission~~ department. The ~~commission~~ department may appoint, fix the compensation of, and prescribe the duties of the directors of ~~said~~ these divisions. ~~Such~~ These appointments ~~shall~~ must be made on a nonpartisan merit basis in accordance with the provisions of Section 41‑29‑90. The director of each division shall be responsible to the ~~commission~~ department for the administration of his ~~particular~~ respective division and ~~shall have such powers~~ has the power and authority as ~~may be~~ vested in him by the ~~commission~~ department.”

SECTION 34. Section 41‑29‑50 of the 1976 Code is amended to read:

“Section 41‑29‑50. The ~~commission shall appoint a State advisory council and~~ executive director may appoint local or industry advisory councils, composed in each case of equal numbers of employer representatives and employee representatives, who may fairly be regarded as representatives because of their vocation, employment or affiliations, and of ~~such~~ members representing the general public as the ~~commission may designate~~ executive director designates. ~~Such councils~~ Local councils shall aid the ~~commission~~ department in formulating ~~policies~~ a policy and discussing problems relating to the administration of Chapters 27 through 41 of this title, and in assuring impartiality and freedom from political influence in the solution of ~~such~~ those problems. ~~Such~~ Members of local advisory councils ~~shall~~ must serve without compensation, but ~~shall be reimbursed for any necessary expenses~~ must receive per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees.”

SECTION 35. Section 41‑29‑70 of the 1976 Code is amended to read:

“Section 41‑29‑70. Subject to the provisions of Chapters 27 through 41 of this title, the ~~Commission~~ department may ~~appoint and fix the compensation (subject to the approval of the State Budget and Control Board unless otherwise provided by the General Assembly) and prescribe the duties and powers of such officers,~~ employ or retain on a contract basis other accountants, attorneys, experts ~~and other persons as may be~~ necessary ~~in the performance of its~~ to perform the department’s duties ~~under Chapters 27 through 41 of this title~~.”

SECTION 36. Section 41‑29‑80 of the 1976 Code is amended to read:

“Section 41‑29‑80. The ~~Commission~~ department shall:

(1) classify all positions under Chapters 27 through 41 of this title~~,~~ except those exempted by the Federal Social Security Act or regulations of the Secretary of Labor or his successors ~~under authority thereof,~~; and

(2) ~~shall~~ establish salary schedules and minimum personnel standards. ~~Such~~ These standards ~~shall~~ must conform to the minimum standards prescribed under the provisions of Section 303(a)(1) of the Federal Social Security Act, as amended, and applicable state law and regulations.”

SECTION 37. Section 41‑29‑110 of the 1976 Code is amended to read:

“Section 41‑29‑110. The ~~Commission shall administer Chapters 27 through 41 of this Title and it may adopt, amend or rescind such rules and~~ department must promulgate regulations necessary to carry out the provisions of Chapters 27 through 41 of this title, employ ~~such persons~~ personnel, make ~~such~~ expenditures, require ~~such~~ reports ~~as are~~ not otherwise provided for in ~~such~~ these chapters, ~~make such investigations and take such~~ conduct investigations or take other action as it ~~deems~~ considers necessary or suitable to ~~that end~~ administer its duties and exercise its powers pursuant to the title.”

SECTION 38. Section 41‑29‑120 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑29‑120. (A)(1) The ~~commission~~ department, with the advice and aid of its advisory councils and through its appropriate divisions, shall take ~~all~~ appropriate steps to:

(a) reduce and prevent unemployment~~,~~;

(b) ~~to~~ encourage and assist in ~~the adoption of~~ adopting practical methods of vocational training, retraining, and vocational guidance~~,~~;

(c) ~~to~~ investigate, recommend, advise, and assist in ~~the establishment and operation~~ establishing and operating, by ~~municipalities, counties, school districts~~ a municipality, county, school district, and the State, of reserves for public works to be used in times of business depression and unemployment; ~~and~~

(d) ~~to~~ promote the reemployment of unemployed workers throughout the State in every other way that ~~may be~~ is feasible; and ~~to these ends~~

(e) promote the joint electronic filing of Employer Unemployment Insurance Benefits Payments and Reports in conjunction with South Carolina Business One Stop to provide employment units a single point of contact for reporting and paying state taxes.

(2) While pursuing these goals, the department also shall carry on and publish the results of statistical surveys, investigations, and research studies.

(B) The ~~commission~~ department may require from an employing unit for the ~~commission’s~~ department’s cooperation with the Bureau of Labor Statistics of the United States Department of Labor or its successor agency ~~the following reports~~ the United States Bureau of Labor Statistics report to:

(1) ~~The United States Bureau of Labor Statistics report to~~ assign industry codes to South Carolina employers under the ES‑202 Covered Employment and Wages Program;

(2) ~~The United States Bureau of Labor Statistics report to~~ collect employment information on multiple worksites for South Carolina employers under the ES‑202 Covered Employment and Wages Program;

(3) ~~The United States Bureau of Labor Statistics report to~~ collect monthly employment, hours, and earnings from South Carolina employers under the BLS‑790 Current Employment Statistics Program;

(4) ~~The United States Bureau of Labor Statistics report to~~ collect employment information from federal employers under the ES‑202 Covered Employment and Wages Program; and

(5) ~~The United States Bureau of Labor Statistics report to~~ collect occupational employment and wage information from South Carolina employers under the Occupational Employment Statistics Program.

(C) As used in this section, ‘employing unit’ means ~~those entities~~ an entity employing more than twenty individuals.

(D) The department must institute the following measures to the fullest extent possible under state and federal law:

(1) increase eligibility reviews and investigations as to violations of Sections 41‑35‑110 and 41‑35‑120 and enforce appropriate disqualifications and penalties;

(2) increase investigations of violations of Chapter 41, Title 41 and enforce appropriate penalties;

(3) increase investigations of violations of Article 3, Chapter 31, Title 41 and enforce appropriate penalties;

(4) keep detailed voting and attendance records at all department and appellate panel hearings and make them available to the General Assembly;

(5) keep detailed travel and expense records for department employees and appellate panelists and make them available to the General Assembly;

(6) continue to work with the South Carolina Budget and Control Board and Office of Research and Statistics to develop and continuously improve a customer service portal, to include increased interagency integration and data sharing, and keep the General Assembly regularly informed of its progress in upgrading its computer system through a possible multistate compact in cooperation with the federal government;

(7) report to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Labor, Commerce and Industry Committee within five days of the effective date of this act as to the degree the department can accomplish or cannot accomplish each subitem in this subsection, and provide reasons why a subitem cannot be accomplished if the department cannot do so;

(8) report to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Labor, Commerce and Industry Committee on the first day of each month in Fiscal Years 2010 and 2011 on the progress of each request; and

(9) take all other actions necessary and prudent to effectively and efficiently manage the state’s unemployment benefits program.”

SECTION 39. Section 41‑29‑140 of the 1976 Code is amended to read:

“Section 41‑29‑140. The ~~Commission~~ department may enter ~~into arrangements~~ an arrangement with the appropriate ~~agencies~~ agency of ~~other states~~ another state or of the Federal Government with respect to the combination of wages~~, viz.:~~

(1) ~~The Commission may enter into~~ An agreement with the Federal Government ~~whereby~~ where wages or services, upon the basis of which an individual may become entitled to benefits under ~~any~~ an unemployment compensation law of the Federal Government, ~~shall be deemed to be~~ are considered wages for employment by ~~employers~~ an employer for the purpose of Sections 41‑35‑10 to 41‑35‑100~~; provided, such~~ if the agency of the Federal Government ~~has agreed~~ agrees to reimburse the fund for ~~such~~ the portion of benefits paid under Chapters 27 through 41 of this title ~~upon~~ on the basis of ~~such~~ these wages or services as the ~~Commission~~ department finds will be fair and reasonable and the ~~Commission~~ department will reimburse ~~such~~ the agency of the Federal Government with ~~such~~ a reasonable portion of benefits paid under ~~any~~ law of the Federal Government ~~upon~~ on the basis of employment or wages for employment by employers ~~as~~ the ~~Commission~~ department finds will be fair and reasonable to all affected interests.

(2) The ~~Commission~~ department shall participate in ~~any arrangements~~ an arrangement for the payment of compensation on the basis of combining an individual’s wages and employment covered under Chapters 27 through 41 of this Title with his wages and employment covered under the unemployment compensation ~~laws of other states which are~~ law of another state approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in ~~such~~ those situations and ~~which include~~ that includes provisions for:

(a) applying the base period of a single state law to a claim involving the combining of an individual’s wages and employment covered under two or more state unemployment compensation laws, and

(b) avoiding the duplicate use of wages and employment by reason of ~~such~~ this combining.

(3) ~~Reimbursement so payable shall be deemed to be benefits~~ This reimbursement is considered a benefit for the purpose of Section 41‑35‑50 and Article 1, ~~of~~ Chapter 33 of this title. The ~~Commission~~ department may make to ~~other~~ another state or Federal ~~agencies~~ agency and receive from ~~such~~ another state or Federal ~~agencies reimbursements~~ agency reimbursement from or to the fund~~,~~ in accordance with ~~arrangements~~ an made pursuant to this section.”

SECTION 40. Section 41‑29‑150 of the 1976 Code is amended to read:

“Section 41‑29‑150. ~~Each~~ An employing unit ~~shall~~ must keep true and accurate work records~~,~~ containing ~~such~~ information ~~as~~ the ~~Commission may prescribe~~ department prescribes. ~~Such~~ These records ~~shall~~ must be open to inspection and ~~be~~ subject to being copied by the ~~Commission~~ department or its authorized ~~representatives~~ representative at ~~any~~ a reasonable time and as often as ~~may be~~ necessary. The ~~Commission~~ department and the chairman of ~~any~~ an appeal tribunal may require from ~~any~~ an employing unit ~~any~~ a sworn or unsworn report with respect to persons employed by it ~~which~~ that he or it ~~deems~~ considers necessary for the effective administration of Chapters 27 through 41 of this title. Information ~~thus~~ obtained~~,~~ in this manner or ~~obtained~~ from an individual pursuant to the administration of ~~such~~ these chapters~~, shall~~, except to the extent necessary for the proper administration of such chapters, shall be held confidential and ~~shall~~ may not be published or be open to public inspection, other than to the public employees in the performance of their public duties, in any manner revealing the individual’s or employing unit’s identity~~, but any~~. However, a claimant or his legal representative at a hearing before an appeal tribunal ~~shall~~ must be supplied ~~with~~ information from ~~such~~ these records to the extent necessary for the proper presentation of his claim. ~~Any~~ An employee or member of the ~~Commission~~ department who violates ~~any~~ a provision of this section ~~shall~~ must be fined not less than twenty dollars ~~nor~~ or more than two hundred dollars, ~~or~~ imprisoned for not longer than ninety days, or both.”

SECTION 41. Section 41‑29‑170 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑29‑170. (A) A claimant or ~~a claimant’s~~ his legal representative must be supplied with information from the records, to the extent necessary for the proper presentation of ~~the~~ his claim in ~~any~~ a proceeding ~~under~~ pursuant to Chapters 27 through 41, subject to restrictions the ~~commission~~ department may prescribe by regulation ~~prescribe~~.

(B)(1) Upon written request, the ~~commission~~ department may furnish information obtained through the administration of Chapters 27 through 42 including, but not limited to, the name, address, ordinary occupation, wages, and employment status of ~~each~~ a covered worker or recipient of benefits and the recipient’s rights to ~~further~~ additional benefits ~~under~~ pursuant to Chapters 27 through 41, to:

~~(1)~~(a) an agency or agent of the United States charged with the administration of public works or assistance through public employment;

~~(2)~~(b) a state agency similarly charged; ~~or~~ and

~~(3)~~(c) an agency or entity to which disclosure is permitted or required by federal statute or regulation or by state law.

(2) This disclosure ~~must be made~~ is subject to restrictions the ~~commission~~ department mayprescribe by regulation ~~prescribe~~.

(C)(1) The State Employment Office ~~shall~~ must furnish, upon request of a public agency administering the Temporary Assistance to Needy Families (TANF) ~~and~~ or child support programs, a state agency administering food stamp coupons, ~~the~~ a state or federal agency administering the new hire directory, or ~~any~~ a public housing authority, ~~any~~ information in its possession relating to:

~~(1)~~(a) ~~individuals~~ an individual who ~~are~~ is receiving, ~~have~~ has received, or ~~have~~ has applied for unemployment insurance;

~~(2)~~(b) the amount of benefits being received;

~~(3)~~(c) the current home address of these individuals;

~~(4)~~(d) whether ~~any~~ an offer of work has been refused and, if so, a description of the job and the terms, conditions, and rate of pay;

~~(5)~~(e) in the case of requests from a public housing authority, a listing of the current employer and previous employers for the available preceding six calendar quarters;

~~(6)~~(f) in the case of requests from the state or federal agency ~~which~~ that issues food stamp coupons or the new hire directory, a listing of the current employer and address and ~~any~~ previous employers and their addresses, including wage information, for the available preceding six calendar quarters.

The requesting agency is responsible for reimbursing the ~~South Carolina Employment Security Commission~~ department for actual costs incurred in supplying the information. This information must be provided in the most useful and economical format possible.”

SECTION 42. Section 41‑29‑180 of the 1976 Code is amended to read:

“Section 41‑29‑180. The ~~Commission~~ department shall endeavor, both for the relief of the clerical work of employers and its own office, to confine reporting to the minimum necessary for the proper administration of the law, and, except for necessary separation, low earnings, special reports or notices, or wage and employment reports required ~~under~~ pursuant to Section 41‑29‑140, it shall not require reports as to the earnings of individual employees more frequently than quarterly.”

SECTION 43. Section 41‑29‑190 of the 1976 Code is amended to read:

“Section 41‑29‑190. In the discharge of the duties imposed by Chapters 27 through 41 of this title, the ~~Commission~~ department or ~~any~~ a duly authorized representative ~~thereof as designated by its rules~~ of it may administer ~~oaths and affirmations~~ an oath and affirmation, take ~~depositions~~ a deposition, certify to an official ~~acts~~ act and issue ~~subpoenas~~ a subpoena to compel the attendance of ~~witnesses~~ a witness and the production of books, papers, correspondence, memoranda and other records ~~deemed~~ considered necessary as evidence in connection with a disputed claim or the administration of ~~such chapters~~ Chapters 27 through 41 of this title.”

SECTION 44. Section 41‑29‑200 of the 1976 Code is amended to read:

“Section 49‑21‑200. ~~No~~ A person ~~shall~~ must not be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the ~~Commission~~ department, an appeal tribunal, or ~~any~~ their duly authorized representative ~~of either of them~~ or in obedience to the subpoena of ~~either of~~ them in ~~any~~ a cause or proceeding before the ~~Commission~~ department or an appeal tribunal on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. ~~But no~~ An individual ~~shall~~ must not be prosecuted or subjected to ~~any~~ a penalty or forfeiture for or on account of ~~any~~ a transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, documentary or otherwise, except that ~~such~~ the individual ~~so~~ testifying ~~shall~~ must not be exempt from prosecution and punishment for perjury committed in ~~so~~ testifying.”

SECTION 45. Section 41‑29‑210 of the 1976 Code is amended to read:

“Section 41‑29‑210. (1) In case of contumacy by ~~any~~ a person or refusal to obey a subpoena issued to ~~any~~ a person, ~~any~~ a court of this State or judge ~~thereof~~ of this State within the jurisdiction of which ~~such~~ the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the ~~Commission~~ department or ~~any~~ a duly authorized representative may issue to ~~such person~~ him an order requiring him to appear before the ~~Commission~~ department or ~~any~~ a duly authorized representative ~~thereof~~ of the department to produce evidence if ~~so~~ ordered to do so or to give testimony touching the matter under investigation or in question. ~~Any~~ Failure to obey an order of the court may be punished as a contempt ~~thereof~~ of the order.

(2) ~~Any~~ A person who ~~shall~~, without just cause, ~~fail or refuse~~ fails or refuses to attend and testify~~,~~; to answer ~~any~~ a lawful inquiry; or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do ~~so~~ this in accordance with a subpoena of the ~~Commission~~ department or ~~any~~ a duly authorized representative ~~shall~~ must be punished by a fine of not less than twenty nor more than two hundred dollars or by imprisonment for not more than thirty days. Each failure to obey a subpoena ~~shall constitute~~ constitutes a separate offense.”

SECTION 46. Section 41‑29‑220 of the 1976 Code is amended to read:

“Section 41‑29‑220. The ~~Commission~~ department may request the Comptroller of the Currency of the United States to cause an examination of the correctness of ~~any~~ a return or report of ~~any~~ a national banking association rendered pursuant to the provisions of Chapters 27 through 41 of this title, and may in connection with ~~such~~ this request transmit ~~any such~~ this report or return it to the Comptroller of the Currency of the United States as provided in Section 3305(c) of the Federal Internal Revenue Code.”

SECTION 47. Section 41‑29‑230 of the 1976 Code is amended to read:

“Section 41‑29‑230. (1) In the administration of Chapters 27 through 41 of this title, the ~~Commission shall~~ department must cooperate with the United States Secretary of Labor to the fullest extent consistent with the provisions of ~~such~~ these chapters, and ~~shall take such action~~ act, through the ~~adoption~~ promulgation of appropriate rules, regulations, administrative methods and standards, as ~~may be~~ necessary to secure to this State and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner‑Peyser Act, and the Federal‑State Extended Unemployment Compensation Act of 1970.

(2) In the administration of the provisions in Chapter 35, Article 3 of this Title, which are enacted to conform with the requirements of the Federal‑State Extended Unemployment Compensation Act of 1970, the ~~Commission shall take such action as may be~~ department must act as necessary to:

(a) ~~to~~ ensure that the provisions are ~~so~~ interpreted and applied ~~as~~ to meet the requirements of ~~such~~ the Federal act as interpreted by the United States Secretary of Labor~~,~~; and

(b) ~~to~~ secure to this State the full reimbursement of the Federal share of extended benefits paid ~~under~~ pursuant to this title that are reimbursable under the Federal act.”

SECTION 48. Section 41‑29‑240 of the 1976 Code is amended to read:

“Section 41‑29‑240. The ~~Commission~~ department may make the State’s record relating to the administration of Chapters 27 through 41 of this title available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the board’s expense ~~of such Board~~, ~~such~~ copies ~~thereof~~ of this record as the Railroad Retirement Board ~~deems~~ considers necessary for its purposes. The ~~Commission~~ department may afford reasonable cooperation with ~~every~~ an agency of the United States charged with the administration of an unemployment insurance law.”

SECTION 49. Section 41‑29‑250 of the 1976 Code is amended to read:

“Section 41‑29‑250. ~~The commission shall cause to be printed for distribution to the public the text of Chapters 27 through 41 of this Title, the Commission’s regulations, its general and special rules, its annual reports to the Governor and General Assembly and any other material the Commission deems relevant and suitable and shall furnish such material to any person upon application therefor.~~ The department must:

(A) print and make available for public distribution the text of Chapters 27 through 41 of this title and its:

(1) regulations;

(2) annual reports to the Governor and General Assembly; and

(3) other material the department considers relevant and suitable; and

(B) furnish this material to a person on request and make it available on its internet web site.”

SECTION 50. Section 41‑29‑270 of the 1976 Code is amended to read:

“Section 41‑29‑270. Notwithstanding the provisions of Chapters 27 through 41 of this title, the ~~Commission may issue such~~ department must promulgate regulations ~~as deemed~~ necessary for the operation of an emergency unemployment compensation system in the event of an enemy attack ~~which~~ that disrupts or endangers the department’s usual procedures or facilities ~~of the Commission~~.”

SECTION 51. Section 41‑29‑280 of the 1976 Code is amended to read:

“Section 41‑29‑280. Not later than the fifteenth day of January of ~~each year the Commission~~ annually, the department shall submit to the Governor and ~~to~~ the General Assembly a report covering the administration and operation of Chapters 27 through 41 of this Title during the preceding fiscal year and ~~shall~~ make ~~such~~ recommendations for amendments to ~~such~~ these chapters as the ~~Commission deems~~ department considers proper. ~~Such~~ These reports ~~shall~~ must include a balance sheet of the ~~moneys~~ money in the fund in which there ~~shall~~ must be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserves ~~shall~~ must be set up by the ~~Commission~~ department in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period.”

SECTION 52. Section 41‑29‑290 of the 1976 Code is amended to read:

“Section 41‑29‑290. ~~Whenever the Commission~~ When the department believes ~~that~~ a change in contribution or benefit rates ~~will become~~ is necessary to protect the solvency of the fund, it ~~shall~~ promptly ~~so~~ must inform the Governor and the General Assembly of this information and make recommendations ~~with respect thereto~~ regarding it.”

