**Wednesday, June 2, 2010**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 2:00 P.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT *Pro Tempore*.

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

In Exodus we read:

“But Moses said to God, ‘Who am I, that I shall go to Pharaoh...?’ And God said, ‘I will be with you.’ ” (Exodus 3:11, 12a)

Let us pray:

Gracious and Loving Lord, we are terribly aware at this point of this week of the many issues, concerns, and problems which still cry out to be addressed and resolved. Some things will still be accomplished; some things at the present time will not. Yet through it all, O God, help us never to forget to have confidence in Your very presence with these Senators and with each of their hardworking staff members. By the power of Your grace, dear God, enable each of them to remain courageous, doing and saying what is just and right, as You would have them do. We give You our praise and thanksgiving, Lord.

Amen.

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

**Doctor of the Day**

Senator O'DELL introduced Dr. Marshall Meadors of Anderson, S.C., Doctor of the Day.

**Leave of Absence**

On motion of Senator HAYES, at 11:10 A.M., Senator THOMAS was granted a leave of absence for the balance of the day.

**Leave of Absence**

At 11:55 A.M., Senator KNOTTS requested a leave of absence from 11:55 - 2:30 P.M.

**Leave of Absence**

At 12:04 P.M., Senator COURSON requested a leave of absence from 12:04 - 4:00 P.M.

**Leave of Absence**

At 2:10 P.M., Senator PEELER requested a leave of absence from 2:10 - 5:00 P.M.

**Leave of Absence**

At 5:15 P.M., Senator SHANE MARTIN requested a leave of absence beginning at 5:15 P.M. until Noon on Tuesday, June 15, 2010.

**Leave of Absence**

At 3:50 P.M., on motion of Senator LOURIE, Senator SHEHEEN was granted a leave of absence until 11:00 A.M. on Thursday, June 3, 2010.

**RATIFICATION OF ACTS**

Pursuant to an invitation the Honorable Speaker and House of Representatives appeared in the Senate Chamber on June 02, 2010, at 11:15 A.M. and the following Acts and Joint Resolution were ratified:

(R285, S. 144) -- Senators Campsen and Ford: AN ACT TO RATIFY AN AMENDMENT TO SECTION 33, ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE PROVISION PROVIDING THAT NO UNMARRIED WOMAN UNDER THE AGE OF FOURTEEN YEARS OLD MAY LEGALLY CONSENT TO SEXUAL INTERCOURSE, SO AS TO DELETE THAT PROVISION.

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(R286, S. 286) -- Senators Cleary, Rose and Scott: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 8 TO TITLE 44 SO AS TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO IMPLEMENT A TARGETED COMMUNITY HEALTH PROGRAM IN THREE TO FIVE COUNTIES OF NEED FOR DENTAL HEALTH EDUCATION, SCREENING, AND TREATMENT REFERRALS IN PUBLIC SCHOOLS FOR CHILDREN IN KINDERGARTEN, THIRD, SEVENTH, AND TENTH GRADES OR UPON ENTRY INTO PUBLIC SCHOOLS; TO REQUIRE PROGRAM GUIDELINES TO BE PROMULGATED IN REGULATIONS; TO PROVIDE FOR A COMMUNITY ORAL HEALTH COORDINATOR TO ASSIST COUNTY HEALTH DEPARTMENTS AND SCHOOL DISTRICTS TO STRENGTHEN ORAL HEALTH IN THEIR COMMUNITIES; TO REQUIRE AN ACKNOWLEDGMENT OF DENTAL SCREENING TO BE ISSUED UPON COMPLETION OF THE SCREENING AND TO REQUIRE THIS ACKNOWLEDGMENT TO BE PRESENTED TO THE CHILD’S SCHOOL; TO REQUIRE NOTIFICATION TO THE CHILD’S PARENT IF PROFESSIONAL ATTENTION IS INDICATED BY THE SCREENING AND IF AUTHORIZED BY THE CHILD’S PARENTS; TO PROVIDE NOTIFICATION TO THE COMMUNITY HEALTH COORDINATOR TO FACILITATE FURTHER ATTENTION IF NEEDED; TO PROVIDE THAT A SCREENING MUST BE COMPLETED UNLESS A CHILD’S PARENT COMPLETES AN EXEMPTION FORM; TO PROVIDE THAT IMPLEMENTATION OF THIS PROGRAM IS CONTINGENT UPON THE APPROPRIATION OF ADEQUATE FUNDING; AND TO REPEAL SECTION 44‑1‑240 RELATING TO A PILOT PROGRAM FOR DENTAL HEALTH SCREENINGS OF CHILDREN.