SECTION 53. Section 41‑33‑10 of the 1976 Code is amended to read:

“Section 41‑33‑10. There is established a special fund, to be known as the unemployment compensation fund, which ~~shall~~ must be administered separate and apart from all public moneys or funds of the State. This fund ~~shall~~ must consist of:

(1) All contributions and payments in lieu of contributions collected under Chapters 27 through 41 of this title;

(2) interest earned ~~upon~~ on any ~~moneys~~ money in the fund;

(3) ~~Any~~ property or securities acquired through the use of ~~moneys~~ money belonging to the fund;

(4) ~~All~~ earnings of ~~such property~~ those properties or securities;

(5) ~~All~~ money credited to this State’s account in the unemployment trust fund pursuant to Section 903 of the Social Security Act, as amended;

(6) ~~All~~ money received from the Federal Government as reimbursements pursuant to Section 204 of the Federal‑State Extended Compensation Act of 1970; and

(7) ~~All~~ money received for the fund from ~~any other~~ another source. ~~All~~ Money in the fund ~~shall~~ must be comingled and undivided.”

SECTION 54. Section 41‑33‑20 of the 1976 Code is amended to read:

“Section 41‑33‑20. Subject to the provisions of Chapter 27 through 41 of this title, the ~~Commission~~ department is invested with the full power, authority, and jurisdiction over the fund, including all ~~moneys and~~ money, property ~~or~~, and securities belonging ~~thereto~~ to it, and may perform any and all acts, whether or not ~~herein~~ specifically designated in this title, which are necessary or convenient in the administration ~~thereof~~ of this title consistent with the provisions of ~~such~~ those Chapters.”

SECTION 55. Section 41‑33‑30 of the 1976 Code is amended to read:

“Section 41‑33‑30. The State Treasurer ~~shall be~~ is ex officio treasurer and custodian of the fund and ~~he~~ shall administer ~~the fund in accordance with~~ it pursuant to the directions of the ~~Commission~~ department and shall issue his warrants upon it ~~in accordance with such~~ pursuant to regulations ~~as the Commission shall prescribe~~ promulgated by the department.”

SECTION 56. Section 41‑33‑40 of the 1976 Code is amended to read:

“Section 41‑33‑40. All ~~moneys~~ money in the fund ~~shall~~ must be mingled and undivided, but the State Treasurer shall maintain within the fund three separate accounts:

(a) ~~A~~ a clearing account~~,~~;

(b) an unemployment trust fund account; and

(c) a benefit account.

All ~~moneys~~ money payable to the fund ~~shall~~, upon receipt ~~thereof~~ of the money by the ~~Commission~~ department, must be forwarded to the State Treasurer who ~~shall~~ immediately shall credit ~~them~~ it to the clearing account.”

SECTION 57. Section 41‑33‑80 of the 1976 Code, as last amended by Act 306 of 2002, is further amended to read:

“Section 41‑33‑80. Except as provided in Section 41‑33‑180, ~~monies~~ money must be requisitioned from this state’s account in the unemployment trust fund solely for the payment of benefits or refunds pursuant to Section 41‑31‑360 or item (6) of Section 41‑27‑260 and in accordance with regulations prescribed by the ~~commission,~~ department; except that money credited to this account pursuant to Section 903 of the Social Security Act, as amended, must be used exclusively as provided in Sections 41‑33‑130 to 41‑33‑160.”

SECTION 58. Section 41‑33‑90 of the 1976 Code is amended to read:

“Section 41‑33‑90. The ~~Commission~~ department shall from time to time issue its requisition for a lump sum amount for the payment of benefits or refunds upon the Comptroller General who shall draw his warrant on the State Treasurer in the form provided by law. The Treasurer shall pay ~~such~~ this amount to the ~~Commission~~ department by a check drawn on the benefit account, notwithstanding any provisions of law in this State relating to deposit, administration, release and disbursement of ~~moneys~~ money in the possession or custody of this State to the contrary ~~notwithstanding~~. The ~~Commission~~ department in requisitioning lump sum withdrawals from the State Treasurer for the payment of individual benefit claims shall not exceed in any event the balance of funds in the benefit account, and ~~such~~ the requisition ~~shall~~ must be in an amount estimated to be necessary for benefit payments for ~~such~~ a period ~~as~~ that the ~~Commission~~ department may ~~by regulation~~ prescribe by regulation.”

SECTION 59. Section 41‑33‑100 of the 1976 Code is amended to read:

“Section 41‑33‑100. Such lump sum amounts when received by the ~~Commission~~ department from the State Treasurer ~~shall~~ must be immediately deposited by the ~~Commission~~ department in a benefit payment account maintained in the name of the ~~Commission~~ department in ~~such~~ that bank or public depository and under ~~such~~ conditions ~~as~~ the ~~Commission~~ department determines necessary. ~~Such~~ The bank or public depository ~~shall~~ must be one in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund or benefit payment account. The ~~Commission~~ department shall require ~~of such~~ the bank or depository ~~as~~ it ~~may select~~ selects as the depository of the benefit payment account security in an amount equal to the amount on deposit ~~at any time~~. ~~Such~~ This security ~~shall~~ must consist of securities or a surety bond ~~as~~ required by law of depositories of ~~State~~ state funds.”

SECTION 60. Section 41‑33‑110 of the 1976 Code is amended to read:

“Section 41‑33‑110. The ~~Commission~~ department shall delegate to designated representatives the authority to sign checks on the benefit payment account and the signature of one of ~~such~~ the designated representatives ~~shall~~ must be required on each ~~such~~ check. The ~~Commission~~ department shall require ~~each such~~ the representative to give a bond in ~~such~~ an amount ~~as~~ the ~~Commission shall determine~~ department determines for his faithful performance of his duties in connection with the benefit payment account in ~~such~~ a form ~~as may be~~ prescribed by law or approved by the Attorney General. Premiums for ~~such~~ these bonds ~~shall~~ must be paid from the unemployment compensation administration fund. ~~Any~~ A duly authorized representative of the ~~Commission~~ department may draw and issue its checks on the benefit payment account for the payment of individual benefit claims.”

SECTION 61. Section 41‑33‑120 of the 1976 Code is amended to read:

“Section 41‑33‑120. ~~Refunds~~ A refund payable pursuant to Section 41‑31‑360 or item (6) of Section 41‑27‑260 may be paid from the clearing or benefit accounts upon requisition by the ~~Commission~~ department to the Comptroller General, who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay ~~them~~ the refund from ~~such~~ the proper account.”

SECTION 62. Section 41‑33‑130 of the 1976 Code is amended to read:

“Section 41‑33‑130. ~~Expenditures of moneys~~ An expenditure of money in the benefit account and ~~refunds~~ a refund from the clearing account ~~shall~~ must not be subject to ~~any provisions~~ a provision of law requiring a specific ~~appropriations~~ appropriation or other formal release by ~~State~~ state officers of money in their custody. ~~All warrants~~ A warrant issued for the payment of ~~benefits~~ a benefit and ~~refunds shall~~ a refund must bear the signature of the ~~Commission~~ department or a duly authorized agent for that purpose.”

SECTION 63. Section 41‑33‑170 of the 1976 Code is amended to read:

“Section 41‑33‑170. ~~Any~~ A balance of ~~moneys~~ money requisitioned from the unemployment trust fund under Section 41‑33‑80 which remains unclaimed or unpaid in the benefit account and the benefit payment account after the expiration of the period for which ~~such~~ those sums were requisitioned ~~shall~~ either must be deducted from ~~estimates~~ an estimate for, and may be ~~utilized~~ used for the payment of, ~~benefits~~ a benefit during a succeeding ~~periods~~ period or, in the discretion of the ~~Commission, shall~~ department, must be redeposited with the Secretary of the Treasury of the United States to the credit of this State’s account in the unemployment trust fund, as provided in Section 41‑33‑50.”

SECTION 64. Section 41‑33‑180 of the 1976 Code is amended to read:

“Section 41‑33‑180. ~~Moneys may also~~ Money also may be requisitioned from this State’s account in the unemployment trust fund for the payment of benefits under ~~any~~ an unemployment compensation, unemployment insurance, or unemployment benefit law administered by a bureau, department, division, agency, or instrumentality of the United States to which the ~~Commission~~ department has made available its personnel and facilities for the taking, processing, determination, and paying of claims ~~under the authority of~~ pursuant to Section 41‑29‑230. ~~But no moneys~~ No money may be drawn from the unemployment trust fund for the purpose of paying benefits for or on behalf of the United States unless a provision ~~be~~ first is made by law, agreement, or contract for the reimbursement ~~thereof~~ of the money by the bureau, department, division, agency, or instrumentality of the United States for or on behalf of which ~~such~~ the benefits have been paid.”

SECTION 65. Section 41‑33‑190 of the 1976 Code is amended to read:

“Section 41‑33‑190. The ~~Commission~~ department may establish bank accounts other than the benefit payment account and deposit ~~therein moneys~~ in them money requisitioned from the unemployment trust fund for the payment of benefits for or on behalf of the United States as provided in Section 41‑33‑180. All provisions of this article governing the deposit, administration, mode of check signing, and safeguarding of the benefit payment account ~~shall~~ must apply to ~~any accounts~~ an account established by the ~~Commission~~ department under ~~the authority of~~ this section.”

SECTION 66. Section 41‑33‑200 of the 1976 Code is amended to read:

“Section 41‑33‑200. ~~Any~~ A balance of ~~moneys~~ money requisitioned from the unemployment trust fund under Section 41‑33‑180 which remains unclaimed or not disbursed in ~~such account or~~ those accounts after the expiration of the period for which ~~such~~ the sums were requisitioned ~~shall~~ either must be deducted from estimates for, and ~~utilized~~ used in the payment of, benefits during succeeding periods or, in the discretion of the ~~Commission, shall~~ department, must be redeposited with the Secretary of the Treasury of the United States to the credit of this State’s account in the unemployment trust fund, as provided in Section 41‑33‑50.”

SECTION 67. Section 41‑33‑210 of the 1976 Code is amended to read:

“Section 41‑33‑210. The provisions of this article to the extent that they relate to the unemployment trust fund ~~shall~~ must be operative only so long as the Secretary of the Treasury of the United States continues to maintain for this State a separate book account of all funds deposited ~~therein~~ in the trust fund by this State for benefit purposes, together with this State’s proportionate share of the earnings of ~~such~~ the unemployment trust fund, from which no other State is permitted to make withdrawals. If and when ~~such~~ the unemployment trust fund ceases to exist or ~~such~~ a separate book account is no longer maintained, all ~~moneys~~ money, properties, or securities ~~therein~~ in the trust fund belonging to the unemployment compensation fund of this State ~~shall~~ must be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release ~~such moneys~~ the money, properties, or securities in a manner approved by the ~~Commission~~ department in accordance with the provisions of Chapters 27 through 41 of this title. ~~But such moneys shall~~ This money must be invested only in ~~the~~ readily marketable bonds or other interest bearing obligations of the United States or of this State or a political subdivision ~~thereof~~ of this State and ~~such~~ these investments ~~shall~~ at all times must be ~~so~~ made so that all the assets of the fund ~~shall~~ always must be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the ~~Commission~~ department in accordance with the purposes and provisions of Chapters 27 through 41 of this title.”

SECTION 68. Section 41‑33‑430 of the 1976 Code is amended to read:

“Section 41‑33‑430. ~~All moneys which are~~ Money deposited or paid into the fund are appropriated and made available to the ~~Commission~~ department. ~~All moneys~~ Money in this fund ~~shall~~ must be expended solely for the purpose of defraying the cost of the administration of Chapters 27 through 41 of this title and for no other purpose ~~whatsoever~~. ~~Any balances~~ A balance in the fund ~~shall~~ may not lapse at any time but ~~shall be~~ continuously must be available to the ~~Commission~~ department for expenditure consistent with Chapters 27 through 41 of this title. The ~~Commission~~ department shall issue its requisition approved by the chairman or ~~any~~ a designated member, officer, or agent for payment of ~~such~~ the costs of administration to the Comptroller General who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay it by check on the employment security administration fund.”

SECTION 69. Section 41‑33‑460 of the 1976 Code is amended to read:

“Section 41‑33‑460. ~~If any~~ Money in the employment security administration fund, paid to this State under Title III of the Social Security Act~~,~~ and the Wagner‑Peyser Act, ~~is~~ found by the Secretary of Labor, or his successors, because of ~~any~~ an action or contingency, to have been lost or ~~to have been~~ expended for ~~purposes~~ a purpose other than, or in ~~amounts~~ an amount in excess of, those found necessary by the Secretary of Labor, ~~or his successors,~~ for the proper administration of the employment security program, it is the policy of this State that ~~such~~ the money ~~shall~~ must be replaced by money appropriated for ~~such purposes~~ this purpose from the general funds of this State to the employment security administration fund for expenditures as provided in Section 41‑33‑430. ~~But~~ Funds ~~which~~ that have been expended by the ~~Commission~~ department or its agents ~~in accordance with~~ pursuant to a budget approved by the Secretary of Labor, ~~or his successors, or in accordance with~~ pursuant to the general standards and limitations promulgated by the Secretary of Labor, ~~or his successors, prior to such~~ before this expenditure, when proposed expenditures have not been specifically disapproved by the Secretary of Labor ~~or his successors~~, ~~shall~~ must not be ~~deemed~~ considered to require replacement.”

SECTION 70. Section 41‑33‑470 of the 1976 Code is amended to read:

“Section 41‑33‑470. The ~~Commission~~ department shall report to the State Budget and Control Board in the same manner as is required generally for the submission of financial requirements for the ensuing year and the board shall include in its request for general appropriations presented to the General Assembly at its next regular session a statement of the amounts required for any replacement required by Section 41‑33‑460.”

SECTION 71. Section 41‑33‑610 of the 1976 Code is amended to read:

“Section 41‑33‑610. (~~a~~A) There is ~~hereby~~ created in the State Treasury a special fund to be known as the employment security special administration fund, which ~~shall~~ must consist of all penalties and interest collected on contributions due pursuant to Sections 41‑31‑330 and 41‑31‑350 and interest collected on unpaid contributions pursuant to Section 41‑31‑370. ~~All~~ Money in the ~~special administration~~ fund ~~shall~~ must be deposited, administered, and disbursed ~~in accord with~~ pursuant to the provisions of Section 41‑33‑420 applicable to the employment security administration fund.

(~~b~~B) ~~All moneys which are~~ Money deposited in the special administration fund ~~are~~ is appropriated and made available to the ~~Commission~~ department. ~~All moneys~~ Money in the fund ~~shall~~ must be expended solely for:

(1) replacements in the employment security administration fund as provided in Section 41‑33‑460~~.~~;

(2) refunds pursuant to Section 41‑31‑360 of interest erroneously collected~~.~~; and

(3) special, extraordinary, and incidental expenses incurred in the administration of Chapters 27 through 41 of this title not provided for in the employment security administration fund and for which federal funds are not granted by the Federal Government through the Secretary of Labor or its other agencies.

(C) ~~Any balances~~ A balance in the fund shall not lapse at any time but ~~shall~~ must be continuously available to the ~~Commission~~ department for expenditure consistent with Chapters 27 through 41 of this title. The ~~Commission~~ department shall issue its requisition approved by ~~the chairman~~ its director or ~~any~~ his designated ~~member,~~ officer~~,~~ or agent for the purposes set forth ~~herein~~ in this section to the Comptroller General who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay it by check on the ~~special administration~~ fund.”

SECTION 72. Section 41‑33‑710 of the 1976 Code is amended to read:

“Section 41‑33‑710. (~~a~~A) There is created in the State Treasury a special fund to be known as the employment security administrative contingency fund, which consists of all assessments collected pursuant to Section 41‑27‑410. ~~All~~ Money in the employment security administrative contingency fund must be deposited, administered, and disbursed in accordance with the provisions of Section 41‑33‑420 applicable to the employment security administration fund.

(~~b~~B) ~~All monies which are~~ Money deposited in the employment security administrative contingency fund ~~are~~ is appropriate and made available to the ~~commission~~ department. ~~All monies~~ Money in the fund must be expended to:

(1) assist with the reemployment of unemployed workers using the most efficient and effective means of service delivery;

(2) undertake ~~any~~ a program or activity ~~which~~ that furthers the goal of the ~~Employment Security Commission~~ department as provided ~~for~~ in Chapter 42 of this title;

(3) supplement basic employment security services~~,~~ with special job search and claimant placement assistance designed to assist unemployment insurance claimants to obtain employment;

(4) provide employment services, ~~such as~~ like recruitment, screening, and referral of qualified workers~~,~~ to agricultural areas where those services have in the past contributed to positive economic conditions for the agricultural industry; and

(5) provide otherwise unobtainable information and analysis to the legislature and program managers about issues related to employment and unemployment.

(C) ~~Any balances~~ A balance in the fund ~~do~~does not lapse ~~at any time~~, but ~~are~~ is continuously available to the ~~commission~~ department for expenditure consistent with Chapter 42 of this title. The ~~commission shall~~ department must issue its requisition approved by ~~the chairman~~ its director or ~~any~~ his designated ~~member,~~ officer~~,~~ or agent for the ~~purpose~~ purposes set forth ~~herein~~ in this section to the Comptroller General who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay it by check on the ~~employment security administrative contingency~~ fund.”

SECTION 73. Section 41‑35‑30 of the 1976 Code is amended to read:

“Section 41‑35‑30. (A) When ~~benefits~~ a benefit due an individual ~~have~~ has been unpaid at the time of death and the estate of ~~such~~ the individual has not been administered ~~upon~~ in the probate court within sixty days after the time of death, the ~~Commission~~ department may pay ~~such~~ benefit amounts ~~as~~ the deceased may have been entitled to:

(1) ~~To~~ the surviving wife or husband and, if there ~~be~~ is none;

(2) ~~To~~ the minor children and, if there ~~be~~ are none;

(3) ~~To~~ the adult children and, if there ~~be~~ are none;

(4) ~~To~~ the parents of the deceased and, if there ~~be~~ are none;

(5) ~~To any~~ a person ~~or persons who were~~ dependent ~~upon~~ on the deceased.

(B) ~~And,~~ If there ~~be~~ is no person within ~~the foregoing~~ those classifications, the payments due the deceased ~~shall~~ must lapse and revert ~~into~~ to the unemployment trust fund.

(C) Payment to ~~any~~ a responsible adult with whom minor children are making their home, upon a written pledge to use ~~such~~ the payment for the benefit of ~~such~~ these minors, ~~will be~~ is considered proper and legal payment to ~~such~~ the minor children without the requirement of formal appointment of a guardian.”

SECTION 74. Section 41‑35‑100 of the 1976 Code is amended to read:

“Section 41‑35‑100. The ~~Commission shall~~ department must ~~pass such~~ promulgate regulations ~~as may be~~ necessary to preserve the benefit rights of individuals who ~~have volunteered or enlisted~~ volunteer, enlist, or ~~who have been~~ are called or drafted into ~~any~~ a branch of the military, ~~or~~ naval service, or ~~any~~ an organization affiliated with the defense of the United States or this State. ~~Such~~ These regulations ~~shall~~, with respect to ~~such~~ these individuals, must supersede ~~any~~ an inconsistent ~~provisions~~ provision of Chapters 27 through 41 of this title, but ~~so far as~~ where practicable ~~shall~~ must secure results reasonably similar to those provided in the analogous provisions of ~~such~~ these chapters.”

SECTION 75. Section 41‑35‑110 of the 1976 Code, as last amended by Act 497 of 1994, is further amended to read:

“Section 41‑35‑110. An unemployed insured worker ~~shall be~~ is eligible to receive benefits with respect to ~~any~~ a week only if the ~~Commission~~ department finds ~~that~~ he:

(1) ~~He~~ has made a claim for benefits with respect to ~~such~~ that week ~~in accordance with such~~ pursuant to regulations ~~as the Commission may prescribe~~ prescribed by the department;

(2) ~~He~~ has registered for work and ~~thereafter~~ after work has continued to report at an employment office ~~in accordance with such regulations as the Commission may prescribe~~, except that the ~~Commission may~~ department, by regulation, may waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs; provided, that no ~~such~~ regulation ~~shall conflict~~ conflicts with Sections 41‑35‑10 or 41‑35‑30;

(3) ~~He~~ is able to work and is available for work at his usual trade, occupation, or business or in ~~such other~~ another trade, occupation, or business ~~as his~~ for which he is qualified based on his prior training or experience ~~shows him to be fitted or qualified~~; is available for ~~such~~ this work either at a locality at which he earned wages for insured work during his base period or, if the individual has moved, to a locality where it may reasonably be expected that work suitable for him under the provisions of Section 41‑35‑120(3)(b) is available; and, in addition to having complied with subsection (2), is himself actively seeking work; provided, however~~,~~:

(a) notwithstanding ~~any other provisions~~ another provision of Chapters 27 through 41 of this title, ~~no~~ an otherwise eligible individual ~~shall~~ may not be denied ~~benefits~~ a benefit with respect to ~~any~~ a week in which he is in training with the approval of the ~~Commission~~ department by reason of the application of the provision ~~herein~~ of this section relating to availability for work and an active search for work;

(b) ~~No~~ a claimant ~~shall~~ may not be eligible to receive ~~benefits~~ a benefit or waiting period credit if engaged in self‑employment of ~~such~~ a nature ~~as~~ to return or promise remuneration in excess of the weekly benefit amounts he would have received if otherwise unemployed over ~~such~~ this period of time;

(c) no claimant shall be eligible to receive benefits or waiting period credit following the completion of a temporary work assignment unless the claimant shows that he informed the temporary employment agency that provided the assignment of the assignment’s completion, has maintained on‑going weekly contact with the agency after completion of the assignment, and that the agency has not provided a subsequent assignment for which the claimant’s prior training or experience shows him to be fitted or qualified.

(4) ~~He~~ has been unemployed for a waiting period of one week, but ~~no~~ a week ~~shall~~ may not be counted as a week of unemployment for the purposes of this paragraph:

(a) unless it occurs within the benefit year ~~which~~ that included the week with respect to which he claims payment of ~~benefits,~~ a benefit;

(b) if ~~benefits have~~ a benefit has been paid with respect ~~thereto nor~~ to it; and

(c) unless the individual was eligible for ~~benefits~~ a benefit with respect ~~thereto~~ to it as provided in this section and Section 41‑35‑120, except for the requirements of this item (4) and of item (5) of Section 41‑35‑120~~.~~;

(5) ~~Claimant is~~ has separated, through no fault of his own, from his most recent bona fide employer; provided, however, the term ‘most recent bona fide employer’ ~~shall mean~~ means the work or employer from which the individual separated regardless of ~~any~~ work subsequent to his separation in which he earned less than eight times his weekly benefit amount~~.~~; and

(6) ~~He~~ participates in reemployment services, such as job search assistance services, if he ~~has been~~ is determined to be likely to exhaust regular benefits and need a reemployment ~~services~~ service pursuant to a profiling system established by the ~~commission~~ department, unless the ~~commission~~ department determines ~~that~~:

(a) the individual has completed such services; or

(b) there is justifiable cause for the claimant’s failure to participate in ~~such~~ those services.”

SECTION 76. Section 41‑35‑115 of the 1976 Code, as last amended by Act 21 of 1993, is further amended to read:

“Section 41‑35‑115. Notwithstanding ~~any other~~ another provision of law, ~~no~~ an individual otherwise eligible for ~~benefits shall~~ a benefit may not be denied ~~benefits~~ a benefit with respect to ~~any~~ a week in which he is required by law to appear in court as a witness or ~~to serve as a~~ juror. However, an unemployment ~~benefits~~ benefit received by a person pursuant to Chapters 27 through 41 of this title must be reduced by any per diem received for service as a juror. The ~~commission shall~~ department must promulgate regulations necessary to implement the provisions of this section.”

SECTION 77. Section 41‑35‑120 of the 1976 Code, as last amended by Act 50 of 2005, is further amended to read:

“Section 41‑35‑120. An~~y~~ insured worker is ineligible for benefits for:

(1) leaving work voluntarily. If the ~~Commission~~ department finds ~~that~~ he ~~has~~ left voluntarily, without good cause, his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the ~~Commission~~ department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for ~~such~~ those services equal to at least eight times the weekly benefit amount of his claim.

(2) Discharge for cause connected with the employment. If the ~~commission~~ department finds that he has been discharged for cause connected with his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request, and continuing not less than five nor more than the next twenty‑six weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker’s benefits to be calculated by multiplying his weekly benefit amount by the number of weeks of his disqualification. The ineligibility period must be determined by the ~~commission~~ department in each case according to the seriousness of the cause for discharge. A charge of discharge for cause connected with the employment may not be made for failure to meet production requirements unless the failure is occasioned by wilful failure or neglect of duty. ‘Cause connected with the employment’ as used in this item requires more than a failure in good performance of the employee as the result of inability or incapacity.

(3)(a) Discharge for illegal drug use, and is ineligible for benefits beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim if the:

(i) company has communicated a policy prohibiting the illegal use of drugs, the violation of which may result in termination; and

(ii) insured worker fails or refuses to provide a specimen pursuant to a request from the employer, or otherwise fails or refuses to cooperate by providing an adulterated specimen; or

(iii) insured worker provides a blood, hair, or urine specimen during a drug test administered on behalf of the employer, which tests positive for illegal drugs or legal drugs used unlawfully, provided:

(A) the sample was collected and labeled by a licensed health care professional or another individual authorized to collect and label test samples by federal or state law, including law enforcement personnel; and

(B) the test was performed by a laboratory certified by the National Institute on Drug Abuse, the College of American Pathologists or the State Law Enforcement Division; and

(C) ~~any~~ an initial positive test was confirmed on the specimen using the gas chromatography/mass spectrometry method, or an equivalent or a more accurate scientifically accepted ~~methods~~ method approved by the National Institute on Drug Abuse.

(iv) for purposes of this item, ‘unlawfully’ means without a prescription.

(~~c~~b) If an insured worker makes an admission pursuant to the employer’s policy, which provides that voluntary admissions made before the employer’s request to the employee to submit to testing may protect an employee from immediate termination, then the admission is inadmissible for purposes of this section as long as the:

~~(A)~~(i) employer has communicated a written policy, which provides protection from immediate termination for employees who voluntarily admit prohibited drug use before the employer’s request to submit to a test; and

~~(B)~~(ii) employee makes the admission specifically pursuant to the employer’s policy.

(~~d~~c) Information, interviews, reports, and drug‑test results, written or otherwise, received by an employer through a drug‑testing program may be used or received in evidence in proceedings conducted pursuant to the provisions of this title for the purposes of determining eligibility for unemployment compensation, including ~~any~~ administrative or judicial appeal.

(~~3~~4) Discharge for gross misconduct, and is ineligible for benefits beginning with the effective date of the request and continuing until he has secured employment and shows to the satisfaction of the department that he has performed services in employment as defined by Chapters 27 through 41 of this title and earned wages for those services equal to at least eight times the weekly benefit amount of his claim if he is discharged due to:

(i) wilful or reckless employee damage to employer property that results in damage of more than fifty dollars;

(ii) employee consumption of alcohol or being under the influence of alcohol on employer property in violation of a written company policy restricting or prohibiting consumption of alcohol;

(iii) employee theft of items valued at more than fifty dollars;

(iv) failure to comply with applicable state or federal drug and alcohol testing and use regulations including, but not limited to, 49 C.F.R. part 40 and part 382 of the federal motor carrier safety regulations, while on the job or on duty, and regulations applicable for employees performing transportation and other safety sensitive job functions as defined by the federal government;

(v) employee committing criminal assault or battery of another employee or a customer;

(vi) employee committing criminal abuse of patient or child in his professional care;

(vii) employee insubordination, which is defined as willful failure to comply with a lawful, reasonable order of a supervisor directly related to the employee’s employment as described in an applicable written job description; or

(viii) employee wilful neglect of duty directly related to the employee’s employment as described in an applicable written job description.

(5) failure to accept work.

(a) If the ~~Commission~~ department finds ~~that~~ he has failed, without good cause~~,~~;

(i)(~~a~~ A) either to apply for available suitable work, when so directed by the employment office or the ~~Commission~~ department;

~~(ii)~~(B) to accept available suitable work when offered to him by the employment office or an employer~~,~~; or

~~(iii)~~(C) to return to his customary self‑employment, ~~(~~if any~~)~~, when so directed by the ~~Commission~~ department, the ineligibility begins with the week the failure occurred and continues until he has secured employment and shows to the satisfaction of the ~~Commission~~ department that he has performed services in employment as defined in Chapters 27 through 41 of this title and earned wages for services equal to at least eight times his weekly benefit amount of his claim.

(b) In determining whether ~~or not any~~ work is suitable for an individual, the ~~Commission shall~~ department must consider, based on a standard of reasonableness as it relates to the particular individual concerned, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(c) Notwithstanding ~~any other provisions~~ another provision of Chapters 27 through 41 of this title, ~~no~~ work is not considered suitable and benefits may not be denied under ~~such~~ these chapters to ~~any~~ an otherwise eligible individual for refusing to accept new work under any of the following conditions~~:~~;

(i) if the position offered is vacant due directly to a strike, lockout, or other labor dispute~~,~~;

(ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality~~,~~; or

(iii) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) Notwithstanding ~~any other provisions~~ another provision of Chapters 27 through 41 of this title, ~~no~~ an otherwise eligible individual may not be denied ~~benefits~~ a benefit for ~~any~~ a week for failure to apply for, or refusal to accept, suitable work because he is in training with the approval of the ~~Commission~~ department.

(e) Notwithstanding ~~any other~~ another provision of this chapter, ~~no~~ an otherwise eligible individual may not be denied ~~benefits~~ a benefit for ~~any~~ a week because he is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor may the individual be denied benefits by reason of leaving work to enter training, ~~so long as~~ if the work left is not suitable employment, or because of the application to ~~any~~ a week in training of provisions in this law ~~(~~or ~~any~~ an applicable federal unemployment compensation law~~)~~, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subitem, ‘suitable employment’ means, with respect to an individual, work of a substantially equal or higher skill level than the individual’s past adversely affected employment, ~~(~~as defined for purposes of the Trade Act of 1974~~)~~, and wages for the work at not less than eighty percent of the individual’s average weekly wage as determined for the purposes of the Trade Act of 1974.

(~~4~~6) labor dispute. For ~~any~~ a week in which the ~~Commission~~ department finds that his total or partial unemployment is directly due to a labor dispute in active progress in the factory, establishment, or other premises at which he was last employed. This paragraph does not apply if it is shown to the satisfaction of the ~~Commission~~ department that he:

(a) ~~He~~ is not participating in, financing, or directly interested in the labor dispute;

(b) ~~He~~ does not belong to a grade or class of workers of which, immediately before he became unemployed by reason of the dispute, there were members employed at the premises at which the dispute exists, any of whom are participating in or directly interested in the dispute. If ~~in any case~~ separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each department for the purpose of this item is considered to be a separate factory, establishment, or other premises.

(~~5~~7) receiving benefits elsewhere. ~~‑~~For ~~any~~ a week in which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. If the appropriate agency of the other state or of the United States finally determines that he is not entitled to unemployment benefits, this disqualification does not apply.

(~~6~~8) voluntary retirement. If the ~~Commission~~ department finds that he voluntarily retired from his most recent work with the ineligibility beginning with the effective date of his claim and continuing for the duration of his unemployment and until the individual submits satisfactory evidence of having had new employment and of having earned wages of not less than eight times his weekly benefit amount as defined in Section 41‑35‑40. For the purpose of this section, ‘most recent work’ means the work from which the individual retired regardless of any work subsequent to his retirement in which he earned less than eight times his weekly benefit amount.”

SECTION 78. Section 41‑35‑125 of the 1976 Code, as added by Act 50 of 2005, is amended to read:

“Section 41‑35‑125. (A) Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the ~~commission~~ department finds that the individual has left work voluntarily or has been discharged because of circumstances directly resulting from domestic abuse and:

(1) reasonably fears future domestic abuse at or en route to the workplace;

(2) needs to relocate to avoid future domestic abuse; or

(3) reasonably believes that leaving work is necessary for his safety or the safety of his family.

(B) When determining if an individual has experienced domestic abuse for the purpose of receiving unemployment compensation, the ~~commission shall~~ department must require him to provide documentation of domestic abuse including, but not limited to, police or court records or other documentation of abuse from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the individual has sought assistance.

(C) ~~All~~ Documentation or evidence of domestic abuse acquired by the ~~commission~~ department pursuant to this section must be kept confidential unless consent for disclosure is given, in writing, by the individual.”

SECTION 79. Section 41‑35‑126 of the 1976 Code, as added by Act 67 of 2007, is amended to read:

“Section 41‑35‑126. Notwithstanding the provisions of Section 41‑35‑120, an individual is eligible for waiting week credit and for unemployment compensation if the ~~commission~~ department finds that the individual has left work voluntarily to relocate because of the transfer of a spouse who has been reassigned from one military assignment to another, provided that the separation from employment occurs within fifteen days of the scheduled relocation date.”

SECTION 80. Section 41‑35‑130 of the 1976 Code, as last amended by Act 67 of 2007, is further amended to read:

“Section 41‑35‑130. ~~(a)~~(A) ~~Benefits~~ A benefit paid to ~~any~~ a claimant for unemployment immediately after the expiration of disqualification for:

(1) voluntarily leaving his most recent work without good cause~~,~~;

(2) discharge from his most recent work for misconduct; or~~,~~

(3) refusal of suitable work without good cause ~~shall~~ must not be charged to the account of ~~any~~ an employer.

~~(b)~~(B) ~~Benefits~~ A benefit paid to ~~any~~ a claimant ~~shall~~ must not be charged against the account of ~~any~~ an employer by reason of the provisions of this subparagraph ~~only~~ if the ~~Commission~~ department determines under Section 41‑35‑120 that ~~such~~ the individual:

(1) voluntarily left his most recent employment with that employer without good cause~~,~~;

(2) was discharged from his most recent employment with that employer for misconduct connected with his work~~,~~; or

(3) subsequent to his most recent employment refused without good cause to accept an offer of suitable work made by that employer if~~, in any such case, such~~ the employer furnishes the ~~Commission~~ department with ~~such~~ those notices regarding the separation of the individual from work or the refusal of the individual to accept an offer of work as are ~~or may be~~ required by the law and ~~the~~ regulations of the ~~Commission~~ department.

~~(c)~~(C) If ~~benefits are~~ a benefit is paid pursuant to a decision ~~which~~ that is finally reversed in subsequent proceedings with respect ~~thereto~~ to it, ~~no~~ an employer’s account ~~shall~~ must not be charged with ~~benefits so~~ a benefit paid.

~~(d)~~(D) ~~Any benefits~~ A benefit paid to ~~any~~ a claimant for a week in which he is in training with the approval of the ~~Commission shall~~ department must not be charged to ~~any~~ an employer.

~~(e)~~(E) The provisions of ~~paragraphs (a)~~subsections (A) through ~~(d)~~(D, all inclusive, ~~hereof~~ with respect to the noncharging of benefits paid ~~shall~~ must be applicable only to ~~those employers~~ an employer subject to the payment of contributions.

~~(f)~~(F) ~~Benefits~~ A benefit paid to a claimant during an extended benefit period as defined in Chapter 35, Article 3, ~~shall~~ must not be charged to ~~any~~ an employer; ~~provided, however,~~ except that ~~any~~ a non‑profit organization electing to become liable for payments in lieu of contributions in accord with Section 41‑31‑620 ~~shall be required to~~ must reimburse fifty percent of extended benefits attributable to services performed in its employ and ~~provided, further,~~ that after January 1, 1979, the State or ~~any~~ a political subdivision or ~~any~~ instrumentality ~~thereof~~ of it as defined in Section 41‑27‑230(2)(b) electing to become liable for payment in lieu of contributions in accord with Section 41‑31‑620 ~~shall be required to~~ must reimburse all extended benefits attributable to services performed in its employ.

~~(g)~~(G) ~~Any~~ A nonprofit organization ~~which~~ that elects to make ~~payments~~ a payment in lieu of ~~contributions into~~ a contribution to the unemployment compensation fund as provided in Section 41‑31‑620(2) or Section 41‑31‑810 ~~shall not be~~ is not liable to make ~~such~~ those payments with respect to the benefits paid to ~~any~~ an individual whose base period wages include wages for previously uncovered services as defined in Section 41‑35‑65 to the extent that the unemployment compensation fund is reimbursed for ~~such~~ those benefits pursuant to Section 121 of P.L. 94‑566.

~~(h)~~(H) ~~Benefits~~ A benefit paid to ~~any~~ an individual whose base period wages include wages for previously uncovered services as defined in Section 41‑35‑65 ~~shall~~ must not be charged against the account of ~~any~~ an employer to the extent that the unemployment compensation fund is reimbursed for ~~such~~ those benefits pursuant to Section 121 of P.L. 94‑566.

~~(i)~~(I) ~~Benefits~~ A benefit paid to an individual pursuant to Section 41‑35‑125 must not be charged to the account of a contributing employer.

~~(j)~~(J) ~~Benefits~~ A benefit paid to an individual pursuant to Section 41‑35‑126 must not be charged to the account of a contributing employer.”

SECTION 81. Section 41‑35‑140 of the 1976 Code is amended to read:

“Section 41‑35‑140. ~~(a)~~(A) The ~~commission~~ department may require an individual filing a new claim for unemployment compensation to disclose, at the time of filing the claim, whether or not ~~the individual~~ he owes child support obligations as defined under subsection (~~g~~G), or, pursuant to an agreement between the ~~commission~~ department and the state or local child support enforcement agency, the state or local child support enforcement agency must notify the ~~commission~~ department whether a particular individual who has filed a new or continued claim for unemployment compensation, at the time of filing the claim, owes child support obligations, or if the state or local child support enforcement agency advises the ~~commission~~ department that the individual owes child support obligations and the individual is determined to be eligible for unemployment compensation, the ~~commission~~ department must notify the state or local child support enforcement agency enforcing the obligations that the individual has been determined to be eligible for unemployment compensation.

~~(b)~~(B) The ~~commission~~ department must deduct and withhold from ~~any~~ unemployment compensation payable to an individual who owes a child support ~~obligations~~ obligation as defined under subsection (~~g~~G):

(1) the amount specified by the individual to the ~~commission~~ department to be deducted and withheld under this section, if neither (2) nor (3) of this subsection (~~b~~B) is applicable;

(2) the amount, if any, determined pursuant to an agreement submitted to the ~~commission~~ department under Section 454 (20)(B)(i) of the Social Security Act by the state or local child support enforcement agency unless (3) is applicable; or

(3) ~~Any~~ An amount otherwise required to be deducted and withheld from unemployment compensation pursuant to legal process, as that term is defined in Section 462(e) of the Social Security Act properly served upon the ~~commission~~ department.

~~(c)~~(C) ~~Any~~ An amount deducted and withheld under subsection (~~b~~B) must be paid by the ~~commission~~ department to the appropriate state or local child support enforcement agency.

~~(d)~~(D) ~~Any~~ An amount deducted and withheld under subsection (~~b~~B) must ~~for all purposes~~ be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual’s child support ~~obligations~~ obligation.

~~(e)~~(E) For the purposes of subsections (~~a~~A) through (~~d~~D), the term ‘unemployment compensation’ means ~~any~~ compensation payable under this act, including amounts payable by the ~~commission~~ department pursuant to an agreement under ~~any~~ federal law providing for compensation, assistance, or allowances ~~with respect to~~ concerning unemployment.

~~(f)~~(F) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the ~~commission~~ department under this section which are by the state or local child support enforcement agency.

~~(g)~~(G) The term ‘child support ~~obligations’ is defined~~ obligation’ means for purposes of these provisions, ~~as~~ attributable to a child support ~~obligations being~~ obligation enforced ~~including only obligations which are being~~ an obligation enforced pursuant to a plan described in Section 454 of the Social Security Act ~~which has been~~ and approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

~~(h)~~(H) The term ‘state or local child support enforcement agency’ as used in these provisions means ~~any~~ an agency of this State or a political subdivision of this State operating pursuant to a plan described in subsection (~~g~~G).

~~(i)~~(I) This section is effective for ~~all~~ weeks commencing on or after October 1, 1982.”

SECTION 82. Section 41‑35‑330 of the 1976 Code is amended to read:

“Section 41‑35‑330. ~~(1)~~(A) There is a ‘state ‘on’ indicator’ for this State for a week if the ~~commission~~ department determines, ~~in accordance with~~ pursuant to the regulations of the U. S. Secretary of Labor, that for the period consisting of ~~such~~ that week and the immediately preceding twelve weeks the rate of insured unemployment, ~~(~~not seasonally adjusted~~)~~, under Chapters 27 through 41 of this title:

~~(a)~~(1) equaled or exceeded one hundred twenty percent of the average of ~~such~~ those rates for the corresponding thirteen week period ending in each of the preceding two calendar years~~,~~; and

~~(b)~~(2) equaled or exceeded five percent. With respect to benefits for weeks of unemployment beginning after July 1, 1977, the determination of whether there has been a ‘state ‘on’ or ‘off’ indicator’ for this State beginning or ending ~~any~~ an extended benefit period must be made under this section as if:

~~(i)~~(a) ~~paragraph (1)~~subsection (A) did not contain ~~subparagraph (a)~~item (1); and

~~(ii)~~(b) the word ‘five’ contained in ~~subparagraph (b) thereof~~ item (2) of this subsection were ‘six’ except that, notwithstanding ~~any such~~ a provision of this section, ~~any~~ a week for which there would otherwise be a ‘state ‘on’ indicator’ for this State must continue to be such a week and ~~shall~~ must not be determined to be a week for which there is a ‘state ‘off’ indicator’ for this State.