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(R287, S. 974) -- Senator Campsen: AN ACT TO AMEND SECTION 50‑9‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, SO AS TO FURTHER SPECIFY THE DURATION OF TEMPORARY, ANNUAL, THREE‑YEAR, THREE‑YEAR DISABILITY, AND CATAWBA INDIAN LICENSES; TO AMEND SECTION 50‑9‑30, RELATING TO RESIDENCY REQUIREMENTS FOR HUNTING AND FISHING LICENSES, SO AS TO FURTHER SPECIFY THESE REQUIREMENTS FOR RECREATIONAL AND COMMERCIAL LICENSES; BY ADDING SECTION 50‑9‑35 SO AS TO PROVIDE THAT THE DURATION OF A RESIDENT LICENSE CONTINUES UNTIL ITS EXPIRATION IF THE LICENSEE BECOMES A NONRESIDENT; TO AMEND SECTION 50‑9‑40, AS AMENDED, RELATING TO THE APPLICATION OF FISHING LICENSE REGULATIONS TO RECREATIONAL FRESHWATER FISHING, SO AS TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES SHALL PRESCRIBE THE FORM AND TYPE OF LICENSES, THE PROCEDURES AND AGREEMENTS ALLOWING VENDORS TO SELL LICENSES AND PROCEDURES FOR REMITTING FEES COLLECTED TO THE DEPARTMENT; BY ADDING SECTION 50‑9‑45 SO AS TO PROVIDE THAT SOUTH CAROLINA MEMBERS OF THE ARMED FORCES, UPON PRESENTATION OF PROPER DOCUMENTATION, MAY FISH AND HUNT WITHOUT OBTAINING A LICENSE; TO AMEND SECTION 50‑9‑75, RELATING TO CRIMINAL PENALTIES FOR ATTEMPTING TO OBTAIN A LICENSE WHEN THE PERSON’S LICENSE IS SUSPENDED, SO AS TO PROVIDE THAT WHEN A PORTION OF A COMBINATION LICENSE IS SUSPENDED, THE HOLDER MUST SURRENDER THE LICENSE AND OBTAIN SEPARATE LICENSES FOR THE UNSUSPENDED ACTIVITIES; BY ADDING SECTION 50‑9‑350 SO AS TO PROVIDE ACTIONS THE DEPARTMENT MAY TAKE TO ENCOURAGE THE RECRUITMENT OF PERSONS TO BE APPRENTICE HUNTERS WHILE ALSO LEARNING TO BE RESPONSIBLE HUNTERS; TO AMEND ARTICLE 5 OF CHAPTER 9, TITLE 50, RELATING TO HUNTING AND FISHING LICENSES, SO AS TO FURTHER SPECIFY RESIDENT AND NONRESIDENT LICENSE AND PERMIT REQUIREMENTS AND FEES FOR HUNTING, HUNTING BIG GAME, HUNTING ON WILDLIFE MANAGEMENT AREAS, HUNTING MIGRATORY GAME BIRDS AND MIGRATORY WATERFOWL, AND HUNTING AUTHORIZED RELEASED SPECIES ON A LICENSED SHOOTING PRESERVE; TO FURTHER SPECIFY REQUIREMENTS TO OBTAIN A COMBINED STATEWIDE LICENSE FOR HUNTING AND FISHING; TO FURTHER SPECIFY REQUIREMENTS TO OBTAIN A STATEWIDE COMBINATION HUNTING AND FISHING LICENSE; TO FURTHER SPECIFY REQUIREMENTS TO OBTAIN HUNTING AND FISHING LICENSES AT NO COST BY PERSONS WHO ARE DISABLED, PERSONS BASED ON THEIR SENIOR AGE STATUS, AND CATAWBA INDIANS; TO PROVIDE RESIDENT AND NONRESIDENT REQUIREMENTS TO OBTAIN RECREATIONAL STATEWIDE SALTWATER AND FRESHWATER FISHING LICENSES AND TO OBTAIN A LAKES AND RESERVOIRS FISHING PERMIT; TO PROVIDE REQUIREMENTS FOR THE PRIVILEGE OF OPERATING A FISHING PIER OR A CHARTER FISHING VESSEL; AND TO PROVIDE THAT IT IS UNLAWFUL TO HUNT MIGRATORY GAME BIRDS WITHOUT A MIGRATORY GAME BIRD PERMIT; BY ADDING ARTICLE 6 TO CHAPTER 9, TITLE 50 SO AS TO PROVIDE LICENSURE AND PERMIT REQUIREMENTS FOR HUNTING ANTLERLESS DEER AND MIGRATORY WATERFOWL AND TO PROVIDE THAT THE DEPARTMENT SHALL PRODUCE FOR SALE COMMEMORATIVE STAMPS AND TO PROVIDE FOR THE USE OF FUNDS GENERATED FROM THESE SALES; TO AMEND SECTION 50‑9‑710, RELATING TO HUNTING AND FISHING LICENSES FOR CHILDREN UNDER SIXTEEN, FISHING IN A PRIVATE POND AND PAY‑TO‑FISH COMMERCIAL BUSINESSES, SO AS TO FURTHER SPECIFY REQUIREMENTS TO ENGAGE IN THESE ACTIVITIES WITHOUT A LICENSE; TO AMEND ARTICLE 9, CHAPTER 9, TITLE 50, RELATING TO THE DISPOSITION OF FINES AND FORFEITURES FOR VIOLATIONS OF VARIOUS PROVISIONS IN TITLE 50 AND FOR THE DISTRIBUTION OF LICENSE AND PERMIT FEES, SO AS TO FURTHER SPECIFY THE REVENUE SOURCES AND AUTHORIZED USES OF THIS REVENUE FOR THE FISH AND WILDLIFE PROTECTION FUND, FISH AND WILDLIFE DEFERRED LICENSE FUND, MARINE RESOURCES FUND, MARINE RESOURCES DEFERRED LICENSE FUND, AND COUNTY GAME AND FISH FUND; TO AMEND SECTION 50‑11‑390, RELATING TO THE DEPARTMENT’S REGULATION OF HUNTING ANTLERLESS DEER, SO AS TO DELETE PROVISIONS ENACTED IN OTHER SECTIONS OF THIS ACT; AND TO REPEAL SECTIONS 50‑1‑160, 50‑3‑790, 50‑3‑800, AND 50‑11‑1240 ALL RELATING TO HUNTING AND FISHING LICENSES, LICENSE FEES, AND DISTRIBUTION OF CERTAIN FEES.