~~(2)~~(B) There is a ‘state ‘off’ indicator’ for this State for a week if, for the period consisting of ~~such~~ that week and the immediately preceding twelve weeks, either ~~subparagraph (a) or (b) of paragraph (1) was~~ items (1) or (2) of subsection (A) are not satisfied.

~~(3)~~(C) This section ~~is applicable for all~~ applies to weeks beginning after September 25, 1982.”

SECTION 83. Section 41‑35‑340 of the 1976 Code is amended to read:

“Section 41‑35‑340.~~“Rate of insured unemployment”,~~ For purposes of Section 41‑35‑330~~,~~ ‘rate of insured unemployment’ means the percentage derived by dividing the:

(1) ~~The~~ average weekly number of individuals filing claims for regular state compensation in this State for weeks of unemployment with respect to the most recent ~~thirteen‑consecutive‑week~~ thirteen consecutive week period, as determined by the ~~commission~~ department on the basis of its reports to the U. S. Secretary of Labor, by

(2) ~~The~~ average monthly employment covered under Chapters 27 through 41 of this title for the first four of the most recent six completed calendar quarters ending before the end of ~~such~~ this thirteen‑week period.”

SECTION 84. Section 41‑35‑410 of the 1976 Code is amended to read:

“Section 41‑35‑410. Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the ~~Commission~~ department, the provisions of Chapters 27 through 41 of this title which apply to claims for, or the payment of, regular benefits ~~shall~~ must apply to claims for, and the payment of, extended benefits.”

SECTION 85. Section 41‑35‑420 of the 1976 Code, as last amended by Act 125 of 1993, is further amended to read:

“Section 41‑35‑420. ~~(1)~~(A) An individual ~~shall be~~ is eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the ~~commission~~ department finds that with respect to ~~such~~ that week:

~~(a)~~(1) He is an ‘exhaustee’ as defined in Section 41‑35‑390.

~~(b)~~(2) He has satisfied the requirements of Chapters 27 through 41 of this title for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

~~(c)~~(3) Except as provided in item (~~d~~4), an individual ~~shall~~ must not be eligible for extended benefits for ~~any~~ a week if:

~~(i)~~(a) Extended benefits are payable for ~~such~~ that week pursuant to an interstate claim filed in ~~any~~ a state under the interstate benefit payment plan; and

~~(ii)~~(b) No extended benefit period is in effect for ~~such~~ that week in ~~such~~ the State.

~~(d)~~(4) Item (~~c~~3) of subsection (~~1~~A) ~~shall~~ does not apply with respect to the first two weeks for which extended benefits are payable, ~~(~~determined without regard to this subsection~~)~~, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual with respect to the benefit year.

~~(2)(a)~~(B)(1) Notwithstanding the provisions of Sections 41‑35‑410 and 41‑35‑420, effective for weeks beginning after March 31, 1981, an individual is disqualified ~~for~~ from receipt of extended benefits if the ~~commission~~ department finds that during any week of his eligibility period he has failed either to apply for, or to accept an offer of, suitable work, ~~(~~as defined under item (~~d~~4) of this subsection~~)~~, to which he was referred by the ~~commission~~ department.

~~(b)~~(2) Notwithstanding the provisions of Sections 41‑35‑410 and 41‑35‑420, effective for weeks beginning after March 31, 1981, an individual is disqualified ~~for~~ from receipt of extended benefits if the ~~commission~~ department finds that during any week of his eligibility period he has failed to furnish evidence that he has actively engaged in a systematic and sustained effort to find work.

~~(c)~~(3) ~~Such~~ This disqualification begins with the week in which ~~such~~ the failure occurred and continues until he has been employed in each of four subsequent weeks, ~~(~~whether or not consecutive~~)~~, and has earned remuneration equal to not less than four times his weekly extended benefit amount.

~~(d)~~(4) For the purposes of this subsection, the term ‘suitable work’ means ~~any~~ work ~~which is~~ within the individual’s capabilities to perform if:

~~(i)~~(a) The gross average weekly remuneration payable for the work exceeds the sum of the individual’s weekly extended benefit amount plus the amount, if any, of supplemental unemployment benefits, ~~(~~as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954~~)~~, payable to ~~such~~ the individual for ~~such~~ that week;

~~(ii)~~(b) The wages payable for the work equal the higher of the minimum wages provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, ~~(~~without regard to ~~any~~ an exemption~~)~~, or the state or local minimum wage;

~~(iii)~~(c) The position was offered to the individual in writing or was listed with the State Employment Service;

~~(iv)~~(d) ~~Such~~ The work otherwise meets the definition of ‘suitable work’ for regular benefits contained in ~~item (3)~~ subsection (5)(b) of Section 41‑35‑120 to the extent that ~~such~~ the criteria of suitability are not inconsistent with the provisions of this item; and

~~(v)~~(e) The individual cannot furnish satisfactory evidence to the ~~commission~~ department that his prospects for obtaining work in his customary occupation within a reasonably short period of time are good. If ~~such~~ the evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to ~~such~~ the individual must be made ~~in accordance with~~ pursuant to the definition of suitable work contained in Section 41‑35‑120 without regard to the definition specified by this item (~~d~~4).

~~(3)~~(C) Notwithstanding ~~any provisions~~ a provision of item (d) of this subsection to the contrary, ~~no~~ work ~~shall~~ may not be ~~deemed to be~~ considered suitable ~~work~~ for an individual ~~which does~~ if it is not ~~accord~~ consistent with ~~item (c) of subsection (3) of~~ Section 41‑35‑120(5)(b).

~~(4)~~(D) For the purposes of item ~~(b)~~(2) of subsection ~~(2)~~(B), an individual ~~shall~~ must be treated as actively engaged in seeking work during ~~any~~ a week if the individual:

~~(a)~~(1) ~~The individual~~ has engaged in a systematic and sustained effort to obtain work during ~~such~~ the week;

~~(b)~~(2) ~~The individual~~ furnishes tangible evidence that he has engaged in ~~such~~ an effort during ~~such~~ the week.

~~(5)~~(E) The Employment Service ~~shall~~ must refer any claimant entitled to extended benefits under this chapter to any suitable work ~~which~~ that meets the criteria prescribed in item ~~(d)~~(4) subsection ~~(2)~~(B).

~~(6)~~(F) An individual ~~shall~~ must not be eligible to receive an extended ~~benefits~~ benefit with respect to ~~any~~ a week of unemployment in his eligibility period if ~~such individual~~ he has been disqualified for regular or extended benefits under the chapter because he ~~or she~~ voluntarily left work, was discharged for cause, or failed to accept an offer of or apply for suitable work unless the disqualification imposed for ~~such~~ these reasons has been terminated ~~in accordance with~~ pursuant to specific conditions established under the South Carolina Employment Security Law requiring the individual to perform service for remuneration subsequent to the date of ~~such~~ the disqualification.

If the disqualification ~~which was~~ imposed did not require the individual to perform service for remuneration subsequent to the date of ~~such~~ the disqualification, ~~such~~ the individual ~~will be~~ is ineligible for an extended ~~benefits~~ benefit beginning with the effective date of the request for initiation of an extended benefit claim series and continuing until he ~~has secured~~ secures employment and shows to the department’s satisfaction ~~of the commission~~ that he has worked in each of at least four different weeks, whether or not ~~such~~ those weeks are consecutive, and earned wages equal to at least four times the weekly benefit amount of his claim.”

SECTION 85. Section 41‑35‑450 of the 1976 Code is amended to read:

“Section 41‑35‑450. ~~Whenever~~ When an extended benefit period is to become effective in this State as a result of a state ‘on’ indicator, or an extended benefit period is to be terminated in this State as a result of a state ‘off’ indicator, the ~~commission~~ department must make an appropriate public announcement. ~~Computations~~ A computation required by the provisions of Section 41‑35‑340 must be made by the ~~commission, in accordance with~~ department pursuant to regulations prescribed by the U. S. Secretary of Labor.”

SECTION 86. Section 41‑35‑610 of the 1976 Code is amended to read:

“Section 41‑35‑610. ~~Requests~~ A request for determination of insured status, ~~requests~~ a request for initiation of a claim series in a benefit year, ~~notices~~ a notice of unemployment, ~~certifications~~ a certification for waiting‑week credit, and ~~claims~~ a claim for benefits ~~shall~~ must be made ~~in accordance with such~~ pursuant to regulations ~~as~~ the ~~Commission may prescribe~~ department promulgates. ~~Each employer shall~~ An employer must post and maintain in places readily accessible to individuals in his service printed statements concerning ~~such~~ regulations or ~~such other~~ related matters ~~as~~ the ~~Commission may~~ department prescribes by regulation ~~prescribe~~. ~~Each employer shall~~ An employer must supply ~~such~~ those individuals copies of ~~such~~ the printed statements or materials ~~as~~ the ~~Commission may~~ department prescribes by regulation ~~prescribe~~. ~~Such~~ These statements or materials ~~shall~~ must be supplied by the ~~Commission~~ department to ~~each~~ an employer without cost to ~~him~~ the employer.”

SECTION 87. Section 41‑35‑630 of the 1976 Code is amended to read:

“Section 41‑35‑630. ~~(1)~~(A) In ~~any~~ a case ~~in which~~ where the payment or denial of ~~benefits~~ a benefit will be determined by the provisions of ~~item (4) of~~ Section 41‑35‑120(6), the ~~Commission shall~~ department must designate a special examiner to make an initial determination with respect ~~thereto~~ to it. The determination of the examiner may be appealed in the same manner, within the same time, and through the same procedures as any other determination. The ~~Commission~~ department may, upon written request by a group of workers or their authorized representative, allow one of a group representing a grade or class of workers similarly situated to file an appeal ~~which shall be~~ known as a ‘Group Test Appeal’, and the decision of the appeal tribunal or the ~~Commission as to~~ department regarding the disqualification of the group representative because of the application of ~~item (4) of~~ Section 41‑35‑120(6) ~~shall be~~ is binding ~~as to~~ on the entire group.

~~(2)~~(B) ~~Whenever~~ When a determination involves multiple claimants and difficult issues of fact or law, the ~~Commission~~ department ~~in its discretion~~ may designate a special examiner to render ~~such~~ the determination. ~~The~~ A determination, ~~of the examiner~~ which may be appealed in the same manner, within the same time, and through the same procedures as any other determination. The ~~Commission shall~~ department must allow ~~any and all claimants~~ a claimant affected by ~~the same~~ this determination to join in one appeal and the decision of the appeal tribunal or the ~~Commission shall be~~ is binding ~~upon~~ on all ~~those~~ claimants who are parties to ~~such~~ the consolidated appeal.”

SECTION 88. Section 41‑35‑640 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑35‑640. ~~(1)~~(A) An initial determination may for good cause be reconsidered. A party entitled to notice of an initial determination may apply for a reconsideration not later than ten days after the determination was mailed to his last known address. Notice of the redetermination must be promptly given in the manner prescribed in this article with respect to notice of an initial determination.

~~(2)~~(B) An initial determination ~~shall~~ must be reconsidered ~~whenever~~ when the ~~Commission~~ department finds ~~that~~ an error in computation~~,~~ or ~~an error~~ of a similar character~~,~~ has occurred in connection ~~therewith~~ with it or that wages of the claimant pertinent to the determination, but not considered in connection ~~therewith~~ with it, have been newly discovered~~,~~. ~~but no such~~ However, this redetermination ~~shall~~ must not be made after one year from the date of the original determination. The reconsidered determination ~~shall supersede~~ supersedes the original determination. Notice of ~~any such~~ this redetermination ~~shall be~~ promptly must be given~~,~~ in the manner prescribed in this article with respect to notice of an original determination. Subject to the same limitations and for the same reasons, the ~~Commission~~ department may reconsider a determination in ~~any~~ a case ~~in which the~~ where a final decision ~~has been~~ is rendered by an appeal tribunal, the ~~Commission~~ department, or a court, and, after notice to and the expiration of the period for appeal by the persons entitled to notice of the final decision, may apply to the body or court ~~which~~ that rendered the final decision ~~to issue~~ and seek a revised decision. In the event that an appeal involving an original determination is pending ~~as of~~ on the date a redetermination ~~thereof~~ is issued, ~~such~~ the appeal, unless withdrawn, ~~shall~~ must be treated as an appeal from ~~such~~ the redetermination.”

SECTION 89. Section 41‑35‑670 of the 1976 Code is amended to read:

“Section 41‑35‑670. ~~(1)~~(A) Notwithstanding ~~any other~~ another provision contained in this Article, benefits ~~shall~~ must be paid ~~in accordance with~~ pursuant to a determination, redetermination, or the decision of an appeal tribunal, the ~~Commission~~ department, or a reviewing court upon the issuance of ~~such~~ that determination, redetermination, or decision, regardless of the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review ~~that is~~ provided with respect ~~thereto, as the case may be,~~ to it or the pendency of ~~any~~ such an application, filing, or petition, ~~unless and~~ until ~~such~~ the determination, redetermination, or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits ~~shall~~ must be paid or denied for weeks of unemployment ~~thereafter in accordance with such~~ afterward pursuant to the modifying or reversing redetermination or decision.

~~(2)~~(B) If a determination or redetermination allowing ~~benefits~~ a benefit is affirmed by the appeal tribunal~~,~~ or ~~by~~ the ~~Commission~~ department, or if a decision of an appeal tribunal allowing ~~benefits~~ a benefit is affirmed by the ~~Commission, such~~ department, those benefits ~~shall~~ must be paid promptly regardless of ~~any~~ a further appeal ~~which~~ that may be taken, and no injunction, supersedeas, stay, or other writ or process suspending the payment of the benefits ~~shall~~ must be issued by ~~any~~ court.”

SECTION 90. Section 41‑35‑680 of the 1976 Code, as last amended by Act 203 of 2002, is further amended to read:

“Section 41‑35‑680. Unless an appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for a fair hearing, after notice of not less than seven days, ~~shall~~ must make findings and conclusions promptly and on the basis of the findings and conclusions affirm, modify, or reverse the determination or redetermination within thirty days from the date of the hearing. Each party ~~must be furnished~~ promptly must be furnished ~~with~~ a copy of the decision, including the reasons for the decision~~,~~. ~~which~~ This must be considered ~~to be~~ the final decision of the ~~commission~~ department, unless within ten days after the date of mailing the decision a further appeal is initiated pursuant to Section 41‑35‑710.”

SECTION 91. Section 41‑35‑690 of the 1976 Code is amended to read:

“Section 41‑35‑690. The procedure ~~herein~~ provided in this chapter for appeals from ~~any~~ a determination or redetermination to the appeal tribunal and for ~~decisions thereon~~ and for appeals ~~therefrom~~ from the tribunal, first to the ~~Commission~~ Workforce Department Appellate Panel, as established by Section 41‑29‑300, and ~~thereafter~~ afterward to the ~~courts, shall be~~ administrative law court, pursuant to Section 41‑29‑300(C)(1), is the sole and exclusive appeal procedure ~~notwithstanding any other provision of law~~.”

SECTION 92. Section 41‑35‑700 of the 1976 Code is amended to read:

“Section 41‑35‑700. (A) To hear and decide appeal claims, the ~~Commission shall~~ executive director must appoint one or more impartial appeal tribunals consisting ~~in each case~~ of either:

(1) a referee, selected ~~in accordance with~~ pursuant to Section 41‑29‑70~~,~~; or

(2) a body consisting of three members, one of whom:

(a) ~~shall be~~ must be a referee~~,~~ who ~~shall~~ must serve as chairman~~,~~;

(b) one of whom ~~shall~~ must be a representative of employers; and

(c) the ~~other~~ third of whom ~~shall~~ must be a representative of employees.

(B) Each of the latter two members shall serve at the pleasure of the ~~Commission~~ executive director and shall be paid a per diem as fixed in the annual state appropriation act for boards, commissions, and committees for each day of active service on ~~such~~ a tribunal plus necessary expenses, as ~~likewise~~ fixed in the annual appropriation act. ~~No~~ A person ~~shall~~ must not participate on behalf of the ~~Commission~~ department in any case in which he is an interested party. The ~~Commission~~ department may designate alternates to serve in the absence or disqualification of ~~any~~ a member of an appeal tribunal. The chairman ~~shall~~ must act alone in the absence or disqualification of ~~any other~~ another member and his alternate. ~~In no case shall~~ The hearings must not proceed unless the chairman of the appeal tribunal is present. “

SECTION 93. Section 41‑35‑710 of the 1976 Code is amended to read:

“Section 41‑35‑710. The ~~Commission~~ Workforce Department Appellate Panel may on its own motion affirm, modify, or set aside ~~any~~ a decision of an appeal tribunal on the basis of ~~the~~ evidence previously submitted in ~~such~~ the case; ~~or~~ direct the taking of additional evidence; or ~~may~~ permit ~~any of the parties~~ a party to ~~such~~ the decision to initiate further appeals before it. The ~~Commission shall~~ appellate panel must permit ~~such~~ further ~~appeal~~ appeals by ~~any of the parties~~ a party to a decision of an appeal tribunal and by the examiner whose decision has been overruled or modified by an appeal tribunal. The ~~Commission~~ appellate panel may remove to itself or transfer to another appeal tribunal the proceedings on ~~any~~ a claim pending before an appeal tribunal. ~~Any proceedings so~~ Proceedings removed to the ~~Commission shall~~ appellate panel must be heard by a quorum ~~thereof in accordance with~~ pursuant to the requirements of Sections 41‑35‑690 and 41‑35‑720. The ~~Commission shall~~ appellate panel promptly must notify ~~the parties~~ a party to ~~any~~ a proceeding of its findings and decision.”

SECTION 94. Section 41‑35‑720 of the 1976 Code is amended to read:

“Section 41‑35‑720. The ~~manner in which appealed claims shall be presented and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Commission~~ department must promulgate regulations establishing rules of procedure for proceedings, hearings, and appeals to the appellate panel and the appeal tribunals pursuant to Section 41‑35‑790. The rules of procedure must address the manner for determining the rights of ~~the parties, whether or not such regulations~~ each party to an appeal. The rules of procedure are not required to conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record ~~shall~~ must be kept of all proceedings in connection with an appealed claim. ~~All~~ Testimony at ~~any~~ a hearing ~~upon~~ before an appeals tribunal on an appealed claim ~~shall~~ must be recorded, but ~~shall~~ must not be transcribed unless the claim is ~~further~~ appealed to the appellate panel.”

SECTION 95. Section 41‑35‑730 of the 1976 Code is amended to read:

“Section 41‑35‑730. Witnesses subpoenaed pursuant to this article ~~shall~~ must be allowed fees and mileage at a rate fixed by the ~~Commission~~ department, which ~~shall~~ must not exceed that allowed for witnesses ~~in the court of common pleas in the county in which a hearing is held~~ by the administrative law court. ~~Such~~ These fees ~~shall~~ must be ~~deemed~~ considered a part of the expense of administering Chapters 27 through 41 of this title.”

SECTION 96. Section 41‑35‑740 of the 1976 Code is amended to read:

“Section 41‑35‑740. ~~Any~~ A decision of the ~~Commission~~ department, in the absence of an appeal ~~therefrom~~ from it as provided in this article, ~~shall become~~ becomes final ten days after the date of notification or mailing ~~thereof~~ of it, and judicial review ~~thereof shall be~~ is permitted only after ~~any~~ a party claiming to be aggrieved ~~thereby~~ by it has exhausted his administrative remedies as provided by Chapters 27 through 41 of this title. The ~~Commission shall~~ department must be ~~deemed~~ considered to be a party to ~~any~~ a judicial action involving ~~any such~~ a decision and may be represented in ~~any such~~ the judicial action by ~~any~~ a qualified attorney employed by the ~~Commission~~ department and designated by ~~it~~ the department for that purpose or, at the ~~Commission’s~~ department’s request, by the Attorney General.”