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(R288, S. 1014) -- Senators Jackson, Rose and Ford: AN ACT TO AMEND SECTION 33‑31‑1402, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISSOLUTION OF NONPROFIT CORPORATIONS BY DIRECTORS, MEMBERS, AND THIRD PERSONS, SO AS TO PROVIDE THAT BEFORE THE SECRETARY OF STATE MAY ACCEPT FOR FILING ARTICLES OF DISSOLUTION OF AN EXISTING NONPROFIT ORGANIZATION EXECUTED BY A PERSON AUTHORIZED BY THIS SECTION TO TAKE SUCH ACTION, THE SECRETARY OF STATE SHALL REQUIRE THIS PERSON TO ATTACH AN AFFIDAVIT TO THE FILING WHERE THE PERSON UNDER OATH SUBJECT TO A PENALTY OF PERJURY CERTIFIES THAT HE HOLDS THE REQUISITE AUTHORITY TO TAKE SUCH ACTION; AND TO AMEND SECTION 33‑31‑1403, RELATING TO NOTICES TO THE ATTORNEY GENERAL IN REGARD TO THE DISSOLUTION OF SPECIFIED NONPROFIT CORPORATIONS, SO AS TO REVISE CERTAIN REFERENCES AND PROVIDE THAT THE NONPROFIT ORGANIZATION SHALL SUBMIT TO THE SECRETARY OF STATE COPIES OF ALL DOCUMENTS PROVIDED TO THE ATTORNEY GENERAL AT THE TIME OF THE FILING OF THE ARTICLES OF DISSOLUTION.

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(R289, S. 1028) -- Senator Leventis: AN ACT TO AMEND SECTION 32‑8‑320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY SERVE AS A DECEDENT’S AGENT TO AUTHORIZE CREMATION, SO AS ALSO TO PERMIT A PERSON NAMED IN THE DECEDENT’S DEPARTMENT OF DEFENSE RECORD OF EMERGENCY DATA FORM (DD FORM 93), OR ITS SUCCESSOR FORM, TO AUTHORIZE CREMATION IF THE DECEDENT DIED WHILE SERVING IN ANY BRANCH OF THE UNITED STATES ARMED SERVICES AND THERE IS NO KNOWN DESIGNATION IN THE WILL OR OTHER VERIFIED AND ATTESTED DOCUMENT OF THE DECEDENT; AND TO AMEND SECTION 40‑19‑280, AS AMENDED, RELATING TO, AMONG OTHER PROVISIONS, THE REQUIREMENT OF CONTACT WITH THE NEXT‑OF‑KIN OR OTHER PERSONS RESPONSIBLE FOR FUNERAL ARRANGEMENTS BEFORE A DECEDENT’S REMAINS MAY BE REMOVED TO A FUNERAL ESTABLISHMENT, SO AS TO INCLUDE A PERSON NAMED BY THE DECEDENT IN HIS DD FORM 93 AS A PERSON REQUIRED TO BE CONTACTED IF THE DECEDENT DIED WHILE SERVING IN ANY BRANCH OF THE UNITED STATES ARMED SERVICES.

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(R290, S. 1330) -- Senators Peeler and Land: A JOINT RESOLUTION TO PROVIDE THAT IN 2011 AND 2012, THE ANNUAL FEE FOR THE AUTOMOBILE MANUFACTURER STANDARD LICENSE PLATE FOR VEHICLES IN SUCH MANUFACTURER’S EMPLOYEE BENEFIT PROGRAM AND FOR THE TESTING, DISTRIBUTION, EVALUATION, AND PROMOTION OF ITS VEHICLES IS SIX HUNDRED NINETY‑NINE DOLLARS, TO PROVIDE THAT TWENTY DOLLARS OF EACH FEE IS CREDITED TO THE GENERAL FUND OF THE STATE AND THE BALANCE TO LOCAL GOVERNMENTS, AND TO PROVIDE THAT THE ENTIRE FEE AMOUNT BE CREDITED TO THE GENERAL FUND OF THE STATE FOR NONRESIDENT PARTICIPANTS IN THE EMPLOYEE BENEFIT PROGRAM.

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(R291, S. 1405) -- Senator Coleman: AN ACT TO PROVIDE FOR THE TRANSFER OF QUALIFYING STUDENTS FROM FAIRFIELD COUNTY SCHOOL DISTRICT TO CHESTER COUNTY SCHOOL DISTRICT; TO REQUIRE THE TREASURER OF FAIRFIELD COUNTY TO REMIT CERTAIN FUNDS PER TRANSFERRING PUPIL TO CHESTER COUNTY SCHOOL DISTRICT ON BEHALF OF FAIRFIELD COUNTY SCHOOL DISTRICT; TO PROVIDE FOR THE TIMING OF THE PAYMENT, AND TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO PAY THE AMOUNT DUE TO CHESTER COUNTY SCHOOL DISTRICT OUT OF FUNDS OTHERWISE ALLOCATED TO THE FAIRFIELD COUNTY SCHOOL DISTRICT PURSUANT TO THE EDUCATION FINANCE ACT IF THE TREASURER OF FAIRFIELD COUNTY FAILS TO PAY CHESTER COUNTY SCHOOL DISTRICT; TO ALLOW THE CHESTER COUNTY SCHOOL DISTRICT TO CONSIDER THESE PAYMENTS ANTICIPATED AD VALOREM TAXATION; TO REQUIRE THE STATE SUPERINTENDENT OF EDUCATION TO SETTLE ANY DISPUTE THAT ARISES BETWEEN THE DISTRICTS UPON THE IMPLEMENTATION AND ADMINISTRATION OF THE PROVISIONS OF THIS ACT; AND TO PROVIDE FOR THE PAYMENT OF MONIES PREVIOUSLY OWED TO CHESTER COUNTY SCHOOL DISTRICT.

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(R292, H. 3059) -- Rep. Herbkersman: AN ACT TO AMEND SECTION 7‑1‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN SOUTH CAROLINA ELECTION LAW, SO AS TO DELETE THE DEFINITION “CLUB DISTRICT”; TO AMEND SECTION 7‑5‑460, RELATING TO CUSTODY OF BOOKS AND THEIR RETURN AFTER AN ELECTION, SO AS TO DELETE A REFERENCE TO A “CLUB” AS AN ENTITY TO WHOM THE BOOKS ARE RESPONSIBLE; TO AMEND SECTION 7‑9‑20, RELATING TO QUALIFICATIONS FOR MEMBERSHIP IN A CERTIFIED PARTY AND FOR VOTING AT A PARTY PRIMARY ELECTION, SO AS TO DELETE REFERENCES TO PARTY CLUBS; TO AMEND SECTION 7‑9‑70, RELATING TO CLUBS IN PARTY ORGANIZATIONS, SO AS TO DELETE PROVISIONS REQUIRING DELEGATES AT PARTY CONVENTIONS TO BE COMPRISED OF DELEGATES ELECTED FROM THE CLUBS IN THE COUNTY; TO AMEND SECTION 7‑13‑170, RELATING TO THE PROCEDURE WHEN A MANAGER FAILS TO ATTEND THE PLACE WHICH HAS BEEN SCHEDULED FOR HOLDING A POLL, SO AS TO DELETE THE TERM “CLUB” FROM THE QUALIFYING MEMBER TO BECOME A MANAGER IN THE PLACE OF ABSENT MANAGERS; TO REPEAL SECTION 7‑9‑30, 7‑9‑40, 7‑9‑50, AND 7‑9‑60 ALL RELATING TO CLUBS IN PARTY ORGANIZATIONS; AND TO DELAY THE EFFECTIVE DATE OF ACT 138 OF 2010, RELATING TO LEXINGTON COUNTY PRECINCTS.