SECTION 97. Section 41‑35‑750 of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“Section 41‑35‑750. Within thirty days from the date of mailing ~~of~~ the ~~commission’s~~ department’s decision, a party to the proceeding whose benefit rights or whose employer account may be affected by the ~~commission’s~~ department’s decision may ~~secure judicial review of the decision by commencing~~ initiate an action in the ~~court of common pleas, either in the county in which the employee resides or the county in which he was last employed,~~ administrative law court against the ~~commission~~ department for the review of its decision, in which action every other party to the proceeding before the ~~commission~~ department must be made a defendant. In this action a petition, which need not be verified but which must state the grounds ~~upon~~ on which a review is sought, must be served ~~upon a member of the commission~~ on the executive director or ~~upon~~ on a person ~~as the commission may designate~~ designated by the department within the time specified by this section. Service is ~~deemed~~ considered complete service on all parties, but there must be left with the person served as many copies of the petition as there are defendants, and the ~~commission~~ department promptly shall mail one copy to each defendant. With its answer the ~~commission shall~~ department must certify and file with the court all documents and papers and a transcript of all testimony taken in the matter and its findings of fact and decision. The ~~commission~~ department also may certify to the court questions of law involved in ~~any~~ a decision by the ~~commission~~ department. In a judicial proceeding under this chapter, the findings of the ~~commission as to the~~ department regarding facts, if supported by evidence and in the absence of fraud, must be conclusive and the jurisdiction of the administrative law court must be confined to questions of law. These actions, and the questions so certified, must be heard in a summary manner and must be given precedence over ~~all~~ other ~~civil~~ cases ~~except cases arising under the Workers’ Compensation laws of this State~~. An appeal may be taken from the decision of the administrative law court ~~of common pleas in the manner provided by~~ pursuant to the South Carolina Appellate Court Rules and Section 1‑23‑610. It is not necessary in a judicial proceeding under this article to enter exceptions to the rulings of the ~~commission~~ department, and no bond is required for entering the appeal. Upon the final determination of the judicial proceeding, the ~~commission shall~~ department must enter an order in accordance with the determination. ~~In no event shall~~ A petition for judicial review must not act as a supersedeas or stay unless the ~~commission~~ department orders a supersedeas or stay.”

SECTION 98. Chapter 35, Title 41 of the 1976 Code is amended by adding:

“Section 41‑35‑760. (A) The department must promulgate all regulations described in this chapter and regulations governing procedures at all proceedings, hearings, and appeals before the department or any member or employee of the department, including claims for benefit determinations, and all appeals of determinations regarding those claims, and publish all regulations on an electronic website.

(B) Regulations governing procedures at hearings and appeals before the department shall include, at a minimum:

(1) procedures for seeking a hearing, review, or appeal;

(2) procedures for notifying parties;

(3) evidentiary rules;

(4) procedures for making findings of fact and conclusions of law;

(5) procedures for making and maintaining an appropriate record of interviews and proceedings before the department; and

(6) procedures for seeking review or appeal of the department’s decision.

(C) All regulations must be promulgated in accordance with the provisions of Chapter 23 of Title 1 of the South Carolina Code of Laws.”

SECTION 99. Section 41‑37‑20 of the 1976 Code is amended to read:

“Section 41‑37‑20. ~~(1)~~(A) An employing unit not otherwise subject to Chapters 27 through 41 of this title, which files with the ~~Commission~~ department its written election to become an employer subject to ~~such~~ these chapters for not less than two calendar years, ~~shall,~~ with the written approval of ~~such~~ the election by the ~~Commission,~~ department, must become an employer subject to the same extent as all other employers as of the date stated in ~~such~~ the approval and ~~shall~~ must cease to be subject to ~~such~~ these chapters as of January first of ~~any~~ a calendar year subsequent to ~~such~~ the two calendar years if by the thirtieth day of April of ~~such~~ that year it has filed with the ~~Commission~~ department a written notice to that effect.

~~(2)~~(B) ~~Any~~ An employing unit, for which services that do not constitute employment as defined in Chapters 27 through 41 of this title are performed, may file with the ~~Commission~~ department a written election that ~~all such~~ services performed by ~~individuals~~ an individual in its employment in one or more distinct establishments or places of business ~~shall be deemed~~ must be considered to constitute employment by an employer for ~~all~~ the purposes of ~~such~~ those chapters for not less than two calendar years. ~~Upon~~ On the written approval of ~~such~~ this election by the ~~Commission such~~ department, these services ~~shall be deemed~~ must be considered to constitute employment subject to ~~such~~ those chapters from and after the date stated in ~~such~~ the approval. ~~Such~~ These services ~~shall~~ cease to be ~~deemed~~ considered employment subject to ~~such~~ these chapters as of January first of ~~any~~ a calendar year subsequent to ~~such~~ those two calendar years if by the thirtieth day of April of ~~such~~ that year ~~such~~ the employing unit ~~has filed~~ files with the ~~Commission~~ department a written notice to that effect.”

SECTION 100. Section 41‑37‑30 of the 1976 Code is amended to read:

“Section 41‑37‑30. Except as otherwise provided in Section 41‑37‑20:

~~(1)~~(A) As of January 1, 1972, an employing unit ~~shall~~ must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~ department by the thirtieth day of April of that year an application for termination of coverage and the ~~Commission~~ department finds that there were no twenty different weeks within the preceding calendar year within which ~~such~~ the employing unit had four or more individuals in employment subject to ~~such~~ these chapters.

~~(2)~~(B) As of January 1, 1973, an employing unit shall cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~ department by the thirtieth day of April of ~~any~~ a calendar year an application for termination of coverage and the ~~Commission~~ department finds that there were no twenty different weeks within the preceding calendar year within which ~~such~~ the employing unit had at least one individual in employment subject to ~~such~~ these chapters and that there was no calendar quarter within the preceding calendar year in which ~~such~~ the employing unit paid fifteen hundred dollars or more in wages for service in employment; ~~provided, however,~~ except that no employing unit for which service is performed in employment as defined in Section 41‑27‑230 (3) ~~shall~~ may cease to be an employer subject to Chapters 27 through 41 of this title unless it files with the ~~Commission~~ department by the thirtieth day of April of any calendar year an application for termination of coverage and the ~~Commission~~ department finds that there were ~~no~~ not twenty different weeks within the preceding calendar year within each of which ~~such~~ the employing unit had four or more persons in employment.

~~(3)~~(C) As of January 1, 1979, ~~any~~ an employing unit, as defined in Section 41‑27‑230(5), ~~shall~~ must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~ department by the thirtieth day of April of ~~any~~ a calendar year an application for termination of coverage and the ~~Commission~~ department finds that there were ~~no~~ not twenty different weeks within the preceding calendar year within which ~~such~~ the employing unit had at least ten individuals in employment subject to Chapters 27 through 41 of this title and that there was no calendar quarter within the preceding calendar year in which ~~such~~ the employing unit paid twenty thousand dollars or more in wages for service in employment.

~~(4)~~(D) As of January 1, 1979, ~~any~~ an employing unit, as defined in Section 41‑27‑230(6), ~~shall~~ must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the ~~Commission~~ department by the thirtieth day of April of ~~any~~ a calendar year an application for termination of coverage and the ~~Commission~~ department finds that there was no calendar quarter within the preceding calendar year in which ~~such~~ the employing unit paid one thousand dollars or more in wages for service in employment.

~~(5)~~(E) ~~Any~~ An employer who ~~shall have~~ has rendered no employment and paid no wages in the State for a continuous period of one calendar year may submit an application for termination of coverage upon the resumption of employment in the State. ~~Provided, further, that~~ However, when a successor employer acquired substantially all of the business of a predecessor employer and the experience rating reserve of the predecessor is transferred to the successor, the liability of the predecessor may be terminated at the end of the calendar year during which ~~such~~ this succession occurred, provided that the predecessor did not within ~~such~~ the calendar year subsequent to the date of succession render employment or pay wages sufficient to remain an employer as defined in Section 41‑27‑210.

~~(6)~~(F) The provisions of this section ~~shall~~ must not be applicable to ~~any~~ an employing unit for ~~services~~ a service performed in employment as defined by Section 41‑27‑230(2).

For the purpose of this section, the two or more employing units mentioned in items (3) and (4) of Section 41‑27‑210 ~~shall~~ must be treated as a single employing unit.”

SECTION 101. Section 41‑39‑30 of the 1976 Code is amended to read:

“Section 41‑39‑30. ~~No~~ An individual claiming benefits ~~shall~~ may not be charged ~~fees of any kind~~ a fee in ~~any~~ a proceeding under Chapters 27 through 41 of this title by the ~~Commission~~ department or its representatives or by ~~any~~ a court or ~~any~~ an officer ~~(~~except an attorney~~)~~, ~~thereof~~ of it. ~~Any~~ An individual claiming ~~benefits~~ a benefit in ~~any~~ a proceeding before the ~~Commission~~ department or a court ~~may~~ must be represented by an attorney or other duly authorized agent, but ~~no such~~ an attorney or agent ~~shall either~~ must not charge or receive for ~~such services~~ this service more than an amount approved by the ~~Commission~~ department. ~~Any~~ A person who violates ~~any~~ a provision of this section ~~shall~~, for each ~~such~~ offense, must be fined not less than fifty dollars nor more than five hundred dollars, ~~or~~ imprisoned for not more than six months, or both.”

SECTION 102. Section 41‑39‑40 of the 1976 Code, as added by Act 306 of 1996, is amended to read:

“Section 41‑39‑40. (A) As of January 1, 1997, an individual filing an initial claim for unemployment compensation must be advised at the time of the filing of the claim that:

(1) unemployment compensation is subject to federal and state income taxation;

(2) requirements exist pertaining to estimated tax payments;

(3) the individual may elect to have federal income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate specified in the Internal Revenue Code of 1986;

(4) the individual may elect to have South Carolina state income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate of seven percent;

(5) the individual is permitted to change a previously elected withholding of income tax at least once.

(B) Amounts deducted and withheld from unemployment compensation ~~shall~~ must remain in the Unemployment Trust Fund until transferred to the federal or state taxing authority as a payment of income tax. The date of transfer to the South Carolina Department of Revenue must be the same date as the transfer to the Internal Revenue Service.

(C) The ~~commission~~ department shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of income tax.

(D) Amounts must be deducted and withheld under this section only after amounts are deducted and withheld for ~~any~~ overpayments of unemployment compensation, child support obligations, or ~~any~~ other amount required to be deducted and withheld under this title.”

SECTION 103. Section 41‑41‑20 of the 1976 Code, as last amended by Act 202 of 2002, is further amended to read:

“Section 41‑41‑20. (A) A claimant found by the ~~commission~~ department knowingly to have made a false statement or who knowingly failed to disclose a material fact when filing a compensable claim to establish his right to or increase the amount of his benefits is ineligible to receive benefits for any week for which the claim was filed and is ineligible to receive further benefits for not less than ten and not more than fifty‑two consecutive weeks as determined by the ~~commission~~ department according to the circumstances of the case, these weeks to commence with the date of the determination.

(B) If the ~~commission~~ department finds that a fraudulent misrepresentation has been made by a claimant with the object of obtaining benefits under this chapter to which he was not entitled, in addition to any other penalty or prosecution provided under this chapter, the ~~commission~~ department may make a determination that there must be deducted from benefits to which the claimant might become entitled during this present benefit year or the next subsequent benefit year, or both, an amount not less than two times his weekly benefit amount and not more than his maximum benefit amount payable in a benefit year, as determined under Chapter 35. This deduction takes effect on the date of the determination. An appeal from this determination must be made in the manner prescribed in Chapter 35, Article 5.”

SECTION 104. Section 41‑41‑40 of the 1976 Code, as last amended by Act 202 of 2002, is further amended to read:

“Section 41‑41‑40.(A)(1) A person who has received a sum as benefits under Chapters 27 through 41 while conditions for the receipt of benefits imposed by these chapters were not fulfilled or while he was disqualified from receiving benefits is liable to repay the ~~commission~~ department for the unemployment compensation fund a sum equal to the amount received by him.

(2) If full repayment of benefits, to which an individual was determined not entitled, has not been made the sum must be deducted from future benefits payable to him under Chapters 27 through 41, and the sum must be collectible in the manner provided in Sections 41‑31‑380 to 41‑31‑400 for the collection of past due contributions.

(3) The ~~commission~~ department may attempt collection of overpayments through the South Carolina Department of Revenue in accordance with Section 12‑56‑10, et seq. If the overpayment is collectible in accordance with Section 12‑56‑60, the ~~commission~~ department shall add to the amount of the overpayment a collection fee of not more than twenty‑five dollars for each collection attempt to defray administrative costs.

(4) Notwithstanding any other provision of this section, no action to enforce recovery or recoupment of any overpayment may begin after five years from the date of the final determination.

(B)(1) A person who is overpaid any amounts as benefits under Chapters 27 through 41 is liable to repay those amounts, except as otherwise provided by this subsection.

(2) Upon written request by the person submitted to the ~~commission~~ department within the statutory appeal period from the issuance of the determination of overpayment, the ~~commission~~ department may waive repayment if the ~~commission~~ department finds that the:

(a) overpayment was not due to fraud, misrepresentation, or wilful nondisclosure on the part of the person;

(b) overpayment was received without fault on the part of the person; and

(c) recovery of the overpayment from the person would be contrary to equity and good conscience.

(3) Decisions denying waiver requests are subject to the appeal provisions of Chapter 35.

(C) A person who has received a sum as benefits under the comparable unemployment law of any other state while conditions imposed by that law were not fulfilled or while he was disqualified from receiving benefits by that law is liable to repay the ~~commission~~ department for the corresponding unemployment compensation fund of the other state a sum equal to the amount received by him if the other state has entered into an Interstate Reciprocal Overpayment Recovery Agreement with the State and has furnished the ~~commission~~ department with verification of the overpayment as required by the agreement. Recovery of overpayments under this subsection are not subject to the provisions of subsections (A)(3) and (B).”

SECTION 105. Section 41‑41‑50 of the 1976 Code is amended to read:

“Section 41‑41‑50. ~~Any~~ An employing unit or person who ~~shall~~ wilfully ~~violate any~~ violates a provision of Chapters 27 through 41 of this title or ~~any~~ an order, rule, or regulation ~~thereunder~~ under this title, the violation of which is made unlawful or the observance of which is required under the terms of ~~such~~ these chapters, ~~shall be~~ is liable to a penalty of one thousand dollars, to be recovered by the ~~Commission~~ department in an appropriate civil action in ~~any~~ a court of competent jurisdiction, and ~~shall~~ also ~~be~~ is guilty of a misdemeanor and ~~shall~~, upon conviction, must be punished by a fine of not less than twenty ~~nor~~ dollars but not more than one hundred dollars or imprisonment for not longer than thirty days, and each day ~~such~~ the violation continues ~~shall be deemed to be~~ is considered a separate offense.”

SECTION 106. Section 41‑42‑10 of the 1976 Code is amended to read:

“Section 41‑42‑10. The ~~South Carolina Employment Security Commission shall~~ department must create a division ~~to be~~ known as the ‘South Carolina State Employment Service’ ~~which shall~~ that must establish and maintain free public employment offices in ~~such~~ a number and in ~~such~~ places ~~as may be~~ necessary for the proper administration of Chapters 27 through 42 of this title and for the purpose of performing ~~such~~ duties ~~as are~~ within the purview of the act of Congress, entitled ‘An Act to Provide for the Establishment of a National Employment System and for Cooperation With the States in the Promotion of Such System, and for Other Purposes’, approved June 6, 1933 (48 Stat. 113, U. S. Code, Title 29, Section 49(c) as amended). All duties and powers formerly conferred ~~upon any other~~ on another department, agency or officer of this State relating to the establishment, maintenance, and operation of free public employment offices ~~shall be~~ are vested in ~~such~~ this division.”

SECTION 107. Section 41‑42‑20 of the 1976 Code is amended to read:

“Section 41‑42‑20. The division ~~shall~~ must be administered by a full‑time salaried director, who shall cooperate with ~~any~~ an official or agency of the United States having powers or duties under provisions of such act of Congress and shall do and perform all things necessary to secure to this State the benefits of that act of Congress in the promotion and maintenance of a system of public employment offices. The ~~Commission~~ executive director shall appoint the director and other officers and employees of the State Employment Service. ~~Such appointments shall be made in accordance with regulations issued under Section 41‑29‑90.~~”

SECTION 108. Section 41‑42‑30 of the 1976 Code is amended to read:

“Section 41‑42‑30. The provisions of the act of Congress mentioned in Section 41‑42‑10 are ~~hereby~~ accepted by this State, in conformity with Section 4 of that act and this State will observe and comply with the requirements ~~thereof~~ of the act. The ~~South Carolina Employment Security Commission~~ department is ~~hereby~~ designated and constituted the agency of this State for the purposes of that act.”

SECTION 109. Section 41‑42‑40 of the 1976 Code is amended to read:

“Section 41‑42‑40. For the purpose of establishing and maintaining free public employment offices the division may enter into agreement with ~~any~~ a political subdivision of this State or with ~~any~~ a private nonprofit organization and as a part of ~~any~~ such agreement the ~~Commission~~ department may accept ~~moneys~~ money, services, or quarters as a contribution to the unemployment compensation administration fund.”

SECTION 110. In making appointments and hiring decisions for positions pursuant to this act, the governing authority or individual tasked with making such appointment or hiring decision must consider race, gender, and other demographic factors to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

SECTION 111. The Legislative Audit Council shall contract for three independent management audits of the department’s finance and operations. This first audit must be completed by July 1, 2011, the second audit must be completed by July 1, 2013, and the third audit must be completed by July 1, 2018. The Legislative Audit Council may contract for follow‑up audits or conduct follow‑up audits as needed based upon the audit’s initial findings.

At minimum, the audits required pursuant to this SECTION must:

(1) provide a detailed accounting of the revenues and expenditures from the Unemployment Insurance Trust Fund since 2000;

(2) determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund;

(3) assess alternatives for maintaining the solvency of the Unemployment Insurance Trust Fund;

(4) examine the unemployment eligibility benefit process for efficiency and compliance with law and agency policy; and

(5) evaluate the effectiveness of the Department of Workforce’s programs for assisting claimants in returning to work.

The costs of these audits, including related administrative and management expenses of the Legislative Audit Council, are an operating expense of the department. The department shall pay directly to the Legislative Audit Council the cost of the audits.

SECTION 112. (A) There is created the Workforce Initiative/Economic Development Research Committee. This committee shall review, examine, and make recommendations regarding steps that should be taken to improve the economy of this State, the employment of South Carolinians, and to restore a substantially greater sense of financial security to the citizens of this State. The review must include an inventory of workforce training and recruitment programs and their adequacy towards meeting the needs of South Carolina’s businesses. In addition, the review and recommendations must place emphasis on the goal of matching unemployed citizens with jobs.

(B) The twenty‑five member committee is composed of:

(1) one member appointed by the Governor;

(2) one member appointed by the President Pro Tempore of the Senate;

(3) one member appointed by the Speaker of the House of Representatives;

(4) the Secretary of Commerce, or his designee;

(5) the Director of the Department of Parks, Recreation and Tourism, or his designee;

(6) a county economic development director from each Congressional district chosen by the economic development person or his designee from the office of the member of Congress representing each district;

(7) the Dean of the Moore School of Business at the University of South Carolina, the Dean of the Francis Marion University School of Business, the Dean of the South Carolina State University School of Business, the Dean of the College of Charleston School of Business and Economics, the Dean of the Clemson University College of Business, and the Dean of the Winthrop University College of Business Administration;

(8) the Chairman of the Board of Economic Advisors;

(9) the Secretary of Agriculture, or his designee;

(10) the Executive Director of the Department of Employment and Workforce;

(11) the Chairman of the State Ports Authority, or his designee;

(12) the Director of the Office of Small and Minority Business Assistance;

(13) the President of the South Carolina Chamber of Commerce, or his designee;

(14) the President of the South Carolina Manufacturers’ Alliance, or his designee; and

(15) the Executive Director of the State Board for Technical and Comprehensive Education, or his designee.

(C) The Governor shall serve as the chairperson of the committee.

(D) A vacancy occurring on the committee must be filled in the same manner as the original appointment.

(E) The staffing for the committee must be provided by the appropriate committees of the Senate and House of Representatives that oversee legislation affecting economic development and finance in this State and the staff of the Workforce Investment Program.

(F) The committee shall submit its report to the General Assembly and Governor before January 1, 2011, at which time the Workforce Initiative/Economic Development Research Committee is abolished.

SECTION 113. The Code Commissioner is directed to change all references to the “Department of Workforce” to the “Department of Employment and Workforce.”

SECTION 114. Chapter 35, Title 41 of the 1976 Code is amended by adding:

“Section 41‑35‑615. All notices given to an employer concerning a request for determination of insured status, a request for initiation of a claim series in a benefit year, a notice of unemployment, a certification for waiting‑week credit, a claim for benefits, and any reconsideration of a determination must be made by United States mail or electronic mail. The employer may designate with the department its preferred method of notice. If an employer does not make a designation, then notices must be made by United States mail. The employer may not be required to respond to the notice until twelve business days after the postmark on notices sent via United States Mail or ten business days after the date a notice is sent via electronic mail.”

SECTION 115. Section 41‑27‑590 of the 1976 Code is amended to read:

“Section 41‑27‑590. (A) All criminal actions for violation of any provision of Chapters 27 through 41 of this ~~Title~~ title or of any rules or regulations issued pursuant thereto shall be prosecuted by the Attorney General of the State or at his request and under his direction by the solicitor of any circuit or any prosecuting attorney in any court of competent jurisdiction in the county in which the employer has a place of business or the violator resides.

(B) The department must refer all cases of significant claimant and/or employer fraud to the Attorney General to determine whether to prosecute the offender.”

SECTION 116. Chapter 13, Title 38 of the 1976 Code is amended by adding:

“Article 7

Examinations, Investigations, and Reports of the Department of

Workforce

Section 38‑13‑700. (A) At least every five years, or upon request pursuant to Section 38‑13‑710, the director must conduct an examination of the unemployment compensation fund administered by the Department of Workforce. Examinations scheduled by the director must include at least a detailed accounting of the revenue and expenditures of the fund and an analysis of the current and future solvency of the fund.

(B) In scheduling and determining the nature, scope, and frequency of examinations, the director shall consider compliance with relevant federal and South Carolina laws and regulations, the results of previous examinations, changes in management, and reports of the audits performed by the Legislative Audit Council.

(C) For purposes of completing an examination of an insurer under this article, the director may examine or investigate the Department of Workforce in a manner considered necessary or material by the director.

Section 38‑13‑710. (A) An examination of the unemployment compensation fund may be initiated upon the request of either:

(1) the chairman of the Senate Labor Commerce and Industry Committee or the Chairman of the Senate Finance Committee and the President Pro Tempore; or

(2) the chairman of the House of Representatives Labor Commerce and Industry Committee or the Chairman of the House of Representatives Ways and Means Committee and the Speaker of the House of Representatives.

(B) The request must describe the issues upon which the requestor would like for the examination to focus.

(C) The director must consult with the requestors to determine the appropriate scope of the examination.

Section 38‑13‑720. (A) The Department of Workforce must provide timely, convenient, and free access to all books, records, accounts, papers, documents, and computer or other recordings relating to the subject of the examination. If the director considers it necessary to the conduct of the examination, he may require that the Department of Workforce furnish the original books and records. The executive director of the Department of Workforce shall facilitate the examination and aid in the examination.

(B) The director may issue subpoenas, administer oaths, and examine under oath a person as to matters pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the director may petition a court of competent jurisdiction, and upon proper showing the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court.

(C) When making an examination pursuant to this article, the director may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners. The cost of the retainment must be borne by the Department of Workforce. Examination fees must be retained by the department and are considered ‘other funds.’

Section 38‑13‑730. In addition to any other recognized and appropriate examination methodologies, when conducting an examination the department must utilize sample data testing to verify the accuracy of information provided by the Department of Workforce.

Section 38‑13‑740. The results of each examination must be compiled in a report. Examination reports must be comprised of only facts appearing on the books, records, or other documents maintained by the Department of Workforce and as ascertained from the testimony of the executive director and any other employees examined concerning the subject of the examination, and the conclusions and recommendations of the director that he finds warranted from the facts. The reports must be submitted to the General Assembly, the Review Committee, and the Governor, and made available on the Internet web sites maintained by the Department of Insurance and the Department of Workforce.

Section 38‑13‑750. The director may not assign an examiner that has a conflict of interest.

Section 38‑13‑760. The Department of Workforce shall pay the charges incurred in the examination, including the expenses of the director and the expenses and compensation of his examiners and assistants.

Section 38‑13‑770. The director may require the Department of Workforce to answer any inquiry in relation to the administration of the unemployment compensation fund. The executive director of the Department of Workforce must promptly reply in writing.”

SECTION 117. Chapter 27, Title 41 of the 1976 Code is amended by adding:

“Article 7

South Carolina Department of Workforce Review Committee

Section 41‑27‑700. There is created the Department of Workforce Review Committee which must exercise the powers and fulfill the duties described in this article.

Section 41‑27‑710. (A) The committee must be composed of nine members, three of whom must be members of the House of Representatives appointed by the Speaker at least one of whom must be a member of the minority party; three of whom must be members of the Senate appointed by the President *pro Tempore* at least one of whom must be a member of the minority party; and three of whom shall be appointed by the governor from the general public at large, of which one must represent businesses with fewer than fifty employees and one of whom must represent businesses with fewer than five hundred employees. A member of the general public appointed by the governor may not be a member of the General Assembly.

(B) The committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and other officers as the committee considers necessary. Afterward, the committee at least annually shall meet and at the call of the chairman or a majority of the members. A quorum consists of five members.

(C) Unless the committee finds a person qualified to serve as the executive director of the Department of Workforce, the person may not be appointed.

(D) A member of the committee that misses three consecutive scheduled meetings at which a quorum is present must be removed from and replaced on the committee by the person that appointed that member.

(E) The committee must discharge its duties related to screening and nominating qualified individuals for appointment by the Governor in the manner provided in Chapter 20, Title 2.

Section 41‑27‑720. The committee shall:

(1) nominate three qualified applicants for the Governor to consider in appointing the executive director. In order to be found qualified, the person must meet the minimum requirements as provided in Section 41‑29‑35. The committee must consider a person’s experience and expertise in matters related to unemployment, workforce development, and economic development. A person may not be appointed to serve as the permanent executive director unless he is found qualified by the committee. If the Governor rejects all of the nominees, the committee must reopen the nominating process;

(2) screen Department of Workforce Appellate Panel candidates for qualifications. In order to be found qualified, the person must meet the minimum requirements as provided in Section 41‑29‑300(E). The committee must consider a person’s experience and expertise in matters related to unemployment, workforce development, and economic development. A person may not be elected to serve on the Department of Workforce Appellate Panel unless he is found qualified by the committee.

(3) conduct an annual performance review of the executive director, which must be submitted to the General Assembly and the Governor. A draft of the executive director’s performance review must be submitted to him, and the executive director must be allowed an opportunity to be heard before the committee before the final draft of the performance review is submitted to the General Assembly and the Governor;

(4) submit to the General Assembly and the Governor, on an annual basis, the committee’s evaluation of the performance of the Department of Workforce. A proposed draft of the evaluation must be submitted to the Executive Director of the Department of Workforce before submission to the General Assembly and the Governor, and the Executive Director of the Department of Workforce must be given an opportunity to be heard before the committee before the completion of the evaluation and its submission to the General Assembly and the Governor;

(5) assist in developing an annual workshop of at least six contact hours concerning ethics and the Administrative Procedures Act for the executive director and employees of the Department of Workforce as the committee considers appropriate;

(6) make reports and recommendations to the General Assembly and the Governor on matters relating to the powers and duties set forth in this section;

(7) submit a letter to the General Assembly with the annual budget proposals of the Department of Workforce, indicating the committee has reviewed the proposals; and

(8) undertake additional studies or evaluations as the committee considers necessary.

Section 41‑27‑725. (A) The committee in the discharge of its duties may administer oaths and affirmations, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary in connection committee’s investigation.

(B) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the committee on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual shall be prosecuted or subjected to any criminal penalty based upon testimony or evidence submitted or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self‑incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury and false swearing committed in so testifying.

(C) In case of contumacy by any person or refusal to obey a subpoena issued to any person, any circuit court of this State or circuit judge thereof within the jurisdiction of which the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the committee may issue to the person an order requiring him to appear before the committee to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the court may be punished as a contempt hereof. Subpoenas shall be issued in the name of the committee and shall be signed by the committee chairman. Subpoenas shall be issued to those persons as the committee may designate.

Section 41‑27‑730. (A) The committee members are entitled to mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which they are appointed. These expenses must be paid from the general fund of the State on warrants duly signed by the chairman of the committee and payable by the authorities from which they are appointed, except as provided in subsection (B) of this section.

(B) The committee may request that it be reimbursed for expenses associated with its duties with funds from the employment security administration fund. The expenses of the committee must be advanced by a legislative body and the legislative body incurring this expense must be reimbursed by the State.

Section 41‑27‑740. (A) The committee must use clerical and professional employees of the Senate Labor, Commerce, and Industry Committee and the House of Representatives Labor, Commerce, and Industry Committee for its staff, who must be made available to the committee.

(B) The committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the committee.

Section 41‑27‑750. The committee may conduct a comprehensive study of other states’ unemployment and workforce agency structures, responsibilities, qualifications, and compensation. The committee may prepare and deliver this report along with its recommendations to the General Assembly and the Governor.”

SECTION 118. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑35. (A) The executive director of the Department of Workforce must be appointed pursuant to the procedure set forth in Section 41‑27‑720.

(B) The committee must nominate three applicants found qualified to serve as executive director for the Governor’s consideration. In making nominations to the Governor, the committee should consider race, gender, national origin, and other demographic factors to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State. The committee must also give due consideration to a person’s ability, area of expertise, dedication, compassion, common sense, and integrity. If fewer than three applicants are found qualified to serve as executive director, the committee must resolicit for applicants and continue the screening process until three applicants are found qualified and nominated.

(1) A person may not be appointed to serve as permanent executive director unless the committee finds the person qualified.

(2) The Governor must transmit the name of his appointee to the Senate for advice and consent.

(3) If the Governor rejects all of the nominees, the committee must reopen the nominating process.

(C) For the committee to find a person qualified, he must have:

(1) a baccalaureate or more advanced degree from:

(a) a recognized institution of higher learning requiring face to face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; and

(2) a background of substantial duration and expertise in business, labor and employment, employment benefits, human resource management, or five years experience as a practicing attorney.

(D) The committee may find a person qualified although he does not have a background of substantial duration and expertise in one of the five enumerated areas contained in subsection (C)(2) of this section if two‑thirds of the committee vote to qualify this candidate and provide written justification of their decision in the report as to the qualifications of the candidates.”

SECTION 119. Chapter 29, Title 41 of the 1976 Code is amended by adding:

“Section 41‑29‑25. (A) The executive director shall discharge his duties:

(1) in good faith;

(2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) in a manner he reasonably believes to be in the best interests of the department. As used in this chapter, best interests means a balancing of the following:

(a) achieving the purposes of the department;

(b) preservation of the financial integrity of the department and its ongoing operations; and

(c) exercise of the powers of the department in accordance with good business practices and the requirements of applicable laws, and regulations.

(B) In discharging his duties, the executive director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the State whom the executive director reasonably believes to be reliable and competent in the matters presented; or

(2) legal counsel, public accountants, or other persons as to matters the executive director reasonably believes are within the person’s professional or expert competence;

(C) The executive director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (B) unwarranted.

(D) Nothing in this section gives rise to a cause of action against the executive director or any decision made by the executive director concerning departmental operations or development.”

SECTION 120. The Governor must appoint a person meeting the requirements for executive director provided in this act to serve as interim executive director. The interim executive director serves until March 31, 2011, or until a successor is appointed pursuant to this act. The interim executive director is appointed upon the advice and consent of the Senate.

SECTION 121. The Code Commissioner is directed to change all references in the to the 1976 Code to the “Employment Security Commission” to the “Department of Employment and Workforce” and all references to the “Chairman of the Employment Security Commission” or “chairman” that refer to the Chairman of the Employment Security Commission to “Executive Director of the Department of Employment and Workforce” or “executive director”, as appropriate.

SECTION 122. Sections 41‑29‑30, 41‑29‑60, 41‑29‑90, 41‑29‑100, 41‑29‑130, and 41‑29‑260 are repealed.

SECTION 123. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 124. (A) This act takes effect upon approval by the Governor.

(B) The provisions of this act requiring the name of the Employment Security Commission to be changed do not take effect until funding becomes available through appropriations by the General Assembly or until sufficient federal funds are available.

(C) Where the provisions of this act transfers the duties and responsibilities of the South Carolina Employment Security Commission (transferring agency) to the Department of Workforce (receiving agency), the employees, authorized appropriations, and real and personal property of the transferring agency are also transferred to and become part of the receiving agency. All classified or unclassified personnel of the transferring agency shall become employees of the receiving agency, with the same compensation, classification, and grade level, as applicable. Where necessary and appropriate, the Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer and shall in consultation with the agency head of the transferring and receiving agencies prescribe the manner in which the transfer provided for in this section shall be accomplished. The board’s action in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(D) Employees or personnel of the transferring agency transferred to or made a part of the receiving agency shall continue to occupy the same office locations and facilities which they now occupy unless or until otherwise changed by appropriate action and authorization. The rent and physical plant operating costs of these offices and facilities, if any, shall continue to be paid by the transferring agency until otherwise provided by the General Assembly. The records and files of the transferring agency shall remain the property of the transferring agency, except that the transferred personnel shall have complete access to these records and files in the performance of their duties as new employees of the receiving agency.

(E) All remaining costs necessary for the implementation and operation of the Department of Workforce shall be provided for by the General Assembly in the annual appropriations act, however, for fiscal year 2009‑2010, the funds appropriated to the South Carolina Employment Security Commission shall be credited to the Department of Workforce for the implementation of this act and for the operation needs of the department. /

Amend title to conform.

/s/Sen. W. Greg Ryberg /s/Rep. Kenny Bingham

/s/Sen. Luke A. Rankin /s/Rep. Bill Sandifer

/s/Sen. Nikki G. Setzler /s/Rep. James A. Battle

On Part of the Senate. On Part of the House.

, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., March 25, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has adopted the report of the Committee of Conference on:

H. 3442 -- Reps. Bingham, Harrell, Duncan, Harrison, Owens, Toole, Merrill, Brady, E.H. Pitts, G.M. Smith, Daning, Haley, Huggins, Cato, Ballentine, D.C. Smith, J.R. Smith, Rice, T.R. Young, Horne, Wylie, Bedingfield, Clemmons, Bales, Lucas, Neilson, Long, J.M. Neal and M.A. Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑29‑300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO PROVIDE FOR THE FILLING OF A VACANCY, TO REQUIRE THE PRESENT MEMBERS OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION MUST CONSTITUTE THE INITIAL MEMBERSHIP OF THE NEW PANEL, TO PROVIDE THE PANEL SHALL DISSOLVE WHEN THE MEMBERS’ TERMS EXPIRE IN 2012, AND TO PROVIDE RELATED APPELLATE PROCEDURES; BY ADDING SECTION 41‑29‑310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH; TO AMEND SECTION 41‑29‑10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT CERTAIN CHAPTERS WITHIN TITLE 41 MUST BE ADMINISTERED BY THE DEPARTMENT OF WORKFORCE AND TO DELETE REFERENCES TO THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 41‑29‑20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR AT HIS DISCRETION BY EXECUTIVE ORDER; TO AMEND SECTION 41‑29‑30, RELATING TO THE APPOINTMENT OF A SECRETARY OF THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WORKFORCE OR HIS DESIGNEE MUST RECEIVE ANNUAL COMPENSATION AS PROVIDED BY THE GENERAL ASSEMBLY AND OFFICIAL EXPENSES AS PROVIDED BY LAW FOR EXECUTING THE DUTIES AND FUNCTIONS OF THE DEPARTMENT; TO AMEND SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCESS, SO AS TO INCLUDE EMPLOYEES OF THE DEPARTMENT OF WORKFORCE AMONG THOSE EXEMPTED; TO AMEND SECTIONS 41‑27‑10, 41‑27‑30, 41‑27‑150, 41‑27‑160, 41‑27‑190, 41‑27‑210, AS AMENDED, 41‑27‑230, 41‑27‑235, AS AMENDED, 41‑27‑260, AS AMENDED, 41‑27‑360, 41‑27‑370, AS AMENDED, 41‑27‑380, 41‑27‑390, 41‑27‑510, 41‑27‑550, 41‑27‑560, 41‑27‑570, 41‑27‑580, 41‑27‑600, 41‑27‑610, 41‑27‑620, 41‑27‑630, 41‑27‑670, 41‑29‑40, 41‑29‑50, 41‑29‑60, 41‑29‑70, 41‑29‑80, 41‑29‑90, 41‑29‑100, 41‑29‑110, 41‑29‑120, AS AMENDED, 41‑29‑130, 41‑29‑140, 41‑29‑150, 41‑29‑170, AS AMENDED, 41‑29‑180, 41‑29‑190, 41‑29‑200, 41‑29‑210, 41‑29‑220, 41‑29‑230, 41‑29‑240, 41‑29‑250, 41‑29‑270, 41‑29‑280, 41‑29‑290, 41‑33‑10, 41‑33‑20, 41‑33‑30, 41‑33‑40, 41‑33‑45, 41‑33‑80, AS AMENDED, 41‑33‑90, 41‑33‑100, 41‑33‑110, 41‑33‑120, 41‑33‑130, 41‑33‑170, 41‑33‑180, 41‑33‑190, 41‑33‑200, 41‑33‑210, 41‑33‑430, 41‑33‑460, 41‑33‑470, 41‑33‑610, 41‑33‑710, 41‑35‑10, 41‑35‑30, 41‑35‑100, 41‑35‑110, AS AMENDED, 41‑35‑115, AS AMENDED, 41‑35‑120, AS AMENDED, 41‑35‑125, 41‑35‑126, 41‑35‑130, AS AMENDED, 41‑35‑140, 41‑35‑330, 41‑35‑340, 41‑35‑410, 41‑35‑420, AS AMENDED, 41‑35‑450, 41‑35‑610, 41‑35‑630, 41‑35‑640, AS AMENDED, 41‑35‑670, 41‑35‑680, AS AMENDED, 41‑35‑690, 41‑35‑700, 41‑35‑710, AS AMENDED, 41‑35‑720, 41‑35‑730, 41‑35‑740, 41‑35‑750, AS AMENDED, 41‑37‑20, 41‑37‑30, 41‑39‑30, 41‑39‑40, 41‑41‑20, AS AMENDED, 41‑41‑40, AS AMENDED, 41‑41‑50, 41‑42‑10, 41‑42‑20, 41‑42‑30, AND 41‑42‑40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; AND TO REPEAL SECTION 41‑29‑260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES.

Very respectfully,

Speaker of the House

Received as information.