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**RECALLED**

H. 4855 -- Reps. Sandifer, Skelton, Hayes and Hiott: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERSECTION LOCATED AT THE JUNCTION OF SOUTH CAROLINA HIGHWAY 93 AND PERIMETER ROAD IN THE CITY OF CLEMSON “BILL MCLELLAN INTERSECTION” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERSECTION THAT CONTAIN THE WORDS “BILL MCLELLAN INTERSECTION”.

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

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1495 -- Senators Land, Anderson, Coleman, Elliott, Ford, Hutto, Jackson, Leventis, Lourie, Malloy, Matthews, McGill, Nicholson, Pinckney, Reese, Scott, Setzler, Sheheen and Williams: A SENATE RESOLUTION TO COMMEND TEMUS C. MILES, JR., STAFF ATTORNEY FOR SENATE RESEARCH AND COUNSEL TO THE SENATE MINORITY CAUCUS, FOR HIS EXCELLENT SERVICE AND EXTEND BEST WISHES TO HIM IN HIS NEW ENDEAVORS.

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The Senate Resolution was adopted.

S. 1496 -- Senator Scott: A SENATE RESOLUTION TO RECOGNIZE AND HONOR PASTOR BOBBY WATKINS AS HE APPROACHES HIS NINTH YEAR IN PASTORING AND SERVING THE SAINTS OF ST. PAUL BAPTIST CHURCH AND THE SURROUNDING COMMUNITY WITH GOD'S UNENDING GRACE.

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The Senate Resolution was adopted.

S. 1497 -- Senator Coleman: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND THE GREEN PURCHASING INITIATIVE BEGUN IN THE FALL OF 2008, AND TO ENCOURAGE THE STATEWIDE ADOPTION OF THE INITIATIVE'S POLICIES.

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The Senate Resolution was adopted.

S. 1498 -- Senator Reese: A BILL TO AMEND SECTION 56-5-2946, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REQUIRING A PERSON TO SUBMIT TO TESTING TO DETERMINE WHETHER HE IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS WHILE OPERATING A MOTOR VEHICLE, SO AS TO PROVIDE THAT WHEN A PERSON IS INVOLVED IN AN ACCIDENT THAT RESULTS IN A FATALITY, HE MUST BE TESTED TO DETERMINE WHETHER HE IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

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

S. 1499 -- Senators Leventis and Lourie: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND FRED LAMPHERE FOR HIS HONORABLE MILITARY SERVICE TO THIS GRATEFUL STATE AND NATION AND FOR HIS TIRELESS VOLUNTEER EFFORTS TO PROVIDE HOMES FOR HOMELESS VETERANS IN SOUTH CAROLINA.

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The Senate Resolution was adopted.

S. 1500 -- Senator Williams: A SENATE RESOLUTION TO EXPRESS BEST WISHES OF THE MEMBERS OF THE SENATE TO MR. JAMES RAWLINGS DIXON OF BENNETTSVILLE, SOUTH CAROLINA, AND TO EXPRESS APPRECIATION FOR HIS LONG LIFE OF SERVICE TO HIS COUNTRY, STATE, AND COMMUNITY.

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The Senate Resolution was adopted.

S. 1501 -- Senators Knotts, Cromer and Courson: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERCHANGE LOCATED AT THE INTERSECTION OF UNITED STATES HIGHWAY 378 AND INTERSTATE HIGHWAY 26 IN LEXINGTON COUNTY "SENATOR NIKKI SETZLER INTERCHANGE" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERCHANGE THAT CONTAIN THE WORDS "SENATOR NIKKI SETZLER INTERCHANGE".