**H. 3442--ENROLLED FOR RATIFICATION**

H. 3442 -- Reps. Bingham, Harrell, Duncan, Harrison, Owens, Toole, Merrill, Brady, E.H. Pitts, G.M. Smith, Daning, Haley, Huggins, Cato, Ballentine, D.C. Smith, J.R. Smith, Rice, T.R. Young, Horne, Wylie, Bedingfield, Clemmons, Bales, Lucas, Neilson, Long, J.M. Neal and M.A. Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑29‑300 SO AS CREATE THE WORKFORCE DEPARTMENT APPELLATE PANEL WITHIN THE DEPARTMENT OF WORKFORCE, TO PROVIDE FOR THE FILLING OF A VACANCY, TO REQUIRE THE PRESENT MEMBERS OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION MUST CONSTITUTE THE INITIAL MEMBERSHIP OF THE NEW PANEL, TO PROVIDE THE PANEL SHALL DISSOLVE WHEN THE MEMBERS’ TERMS EXPIRE IN 2012, AND TO PROVIDE RELATED APPELLATE PROCEDURES; BY ADDING SECTION 41‑29‑310 SO AS TO TRANSFER THE WORKFORCE INVESTMENT ACT PROGRAM FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF WORKFORCE; TO AMEND SECTION 1‑30‑10, AS AMENDED, RELATING TO DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF WORKFORCE WITHIN THE EXECUTIVE BRANCH; TO AMEND SECTION 41‑29‑10, RELATING TO THE EMPLOYMENT SECURITY COMMISSION, SO AS TO PROVIDE THAT CERTAIN CHAPTERS WITHIN TITLE 41 MUST BE ADMINISTERED BY THE DEPARTMENT OF WORKFORCE AND TO DELETE REFERENCES TO THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 41‑29‑20, RELATING TO THE CHAIRMAN, QUORUM, AND FILLING OF A VACANCY ON THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE THE DEPARTMENT OF WORKFORCE MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, AND THAT THE DIRECTOR IS SUBJECT TO REMOVAL BY THE GOVERNOR AT HIS DISCRETION BY EXECUTIVE ORDER; TO AMEND SECTION 41‑29‑30, RELATING TO THE APPOINTMENT OF A SECRETARY OF THE EMPLOYMENT SECURITY COMMISSION, SO AS TO DELETE THE EXISTING LANGUAGE AND PROVIDE THE DIRECTOR OF THE DEPARTMENT OF WORKFORCE OR HIS DESIGNEE MUST RECEIVE ANNUAL COMPENSATION AS PROVIDED BY THE GENERAL ASSEMBLY AND OFFICIAL EXPENSES AS PROVIDED BY LAW FOR EXECUTING THE DUTIES AND FUNCTIONS OF THE DEPARTMENT; TO AMEND SECTION 8‑17‑370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCESS, SO AS TO INCLUDE EMPLOYEES OF THE DEPARTMENT OF WORKFORCE AMONG THOSE EXEMPTED; TO AMEND SECTIONS 41‑27‑10, 41‑27‑30, 41‑27‑150, 41‑27‑160, 41‑27‑190, 41‑27‑210, AS AMENDED, 41‑27‑230, 41‑27‑235, AS AMENDED, 41‑27‑260, AS AMENDED, 41‑27‑360, 41‑27‑370, AS AMENDED, 41‑27‑380, 41‑27‑390, 41‑27‑510, 41‑27‑550, 41‑27‑560, 41‑27‑570, 41‑27‑580, 41‑27‑600, 41‑27‑610, 41‑27‑620, 41‑27‑630, 41‑27‑670, 41‑29‑40, 41‑29‑50, 41‑29‑60, 41‑29‑70, 41‑29‑80, 41‑29‑90, 41‑29‑100, 41‑29‑110, 41‑29‑120, AS AMENDED, 41‑29‑130, 41‑29‑140, 41‑29‑150, 41‑29‑170, AS AMENDED, 41‑29‑180, 41‑29‑190, 41‑29‑200, 41‑29‑210, 41‑29‑220, 41‑29‑230, 41‑29‑240, 41‑29‑250, 41‑29‑270, 41‑29‑280, 41‑29‑290, 41‑33‑10, 41‑33‑20, 41‑33‑30, 41‑33‑40, 41‑33‑45, 41‑33‑80, AS AMENDED, 41‑33‑90, 41‑33‑100, 41‑33‑110, 41‑33‑120, 41‑33‑130, 41‑33‑170, 41‑33‑180, 41‑33‑190, 41‑33‑200, 41‑33‑210, 41‑33‑430, 41‑33‑460, 41‑33‑470, 41‑33‑610, 41‑33‑710, 41‑35‑10, 41‑35‑30, 41‑35‑100, 41‑35‑110, AS AMENDED, 41‑35‑115, AS AMENDED, 41‑35‑120, AS AMENDED, 41‑35‑125, 41‑35‑126, 41‑35‑130, AS AMENDED, 41‑35‑140, 41‑35‑330, 41‑35‑340, 41‑35‑410, 41‑35‑420, AS AMENDED, 41‑35‑450, 41‑35‑610, 41‑35‑630, 41‑35‑640, AS AMENDED, 41‑35‑670, 41‑35‑680, AS AMENDED, 41‑35‑690, 41‑35‑700, 41‑35‑710, AS AMENDED, 41‑35‑720, 41‑35‑730, 41‑35‑740, 41‑35‑750, AS AMENDED, 41‑37‑20, 41‑37‑30, 41‑39‑30, 41‑39‑40, 41‑41‑20, AS AMENDED, 41‑41‑40, AS AMENDED, 41‑41‑50, 41‑42‑10, 41‑42‑20, 41‑42‑30, AND 41‑42‑40, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE EMPLOYMENT SECURITY COMMISSION WITH THE DEPARTMENT OF WORKFORCE; AND TO REPEAL SECTION 41‑29‑260 RELATING TO THE ABILITY OF COMMISSIONERS OF THE EMPLOYMENT SECURITY COMMISSION TO FILE OPINIONS OR OFFICIAL MINUTES.

The Report of the Committee of Conference having been adopted by both Houses, ordered that the title be changed to that of an Act, and the Act enrolled for Ratification.

A message was sent to the House accordingly.

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

**COMMITTEE AMENDMENT WITHDRAWN**

**AMENDED, READ THE SECOND TIME**

S. 1054 -- Senators Pinckney, Malloy, Matthews, Anderson and Nicholson: A BILL TO AMEND CHAPTER 1, TITLE 4 OF THE 1976 CODE, RELATING TO EXTRAORDINARY COMMERCIAL FACILITIES, BY ADDING SECTION 4‑1‑180 TO ALLOW COUNTIES THAT CREATE A MULTICOUNTY BUSINESS PARK TO DESIGNATE A PORTION OR ALL OF THAT PARK AS A DESIGNATED ECONOMIC DEVELOPMENT SITE FOR EXTRAORDINARY COMMERCIAL FACILITIES.

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

Senator DAVIS argued contra to the adoption of the amendment proposed by the Committee on Finance.

**ACTING PRESIDENT PRESIDES**

At 12:50 P.M., Senator McCONNELL assumed the Chair.

Senator DAVIS argued contra to the adoption of the amendment proposed by the Committee on Finance.

Senator LEATHERMAN was recognized to explain an amendment.

On motion of Senator LEATHERMAN, with unanimous consent, the following amendment proposed by the Committee on Finance was withdrawn:

The Committee on Finance proposed the following amendment (1054FIN001), which was withdrawn:

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

/ SECTION 1. A. The General Assembly recognizes and finds that:

(1) the people of South Carolina are enduring extraordinary levels of unemployment and are likely to do so for the immediately foreseeable future and, further, that the national economy is undergoing changes that affect many of the businesses and industries that have traditionally provided jobs for the citizens and residents of South Carolina;

(2) there is a need for a program to provide inducements for the creation of jobs in the commercial and retail sector under conditions that will ensure: (i) significant capital investment, and (ii) the creation and maintenance of significant new employment, all under conditions that restrict the cost of funding that inducement to sources of funds related to the creation of revenues that do not presently exist;

(3) it has heretofore authorized the creation of industrial or business parks by counties to encourage and promote economic development which creation has been instrumental in the efforts of the State to attract and retain significant investment and employment;

(4) the risks of this existing and time‑tested program are minimized;

(5) by providing counties a means of funding grants to certain private entities for the purpose of defraying a portion of the cost of infrastructure related to these developments after the developments have been constructed, certain initial levels of employment have been satisfied and new sales tax revenue targets have been met and the level of investment and number of jobs required to be created before the provision of the grants is designed to avoid speculative risk and, together with demonstrated revenues, are designed to ensure that the benefit to the public in new investment and jobs will render the public the primary beneficiary of the incentive notwithstanding the incidental benefits that may be derived by the private grantees; and

(6) that the inducement authorized by this act will serve the public welfare by providing for additional employment and will serve the affected counties by additional employment and by an increase in their local tax base.

B. Chapter 1, Title 4 of the 1976 Code is amended by adding:

“Section 4‑1‑180. (A)(1) ‘Extraordinary commercial facilities’ means commercial facilities, including facilities for the retail sale of goods, in a designated economic development site that meets the initial qualifying criteria.

(2) ‘New capital investment’ means facilities that either have been placed in service, or for which a certificate of occupancy has been issued, after July 1, 2009.

(3) ‘New job’ means a job created in this State at the time a new facility is initially staffed.

(B) Counties that create a multicounty business park may designate a portion or all of that park as a designated economic development site for extraordinary commercial facilities. Initial qualifying criteria for a designated economic development site are: (i) the value of new capital investment within the designated economic development site, including the value of capital investment in all its components, regardless of how those components are owned or controlled, is not less than an aggregate amount of two hundred million dollars; (ii) there is an aggregate of not fewer than one thousand two hundred fifty new jobs maintained for at least one year, measured by number of employees; and (iii) there are total sales tax receipts at a rate of six million dollars each year, which may be based on an annualized number using the two most recent quarters.

(C) The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports.

(D) The counties making a designation of an economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated site.

(E)(1) In addition to the matters specified in Section 4‑1‑170, the agreement relating to the designated economic development site may provide that an amount equal to three‑fourths of the revenues collected in the designated economic development site from sales taxes imposed pursuant to Section 12‑36‑2620(1) must be paid quarterly by the Department of Revenue from the general fund of the State to the counties and allocated in accordance with the provisions of the agreement for the qualifying period, except during a suspension period.

(2) The qualifying period must begin no earlier than the first day of the third calendar month after the counties creating a designated economic development site: (i) provide the department with a certificate satisfactory to the department that contains information that the extraordinary commercial facilities in a designated economic development site meet the initial qualifying criteria; and (ii) provide the department with a copy of the agreement specifying the percentage of funds to be remitted to the counties. The qualifying period must end at the end of the fifteenth year after the commencement of the qualifying period.

(3)(i) To maintain receipt of payments, the counties must file with the department an annual report showing the number of employees at the site for the most recent four quarters. If the report does not show an average of six hundred twenty-five jobs during the reporting period, quarterly payments must be suspended until the next annual report shows an average of six hundred twenty-five jobs during that reporting period. A suspension period is the time between the two filings, and payments must not be made to the counties during the suspension period.

(ii) If the annual report shows an average of less than six hundred twenty-five jobs during the reporting period for a year in which the counties received payments pursuant to this section, the counties must return a portion of the funds received to the department. The department shall remit the funds to the general fund of the State. The amount to be returned to the department shall be calculated by dividing the average number of jobs during the reporting period by six hundred twenty-five, the quotient of which must be multiplied by the total amount of payments received for the year. The amount to be returned to the department may be paid back in quarterly installments with the first payment being due no later than the first day of the third calendar month after the report. The suspension period shall not end until the counties have fully reimbursed the department.

(4) A county that receives revenues from this source may treat those revenues in the same fashion as fees in lieu of taxes and issue special sources revenue bonds or provide for credits or payments as provided in Section 4‑1‑175.

(5) If a county uses funds to reimburse another governmental or private entity for expenditures incurred by it, the county must have a grant agreement with each recipient. Each grant agreement must contain provisions relating to the grantee’s obligation to provide jobs and require an annual certification of compliance. The grant agreement must require that, if a grantee fails to satisfy the conditions of a grant, then all future payments must be suspended until the grantee certifies compliance with the terms. Copies of all grant agreements must be provided to the department.

(F) The provisions of this section expire five years from the effective date of this section.”

SECTION 2. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

On motion of Senator LEATHERMAN, with unanimous consent, the committee amendment was withdrawn.

**Amendment No. 4A**

Senators LEATHERMAN, DAVIS and PINCKNEY proposed the following Amendment No. 4A (1054FIN007.HKL), which was adopted:

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

/ SECTION 1. Chapter 10, Title 4 of the 1976 Code is amended by adding:

“Article 11

Local Option Extraordinary Commercial Facilities Fee

Section 4‑10‑1110. This article may be cited as the ‘Local Option Extraordinary Commercial Facilities Fee Act’.

Section 4‑10‑1120. For purposes of this article:

(1) ‘Designated economic development site’ means a geographic area which has been designated as a multicounty park pursuant Article VIII, Section 13 of the South Carolina Constitution, 1895, and Section 4‑1‑170, which meets the following qualifying criteria: (i) the amount of new capital investment within the site is not less than an aggregate amount of one hundred million dollars; and (ii) the aggregate number of new full‑time jobs within the site is not less than one thousand two hundred fifty that are maintained for at least one year. After the first year of maintaining one thousand two hundred fifty new full‑time jobs, the site must maintain at least six hundred twenty‑five full‑time jobs for each year thereafter. The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports. The municipality making a designation of a designated economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated economic development site.

(2) ‘Fee’ means the local option extraordinary commercial facilities fee allowed to be imposed as provided in this article.

(3) ‘Infrastructure’ means:

(a) water and sewer projects and road construction and improvement projects. These projects include: planning, engineering, right‑of‑way, drainage, curb and gutter, parking lots, parking lighting, flashing lights or signals, gates at crossway, resurfacing or widening, turn lanes, and acceleration lanes;

(b) fiber‑optic cable;

(c) rail spurs; and

(d) site preparation, which includes surveying, environmental and geo‑technical study and mitigation, clearing, filling, and grading.

‘Infrastructure’ does not include buildings, fixtures, land acquisition, or other similar items.

‘Infrastructure’ includes only those projects for which costs were incurred after the initial identification of a site as a proposed designated economic development site.

(4) ‘Municipality’ means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government as the use of the term dictates, located in a county as defined by subsection (1).

(5) ‘New capital investment’ means private capital investment within the designated economic development site by the owners of the properties which comprise the site which is incurred after the initial identification of the site as a proposed designated economic development site. New capital investment shall not include any costs incurred for the acquisition of land comprising the designated economic development site.

(6) ‘New job’ means a new full‑time job created in this State at the time a new facility is initially staffed.

Section 4‑10‑1130. (A) Subject to the requirements of this article, a municipality may impose exclusively in the proposed designated economic development site a fee on all retailers located in the site not to exceed two percent for not more than twenty years. The fee shall be imposed on the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12, but not the gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons, for the purposes provided in Section 4‑10‑1160 by:

(1) an ordinance adopted by a supermajority of the municipal council which must be at least two‑thirds of the members of a municipal council. However, if the fee is imposed by ordinance, the fee may not exceed one percent on the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12, but not the gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons; or

(2) the approval of a majority of qualified electors voting in a referendum held pursuant to this section called by a majority of the members of the municipal council.

In the case of an imposition by ordinance, the text of the ordinance must contain a detailed statement that the designated economic development site will meet the requirements set forth in Section 4‑10‑1120(1) before the municipality may pay any infrastructure reimbursement. Regardless of the method of imposition, if the site fails to maintain the requirements set forth in Section 4‑10‑1120(1), the municipality may include, at the municipal council’s discretion, provisions in the ordinance which may suspend or repeal the fee, or require the owners of the site to refund to the municipality any fee revenues expended on infrastructure within the site on a pro‑rata basis or otherwise, as the council may deem necessary or appropriate.

(B)(1) Upon the adoption of a resolution calling for a referendum by the municipal council, the municipal election commission in each municipality shall conduct a referendum on the first Tuesday ninety days after the adoption of the resolution on the question of implementing the fee within the municipality. The state election laws apply to the referendum, mutatis mutandis. The municipal election commission shall publish the results of the referendum and certify them to the municipal council. The fee must not be imposed in the municipality, unless a majority of the qualified electors voting in the referendum approve the question.

(2) The ballot must read substantially as follows:

‘Must a [one or two] percent fee on the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12, but not the gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons, be levied for the purpose of providing funding to defray the cost of infrastructure at the \_\_\_\_\_\_\_\_\_ designated economic development site, which will invest at least one hundred million dollars, and create at least one thousand two hundred fifty new jobs for at least the first year and shall maintain at least six hundred twenty‑five jobs thereafter?

Yes 

No ’

(3) If the question is not approved at the initial referendum, the municipal council may call for another referendum on the question. However, following the initial referendum, a referendum for this purpose must not be held more often than once in a twenty‑four month period on the Tuesday following the first Monday in November in even‑numbered years.

(4) Two weeks before the referendum, the municipal council shall publish in a newspaper of general circulation within the jurisdiction a description of and the uses for the fee and a copy of the referendum question.

(C) The imposition date of the fee allowed pursuant to this article is the first day of the first month beginning more than sixty days after the municipality files a certified copy of the imposition ordinance or the certification of the results of the referendum with the South Carolina Department of Revenue.

(D) Once a certified copy of the ordinance or referendum results is filed with the Department of Revenue, for the period of imposition provided in that ordinance or referendum, the department may not accept as filed any additional ordinance or referendum results from the municipality that in any way relates to the fee allowed to be imposed pursuant to this article except an ordinance enacted by a supermajority of the municipal council which must be at least two‑thirds of the members of a municipal council or results of a referendum conducted with the same requirements set forth in subsection (B) rescinding the existing fee. The Department of Revenue shall accept for filing a certified copy of an ordinance or referendum results rescinding the fee and such rescission shall apply in the manner provided in Section 4‑10‑1130 for imposition.

(E) The municipality shall rescind the fee on all, or a portion of, the site upon written petition of all of the property owners in the entire site.

Section 4‑10‑1140. (A) The fee allowed by this article is an amount not to exceed two percent on the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12, but not the gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons.

(B) The fee imposed pursuant to this article must be administered and collected by the Department of Revenue in the same manner that sales and use taxes are collected. The department may prescribe amounts that may be added to the sales price because of the fee.

(C) The fee authorized by this article is in addition to all other state and local sales and use taxes and applies to the gross proceeds of sales in the designated economic development site that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons are exempt from the fee imposed by this article. The fee imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(D) The provisions of subsections (C), (D), (E), (F), and (G) of Section 4‑10‑350 apply for fee payors and the fee allowed to be imposed pursuant to this article, including further identification of point of sale jurisdictions, mutatis mutandis.

(E)(1) The revenues of the fee imposed pursuant to this article must be remitted to the Department of Revenue and placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of any refunds made and costs to the Department of Revenue of administering the tax, not to exceed one percent of the revenues, the State Treasurer shall distribute the revenues and interest quarterly based on point of collection to the treasurer of the municipality in which the fee is imposed and the revenues must be used only for the purposes provided in Section 4‑10‑1160. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocations. However, allocations made as a result of municipal code errors must be corrected prospectively.

(2) Prior to a designated economic development site meeting the criteria set forth in Section 4‑10‑1120(1), upon receipt of the revenues and interest from the Department of Revenue, the municipality shall deposit the revenue in a separate account. Any interest accrued in the account shall be credited to the account. The municipality may not expend any funds for the reimbursement of infrastructure until the designated economic development site meets the criteria set forth in Section 4‑10‑1120(1).

Section 4‑10‑1150. The Department of Revenue shall furnish data to the State Treasurer and to the municipal treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12‑54‑240. A person violating this section is subject to the penalties provided in Section 12‑54‑240.

Section 4‑10‑1160. (A) All fee revenues and interest on the fee revenues must be used exclusively for infrastructure located in the designated economic development site from which such fees were collected.

(B) A municipality may treat such fees as revenue~~s~~ from a multicounty park pursuant to Article VIII, Section 13 of the South Carolina Constitution, 1895, and Section 4‑1‑170. The municipality may use the fees as provided in Section 4‑1‑175 as if such fees were revenues from payment in lieu of taxes, provided that the fees may only be used for the purposes specified in this section.

(C) Fee revenues from a designated economic development site may be used to reimburse an owner of property located in the designated economic development site for its investment in infrastructure only if: (a) the owner shall have actually expended in qualifying infrastructure not less than such amount to be reimbursed, and (b) the Department of Revenue certifies that (i) the items or activities for which such reimbursement is requested qualify as infrastructure as defined in this article, and (ii) the amount actually expended by the owner on eligible infrastructure is accurate and eligible for reimbursement.”

SECTION 2. Chapter 10, Title 4 of the 1976 Code is amended by adding:

“Article 10

Alternate Local Option Tourism Development Fee

Section 4‑10‑1010. This article may be cited as the ‘Alternate Local Option Tourism Development Fee Act’.

Section 4‑10‑1020. For purposes of this article:

(1) ‘County’ means a county in which revenues of the state accommodations tax imposed pursuant to Section 12‑36‑920 have aggregated at least five million dollars in a fiscal year and a per capita personal income of at least forty thousand dollars.

(2) ‘Fee’ means the local option tourism development fee allowed to be imposed as provided in this article.

(3) ‘Municipality’ means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government or governing body as the use of the term dictates, located in a county as defined by item (1) of this section.

(4) ‘Per capita personal income’ means the latest reported per capita personal income as calculated by the Bureau of Economic Analysis of the United States Department of Commerce.

Section 4‑10‑1030. (A) Subject to the requirements of this article, a municipality by ordinance may impose in the municipality a fee not to exceed one percent for not more than ten years for the purposes provided in Section 4‑10‑1060 by the approval of a majority of qualified electors voting in a referendum held pursuant to this section called by a majority of the members of the municipal council.

(B)(1) Upon the adoption of a resolution calling for a referendum by the municipal council, the municipal election commission in each municipality shall conduct a referendum on the first Tuesday ninety days after the adoption of the resolution on the question of implementing the fee within the municipality. The state election laws apply to the referendum, mutatis mutandis. The municipal election commission shall publish the results of the referendum and certify them to the municipal council. The fee must not be imposed in the municipality, unless a majority of the qualified electors voting in the referendum approve the question.

(2) The ballot must read substantially as follows:

‘Must a one percent fee on the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12, but not the gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons, be levied in \_\_\_\_\_\_\_\_\_\_ for the purpose of tourism advertisement and promotion directed at non‑South Carolina residents with the possibility that up to thirty percent be used to provide credits against municipal property taxes in the manner that the municipality shall provide by ordinance and no more than twenty percent of the fee revenues may be used to fund tourism related capital projects?

Yes 

No ’

(3) If the question is not approved at the initial referendum, the municipal council may call for another referendum on the question. However, following the initial referendum, a referendum for this purpose must not be held more often than once in a twenty‑four month period on the Tuesday following the first Monday in November in even‑numbered years.

(4) Two weeks before the referendum, the municipal council shall publish in a newspaper of general circulation within the jurisdiction a description of and the uses for the fee.

(C) The imposition date of the fee allowed pursuant to this article is the first day of the first month beginning more than sixty days after the municipality files a certified copy of the imposition ordinance or the certification of the results of the referendum with the South Carolina Department of Revenue.

(D) Once a certified copy of the ordinance or referendum results is filed with the Department of Revenue, for the period of imposition provided in that ordinance or referendum, the department may not accept as filed any additional ordinance or referendum results from the municipality that in any way relates to the fee allowed to be imposed pursuant to this chapter.

Section 4‑10‑1040. (A) The fee allowed by this article is an amount not to exceed one percent of the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12.

(B) The fee imposed pursuant to this article must be administered and collected by the Department of Revenue in the same manner that sales and use taxes are collected. The department may prescribe amounts that may be added to the sales price because of the fee.

(C) The fee authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the municipality subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons are exempt from the fee imposed by this article. The fee imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(D) The provisions of subsections (C), (D), (E), (F), and (G) of Section 4‑10‑350 apply for fee payors and the fee allowed to be imposed pursuant to this article, including further identification of point of sale jurisdictions, mutatis mutandis.

(E) The revenues of the fee imposed pursuant to this article must be remitted to the department and placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. Earnings on this fund must be credited to it and earnings are considered fee revenues. After deducting the amount of any refunds made and costs to the department of administering the tax, not to exceed one percent of the revenues, the State Treasurer shall distribute the fee revenues quarterly to the treasurer of the municipality in which the fee is imposed and the revenues must be used only for the purposes provided in Section 4‑10‑1060. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocations. However, allocations made as a result of municipal code errors must be corrected prospectively.

Section 4‑10‑1050. (A)(1) The Department of Revenue shall furnish data to the State Treasurer and to the municipal treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12‑54‑240. A person violating this section is subject to the penalties provided in Section 12‑54‑240.

Section 4‑10‑1060. (A)(1) Except as provided in item (2) of this subsection, fee revenues must be used exclusively for tourism advertisement and promotion directed at non‑South Carolina residents.

(2) Fee revenues received each year of imposition must be used as provided in item (1) except that up to thirty percent may be used to provide credits against municipal property taxes in the manner that the municipality shall provide by ordinance and no more than twenty percent of the fee revenues may be used to fund capital projects.

(B) The municipality shall designate no more than two organizations within the county to receive fee revenues to conduct the promotional activities provided pursuant to subsection (A)(1). These organizations must be nonprofit destination marketing organizations representing a broad cross section of tourism interests within the county. In addition, before an organization may be designated, it must certify to the imposing municipality that:

(1) its promotional and advertising programs are based on research‑based outcomes;

(2) the organization has a proven record of success in creating new and repeat visitation to the county;

(3) it has sufficient resources to create, plan, implement, and measure the marketing program generated by the fee revenues and the infrastructure to assure proper business controls; and

(4) it will use the funds only for the purposes provided pursuant to subsection (B)(1) or (D) of this section.

(C) the receiving organization must present an annual marketing plan and budget to the municipal council or its designee for review and approval before implementation.

(D) Capital projects funded by fee revenues must directly relate to the promotion of tourism.

(E) Municipalities located in the same county that are imposing a fee pursuant to this article jointly may designate a regional tourism promoter located in the county to promote tourism in the municipalities imposing the fee. The regional tourism promoter must be designated in the manner provided in subsection (B) and may only promote tourism to non‑South Carolina residents.”

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

Renumber sections to conform.

Amend title to conform.

Senator LEATHERMAN explained the amendment.

The amendment was adopted.

**Amendment No. 3**

Senators PINCKNEY and MALLOY proposed the following Amendment No. 3 (L: S-resmin\1054LM9), which was withdrawn:

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

/ SECTION 1. Chapter 10, Title 4 of the 1976 Code is amended by adding:

“Article 11”

Local Option Extraordinary Commercial Facilities Fee

Section 4‑11‑1110. This article may be cited as the ‘Local Option Extraordinary Commercial Facilities Fee Act’.

Section 4‑11‑1120. For purposes of this article:

(1) ‘Municipality’ means a municipal corporation created pursuant to Chapter 1, Title 5 or a municipal government as the use of the term dictates, located in a county as defined by subsection (1).

(2) ‘Designated economic development site’ means a site with a (i) has value of new capital investment within the park, including the value of capital investment in all its components, regardless of how those components are owned or controlled, is not less than an aggregate amount of one hundred million dollars; (ii) there is an aggregate of not fewer than five hundred new jobs in the park; and (iii) there are total sales tax receipts at a rate of three million dollars each year in the park, which may be based on an annualized number using the two most recent quarters. The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports. The municipalities making a designation of a designated economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated economic development site.

(3) ‘Fee’ means the local option extraordinary commercial facilities fee allowed to be imposed as provided in this article.

Section 4‑11‑1130. (A) Subject to the requirements of this article, a municipality, with the prior written permission of all the owners of the site, may impose exclusively in a designated economic development site a fee on all retailers located in the site not to exceed two percent for not more than thirty years for the purposes provided in Section 4‑11‑1160 by:

(1) an ordinance adopted by a supermajority of the municipal council which must be at least two‑thirds of the members of a municipal council; or

(2) the approval of a majority of qualified electors voting in a referendum held pursuant to this section called by a majority of the members of the municipal council.

(B)(1) Upon the adoption of a resolution calling for a referendum by the municipal council, the municipal election commission in each municipality shall conduct a referendum on the first Tuesday ninety days after the adoption of the resolution on the question of implementing the fee within the municipality. The state election laws apply to the referendum, mutatis mutandis. The municipal election commission shall publish the results of the referendum and certify them to the municipal council. The fee must not be imposed in the municipality, unless a majority of the qualified electors voting in the referendum approve the question.

(2) The ballot must read substantially as follows:

‘Must a [one or two] percent fee on the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12, but not the gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons, be levied in \_\_\_\_\_\_\_\_\_\_ for the purpose of providing for funding for the purpose of defraying the cost of public and private infrastructure at extraordinary commercial facilities?

Yes 

No ’

(3) If the question is not approved at the initial referendum, the municipal council may call for another referendum on the question. However, following the initial referendum, a referendum for this purpose must not be held more often than once in a twenty‑four month period on the Tuesday following the first Monday in November in even-numbered years.

(4) Two weeks before the referendum, the municipal council shall publish in a newspaper of general circulation within the jurisdiction a description of and the uses for the fee.

(C) The imposition date of the fee allowed pursuant to this article is the first day of the first month beginning more than sixty days after the municipality files a certified copy of the imposition ordinance or the certification of the results of the referendum with the South Carolina Department of Revenue.

(D) Once a certified copy of the ordinance or referendum results is filed with the Department of Revenue, for the period of imposition provided in that ordinance or referendum, the department may not accept as filed any additional ordinance or referendum results from the municipality that in any way relates to the fee allowed to be imposed pursuant to this chapter.

(E) The municipality shall rescind the fee on all, or a portion of, the site upon written petition of all of the property owners in the entire site.

Section 4‑11‑1140. (A) The fee allowed by this article is an amount not to exceed two percent of the gross proceeds of sales or sales price of all amounts subject to the sales and use tax imposed pursuant to Chapter 36, Title 12.

(B) The fee imposed pursuant to this article must be administered and collected by the Department of Revenue in the same manner that sales and use taxes are collected. The department may prescribe amounts that may be added to the sales price because of the fee.

(C) The fee authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36, Title 12 and the enforcement provisions of Chapter 54, Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36, Title 12 and the gross proceeds of sales of unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons are exempt from the fee imposed by this article. The fee imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36, Title 12.

(D) The provisions of subsections (C), (D), (E), (F), and (G) of Section 4‑10‑350 apply for fee payors and the fee allowed to be imposed pursuant to this article, including further identification of point of sale jurisdictions, mutatis mutandis.

(E) The revenues of the fee imposed pursuant to this article must be remitted to the Department of Revenue and placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of any refunds made and costs to the Department of Revenue of administering the tax, not to exceed one percent of the revenues, the State Treasurer shall distribute the revenues and interest quarterly based on point of collection to the treasurer of the municipality in which the fee is imposed and the revenues must be used only for the purposes provided in Section 4‑10‑1160. The State Treasurer may correct misallocations by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocations. However, allocations made as a result of municipal code errors must be corrected prospectively.

Section 4‑11‑1150. The Department of Revenue shall furnish data to the State Treasurer and to the municipal treasurers receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to municipalities upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12‑54‑240. A person violating this section is subject to the penalties provided in Section 12‑54‑240.

Section 4‑11‑1160. (A)(1) Except as provided in item (2) of this subsection, all revenues and interest of the fee must be used exclusively for public and private infrastructure, buildings, furniture and fixtures in the designated economic development site.

(A)(2). A municipality may treat such fees as revenues from a multicounty park and apply them as provided in Section 4-1-175 as if such payments were payments in lieu of taxes.

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator PINCKNEY explained the amendment.

**RECESS**

At 1:46 P.M., with Senator PINCKNEY retaining the floor, with unanimous consent, on motion of Senator LEATHERMAN, the Senate receded from business not to exceed ten minutes.

At 1:56 P.M., the Senate resumed.

On motion of Senator PINCKNEY, with unanimous consent, Amendment No. 3 was withdrawn.

There being no further amendments, the question then was the second reading of the Bill.

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

**Ayes 41; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Coleman

Courson Davis Elliott

Fair Ford Grooms

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--41**

**NAYS**

**Total--0**

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

The Bill was returned to the status of Special Order.

**Motion Adopted**

Senator LARRY MARTIN moved that the Senate revert to the Motion Period.

The motion was adopted.

**THE SENATE REVERTED TO THE MOTION PERIOD**

**MADE SPECIAL ORDER**

H. 3584 -- Reps. Harrell, Bingham, Cooper, Harrison, Owens, Sandifer, White, Crawford, Bannister, Huggins, Sottile, Spires, Herbkersman, Loftis, Bowen, Erickson, Daning, Hardwick, J.R. Smith, Pinson, Toole, Brady, Clemmons, Edge, Forrester, Frye, Gullick, Hearn, Hiott, Horne, Kelly, Littlejohn, Long, E.H. Pitts, Rice, Skelton, D.C. Smith, G.M. Smith, Whitmire, Wylie, Gunn, Limehouse, Willis, J.E. Smith and Bales: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑21‑625 SO AS TO IMPOSE A SURTAX ON EACH CIGARETTE IN AN AMOUNT OF TWO AND ONE‑HALF CENTS, PROVIDE FOR THE CREDITING OF THE REVENUE FROM THE SURTAX TO THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE DEPARTMENT OF AGRICULTURE FOR MARKETING AND BRANDING STATE‑GROWN CROPS AND TO ASSIST IN RELIEF FROM NATURAL DISASTERS AFFECTING STATE-GROWN CROPS, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, PROVIDE FOR REPORTING, PAYMENT, COLLECTION, AND ENFORCEMENT OF THE SURTAX, AND DEFINE “CIGARETTE”; TO AMEND SECTION 12‑21‑620, RELATING TO THE ORIGINAL CIGARETTE TAX, SO AS TO CONFORM DEFINITIONS; BY ADDING SECTION 11‑11‑230 SO AS TO CREATE AND ESTABLISH IN THE STATE TREASURY THE SMOKING PREVENTION AND CESSATION TRUST FUND, THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE TRUST FUND, AND THE PALMETTO HEALTH CARE SAFETY NET TRUST FUND, ALL SO AS TO RECEIVE DEPOSITS OF THE REVENUES FROM THE CIGARETTE SURTAX AS SPECIFIED; BY ADDING CHAPTER 62 TO TITLE 38 SO AS TO CREATE AND ESTABLISH THE SOUTH CAROLINA HEALTHY FAMILIES INSURANCE PLAN, PROVIDING FOR A PREMIUM CREDIT NOT TO EXCEED THREE THOUSAND DOLLARS TO AN ELIGIBLE INDIVIDUAL OR EMPLOYER TOWARD THE PURCHASE OF A QUALIFYING HEALTH INSURANCE PLAN, DESCRIBING ELIGIBILITY REQUIREMENTS AND THE CERTIFICATION PROCESS, DEFINING THE QUALIFYING INDIVIDUALLY OR EMPLOYER‑SPONSORED INSURANCE PLANS, AND PROVIDING FOR ADMINISTRATION AND REPORTING BY THE DEPARTMENT OF INSURANCE; AND BY ADDING SECTION 38‑74‑75 SO AS TO CREATE THE PALMETTO HEALTH CARE SAFETY NET PROGRAM, ESTABLISHING A SELF‑SUSTAINING AND FINANCIALLY INDEPENDENT PORTION OF THE PREMIUM ASSISTANCE POOL, AND PROVIDING FOR ELIGIBILITY REQUIREMENTS, ADMINISTRATION, AND REPORTING BY THE DEPARTMENT OF INSURANCE AND OPERATING GUIDELINES.

Senator LARRY MARTIN moved that the Bill be made a Special Order.

The Bill was made a Special Order.

**S. 3584--Recorded Vote**

Senators BRIGHT, BRYANT, MULVANEY and DAVIS desired to be recorded as voting against the motion to make the Bill a Special Order.

**S. 3584--Recorded Vote**

Senator SHEHEEN desired to be recorded as voting in favor of the motion to make the Bill a Special Order.

**Expression of Personal Interest**

Senator SHEHEEN rose for an Expression of Personal Interest.

**MOTION ADOPTED**

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

**ACTING PRESIDENT PRESIDES**

At 2:01 P.M., Senator LARRY MARTIN assumed the Chair.

**READ THE SECOND TIME**

S. 2 -- Senators McConnell, Peeler, Leatherman, Sheheen, Rose, Courson, Elliott, Massey, Hayes, Davis, Bright and L. Martin: A BILL TO AMEND SECTION 11‑11‑410, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO IMPLEMENTATION OF THE LIMIT ON STATE SPENDING IMPOSED PURSUANT TO SECTION 7(C), ARTICLE X OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, SO AS TO REVISE THIS LIMIT BY IMPOSING AN ANNUAL LIMIT ON THE APPROPRIATION OF STATE GENERAL FUND REVENUES BY ADJUSTING SUCH REVENUES BY A ROLLING TEN‑YEAR AVERAGE IN ANNUAL CHANGES IN GENERAL FUND REVENUES AND THE CREATION OF A SEPARATE BUDGET STABILIZATION FUND IN THE STATE TREASURY TO WHICH MUST BE CREDITED ALL GENERAL FUND REVENUES IN EXCESS OF THE ANNUAL LIMIT, THE REVENUES OF WHICH MUCH FIRST BE USED TO STABILIZE GENERAL FUND REVENUES AVAILABLE FOR APPROPRIATION, TO DEFINE EMERGENCIES AND TO PROVIDE FOR SUSPENSION OF THIS APPROPRIATIONS LIMIT IN EMERGENCIES, TO PROVIDE THAT A CASH BALANCE IN THE BUDGET STABILIZATION FUND IN EXCESS OF FIFTEEN PERCENT OF GENERAL FUND REVENUES OF THE MOST RECENT COMPLETED FISCAL YEAR MAY BE APPROPRIATED IN SEPARATE LEGISLATION FOR VARIOUS NONRECURRING PURPOSES, AND TO DEFINE SURPLUS GENERAL FUND REVENUES.

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

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

**Ayes 33; Nays 5**

**AYES**

Alexander Bright Bryant

Campsen Coleman Courson

Davis Elliott Fair

Grooms Jackson Knotts

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McConnell Mulvaney

Nicholson O’Dell Peeler

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Verdin

**Total--33**

**NAYS**

Ford Hutto Land

Leventis Pinckney

**Total--5**

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

**Statement by Senators LEVENTIS and HUTTO**

If this takes effect, it would be the State of South Carolina’s third savings account. If we diminish the inventory of tax dollars, we promote mediocrity in this State. When this takes effect, South Carolinians will never be able to improve the quality of their lives.

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

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

**AMENDED, CARRIED OVER**

S. 1 -- Senators McConnell, Peeler, Leatherman, Sheheen, Rose, Courson, Elliott, Massey, Hayes, Davis, Bright, Campsen, Campbell, L. Martin, f{-2

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

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

**Provisions of Rule 26B Waived**

Senator LEATHERMAN moved under the provisions of Rule 26B to take up an additional amendment on third reading.

Having received the requisite number of votes under the provisions of Rule 26B, Amendment No. 1 was taken up for immediate consideration.

**Amendment No. 1**

Senator LEATHERMAN proposed the following Amendment No. 1 (1FIN001.HKL), which was adopted:

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

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

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

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

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

(2) Upon implementation of the provisions of this subsection by law, such law may not be amended or repealed except by the special vote as provided in this subsection.

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

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

“Must Section 7, Article X of the Constitution of this State be amended, relating to the requirement for the State and its political subdivisions to have budget processes designed to keep revenues and expenditures in balance and the limitation on state appropriations, so as to amend the existing state spending limitation and require the General Assembly to replace it by general law to provide a limit on general fund appropriations so that general fund revenue available for appropriations for a fiscal year must not exceed a base year amount plus seventy-five percent of an increase in recurring general fund revenues; provide for the definition and calculation of the base year; provide for the creation of a Budget Stabilization Fund; provide for the funding of the Budget Stabilization Fund from the appropriate available revenues; provide for the specification of revenues and sources of revenue to which the limit shall apply; provide for enacted revenue adjustments that affect the calculation; provide for emergencies and other extraordinary economic and fiscal conditions that would require an adjustment to the limit; provide for procedures to implement; and provide for the conditions that authorize withdrawal of funds from the Budget Stabilization Fund?

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:

Yes 

No 

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

Renumber sections to conform.

Amend title to conform.

Senator LEATHERMAN explained the amendment.

The amendment was adopted.

Senator HUTTO moved to carry over the Joint Resolution.

The Joint Resolution was carried over, as amended.

**Motion Pending**

Senator McCONNELL moved that, when the Senate stands adjourned on Wednesday, March 31, 2010, the Senate would stand adjourned to meet on Thursday, April 1, 2010, subject to the times and limitations set forth in Rule 1B;

and, further, when the Senate adjourns on Thursday, April 1, 2010, the Senate would stand adjourned to meet on Monday, April 5, 2010, under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up;

and, further, when the Senate stands adjourned on Monday, April 5, 2009, the Senate will stand adjourned to meet on Tuesday, April 6, 2010, Wednesday, April 7, 2010, and Thursday, April 8, 2010, subject to the times and limitations set forth in Rule 1B;

and, further, when the Senate stands adjourned on Thursday, April 8, 2010, it will stand adjourned to meet on Friday, April 9, 2010, under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up;

and, further, when the Senate stands adjourned on Friday, April 9, 2010, the Senate will stand adjourned to meet in Statewide Session on Tuesday, April 13, 2010, at 12:00 Noon.

On motion of Senator McCONNELL, the motion was carried over.

**Expression of Personal Interest**

Senator LEATHERMAN rose for an Expression of Personal Interest.

**PLACED IN THE STATUS OF ADJOURNED DEBATE**

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

Senator McCONNELL moved that the Joint Resolution be placed in the status of Adjourned Debate.

The Joint Resolution was placed in the status of Adjourned Debate.

**LOCAL APPOINTMENTS**

**Confirmations**

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

Reappointment, Spartanburg County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Frederick Donald Watson, 150 Kelseys Mill Road, Campobello, SC 29322-8806

Reappointment, Spartanburg County Board of Voter Registration, with the term to commence March 15, 2010, and to expire March 15, 2012

At-Large:

Cynthia W. Church, 108 Cumberland Drive, Moore, SC 29369

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Delores Franklin Williams, 4804 Nesmith Road, Nesmith, SC 29580

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Randy Brice Foxworth, 97 Crestwood Dr., Andrews, SC 29510

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

William Clayton Driggers, P. O. Box 163, Salters, SC 29590

Reappointment, Williamsburg County Magistrate, with the term to commence April 30, 2010, and to expire April 30, 2014

Martin Ira Easler, 196 Richburg Rd., Greeleyville, SC 29056

**MOTION ADOPTED**

On motion of Senator ROSE, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. David Patrick of Summerville, S.C., who died after a long illness with Parkinson’s Disease. He is survived by his wife, Betty Patrick, and his three children, Celeste, Denise and Sean.

**ADJOURNMENT**

At 2:18 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

\* \* \*