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

S. 1502 -- Senators McConnell and L. Martin: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO ARTICLE III, SECTION 9 OF THE CONSTITUTION OF THIS STATE AND SECTION 2-1-180 OF THE 1976 CODE, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, JUNE 3, 2010, NOT LATER THAN 5:00 P.M., OR ANYTIME EARLIER, EACH HOUSE SHALL STAND ADJOURNED TO MEET IN STATEWIDE SESSION AT NOON ON TUESDAY, JUNE 15, 2010, AND CONTINUE IN SESSION FOR NO LONGER THAN THREE LEGISLATIVE DAYS, FOR THE CONSIDERATION OF CERTAIN MATTERS, TO FURTHER PROVIDE THAT IF THE GENERAL APPROPRIATIONS BILL OR ANY OTHER BILL PROVIDING FOR THE ORDINARY EXPENSES OF THE STATE GOVERNMENT FOR FISCAL YEAR 2010-2011 HAS NOT BEEN ENROLLED FOR RATIFICATION BY 5:00 P.M. ON THURSDAY JUNE 3, 2010, THEN EACH HOUSE SHALL REMAIN IN SESSION AFTER THIS TIME FOR CONSIDERATION OF ANY MATTER RELATING TO THE GENERAL APPROPRIATIONS BILL OR ANY OTHER BILL PROVIDING FOR THE ORDINARY EXPENSES OF STATE GOVERNMENT FOR FISCAL YEAR 2010-2011 AND SHALL REMAIN IN SESSION UNTIL SUCH BILL IS ENROLLED FOR RATIFICATION AND TO PROVIDE THAT AFTER SUCH BILL IS ENROLLED, EACH HOUSE SHALL STAND ADJOURNED TO MEET ON THE SECOND TUESDAY FOLLOWING AND SHALL REMAIN IN SESSION FOR NO LONGER THAN THREE LEGISLATIVE DAYS FOR THE CONSIDERATION OF CERTAIN MATTERS, AND UPON ADJOURNMENT, EACH HOUSE SHALL STAND ADJOURNED TO MEET AT A TIME MUTUALLY AGREED UPON BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FOR THE CONSIDERATION OF CERTAIN MATTERS, AND TO PROVIDE THAT UNLESS ADJOURNED EARLIER THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE NO LATER THAN NOON ON TUESDAY, JANUARY 11, 2011.

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Be it resolved by the Senate, the House of Representatives concurring:

(A) Pursuant to the provisions of Article III, Section 9 of the South Carolina Constitution and Section 2‑1‑180 of the 1976 Code, and the provisions of this resolution, the Sine Die adjournment date for the General Assembly for the 2010 session is recognized and extended to permit the General Assembly to continue in session after Thursday, June 3, 2010, under the terms and conditions stipulated in this resolution and for this purpose each house agrees that when the Senate and the House of Representatives adjourn on Thursday, June 3, 2010, not later than 5:00 p.m., or at any time prior, each house shall stand adjourned to meet in statewide session on Tuesday, June 15, 2010, at 12:00 noon and to continue in statewide session, if necessary, for no longer than three legislative days. Further, each house agrees to limit itself to consideration of the following matters and subject to the following conditions, as applicable:

(1) receipt and consideration of legislation necessary to address any shortfall in revenue meeting the conditions of Section 11‑9‑890;

(2) receipt and consideration of gubernatorial vetoes;

(3) receipt and consideration of resolutions affecting Sine Die adjournment;

(4) receipt, consideration, and confirmation of appointments;

(5) receipt and consideration of resolutions expressing sympathy or congratulations;

(6) receipt and consideration of local legislation which has the unanimous consent of the affected delegation;

(7) concurrence and nonconcurrence in amendments to bills returned from the other house;

(8) appointment of members to conference and free conference committees; and

(9) receipt and consideration of conference and free conference reports.

(B) Notwithstanding the provisions of subsection (A), if the General Appropriations bill or any other bill providing for the ordinary expenses of the state government for fiscal year 2010-2011 has not been enrolled for ratification by 5:00 p.m. on Thursday June 3, 2010, then each house shall remain in session after this time for consideration of any matter relating to the General Appropriations bill or any other bill providing for the ordinary expenses of state government for fiscal year 2010-2011 and shall remain in session until such bill is enrolled for ratification. Upon adjournment on the legislative day that the General Appropriations bill or any other bill providing for the ordinary expenses of the state government for fiscal year 2010-2011 is enrolled for ratification, each house agrees to meet at noon on the second Tuesday following this legislative day, or at noon on a day mutually agreed upon by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and to continue in statewide session, if necessary, for no longer than three legislative days. Further, each house agrees to limit itself to consideration of the following matters and subject to the following conditions, as applicable:

(1) receipt and consideration of legislation necessary to address any shortfall in revenue meeting the conditions of Section 11‑9‑890;

(2) receipt and consideration of gubernatorial vetoes;

(3) receipt and consideration of resolutions affecting Sine Die adjournment;

(4) receipt, consideration, and confirmation of appointments;

(5) receipt and consideration of resolutions expressing sympathy or congratulations;

(6) receipt and consideration of local legislation which has the unanimous consent of the affected delegation;

(7) concurrence and nonconcurrence in amendments to bills returned from the other house;

(8) appointment of members to conference and free conference committees; and

(9) receipt and consideration of conference and free conference reports.

(C) When the Senate and the House of Representatives adjourn pursuant to the provisions of subsection (A) or (B), each house shall stand adjourned and shall meet in statewide session at a date and time mutually agreed upon by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Further, each house agrees to limit itself to consideration of the following matters and subject to the following conditions, as applicable:

(1) receipt and consideration of legislation necessary to address any shortfall in revenue meeting the conditions of Section 11‑9‑890;

(2) receipt and consideration of gubernatorial vetoes;

(3) receipt and consideration of resolutions affecting the Sine Die adjournment date; and

(4) receipt and consideration of resolutions expressing sympathy or congratulations.

(D) The President Pro Tempore of the Senate and the Speaker of the House of Representatives may set a mutually agreed upon time any time prior to Sine Die adjournment for officers of the Senate and House to ratify acts. Upon adjournment of a statewide session called pursuant to subsection (C), or upon adjournment provided in subsection (A) or (B) if no statewide session is called pursuant to subsection (C), unless adjourned earlier, the General Assembly shall stand adjourned Sine Die at noon on January 11, 2011.

(E) No provision of this resolution shall prohibit or limit the ability of the House of Representatives or the Senate from meeting in organizational session pursuant to the provisions of Article III, Section 9 of the South Carolina Constitution.

Senator McCONNELL explained the resolution.

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

**S. 1502--Recorded Vote**

Senators MULVANEY, SHANE MARTIN and BRIGHT desired to be recorded as voting against the adoption of the resolution.

H. 5013 -- Rep. Toole: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF INTERSTATE HIGHWAY 26 IN LEXINGTON COUNTY FROM ITS INTERSECTION WITH UNITED STATES HIGHWAY 1 TO ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 302 THE "STANDRA JONES MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS "STANDRA JONES MEMORIAL HIGHWAY" AND REQUEST THAT THE COSTS OF THESE MARKERS OR SIGNS ARE NOT PAID FOR WITH PUBLIC FUNDS.

On motion of Senator GROOMS, with unanimous consent, the Concurrent Resolution was adopted and returned to the House.

H. 5024 -- Reps. Kelly, Parker, Cole, Allison, Forrester, Millwood and Mitchell: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERSECTION AT THE JUNCTION OF UNITED STATES HIGHWAY 29 AND ZION HILL ROAD IN SPARTANBURG COUNTY "REPRESENTATIVE LANNY F. LITTLEJOHN INTERSECTION" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERSECTION THAT CONTAIN THE WORDS "REPRESENTATIVE LANNY F. LITTLEJOHN INTERSECTION".

On motion of Senator GROOMS, with unanimous consent, the Concurrent Resolution was adopted and returned to the House.

H. 5047 -- Reps. Parks, M. A. Pitts and Pinson: A BILL TO VEST TITLE IN GREENWOOD COUNTY OF CERTAIN PROPERTY FORMERLY BELONGING TO THE GREENWOOD RECREATION COMMISSION WHICH WAS CREATED BY ACT 338 OF 1949 AND DISSOLVED BY ACT 1352 OF 1968, AND TO DIRECT THE CLERK OF COURT FOR GREENWOOD COUNTY TO EXECUTE DEEDS OF CONVEYANCE ON BEHALF OF THE GREENWOOD RECREATION COMMISSION.

Read the first time and ordered placed on the Local and Uncontested Calendar.

H. 5071 -- Reps. Hayes and McLeod: A CONCURRENT RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA GENERAL ASSEMBLY UPON THE PASSING OF THE HONORABLE WILLIAM J. MCLEOD OF DILLON COUNTY, ONE OF SOUTH CAROLINA'S MOST DISTINGUISHED JUDGES, AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

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

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has returned the following Bill to the Senate with amendments:

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

Respectfully submitted,

Speaker of the House

Received as Information

The Bill was ordered placed on the Calendar for consideration tomorrow.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.207, S. 454 by a vote of 62 to 6:

(R207, S454) -- Senators Peeler and Ford: AN ACT 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 PROVIDE PROCEDURES FOR FILLING A BOARD SEAT THAT IS VACANT FOR SIXTY DAYS, TO PROVIDE THAT MILEAGE, PER DIEM, AND SUBSISTENCE FOR BOARD MEMBERS MUST BE PAID BY THE BOARD RATHER THAN FROM THE STATE GENERAL FUND, TO PROVIDE THAT THE OFFICE OF STATE FIRE MARSHAL WILL PROVIDE ADMINISTRATIVE SUPPORT TO THE BOARD AND THAT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, AMONG OTHER FUNCTIONS, WILL PROVIDE ADMINISTRATIVE, FISCAL, INVESTIGATIVE, AND INSPECTION OPERATIONS AND ACTIVITIES OF THE BOARD, TO DEFINE TERMS, TO REQUIRE LICENSURE FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS AND TO PROVIDE LICENSURE QUALIFICATIONS AND REQUIREMENTS, TO AUTHORIZE THE DEPARTMENT, FIRE CHIEFS, AND LAW ENFORCEMENT OFFICERS TO INVESTIGATE COMPLAINTS AND TAKE NECESSARY ACTION TO MAINTAIN PUBLIC SAFETY, TO PROVIDE GROUNDS FOR DISCIPLINARY ACTION AND SANCTIONS THAT MAY BE IMPOSED, TO PROVIDE PROCEDURES FOR HEARINGS AND APPEALS, TO ESTABLISH REQUIREMENTS FOR FACILITIES FOR THE MANUFACTURING, SALE, OR STORAGE OF FIREWORKS, TO PROVIDE REQUIREMENTS FOR A RETAIL FIREWORKS SALES LICENSE, INCLUDING THE REQUIREMENT TO HAVE LIABILITY INSURANCE, TO REQUIRE A WHOLESALE LICENSE TO STORE DISPLAY FIREWORKS, TO REQUIRE THE REPORTING OF FIRES AND EXPLOSIONS, TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS, AND TO FURTHER PROVIDE FOR THE LICENSURE AND REGULATION OF PERSONS MANUFACTURING, SELLING, OR STORING FIREWORKS; AND TO REPEAL SECTIONS 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, 23‑35‑140, AND 23‑35‑160 RELATING TO THE REGULATION, LICENSURE, AND PERMITTING OF FIREWORKS AND EXPLOSIVES.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

S. 1137 -- Senators Fair and L. Martin: A BILL TO AMEND SECTION 44‑53‑398, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MONITORING THE SALE OF PRODUCTS CONTAINING EPHEDRINE OR PSEUDOEPHEDRINE, SO AS TO ALSO MONITOR PHENYLPROPANOLAMINE AND THE SALE AND PURCHASE OF THESE PRODUCTS, TO MAKE IT ILLEGAL TO PURCHASE THESE PRODUCTS, TO PROVIDE THAT INFORMATION GATHERED FROM THE PURCHASER AT THE TIME OF THE SALE OF THESE PRODUCTS MUST BE ENTERED IN AN ELECTRONIC LOG, RATHER THAN A WRITTEN LOG, TO PROVIDE THAT THE INFORMATION MUST BE TRANSMITTED TO A CENTRAL DATA COLLECTION SYSTEM THAT WILL SUBMIT THIS INFORMATION TO SLED WHICH WILL MAINTAIN THIS INFORMATION TO ASSIST LAW ENFORCEMENT IN MONITORING THESE SALES AND PURCHASES, AND TO PROVIDE THAT A RETAILER OF THESE PRODUCTS MAY APPLY TO THE BOARD OF PHARMACY FOR AN EXEMPTION FROM THE ELECTRONIC LOG REQUIREMENT; AND BY ADDING CHAPTER 14 TO TITLE 23 SO AS TO PROVIDE THAT THE STATE LAW ENFORCEMENT DIVISION SHALL SERVE AS THE REPOSITORY FOR INFORMATION THE CENTRAL DATA COLLECTION GATHERS AND TRANSFERS TO SLED PERTAINING TO THE SALE AND PURCHASE OF PRODUCTS CONTAINING EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

H. 3059 -- Rep. Herbkersman: A BILL TO AMEND SECTION 7‑1‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN SOUTH CAROLINA ELECTION LAW, SO AS TO DELETE THE DEFINITION “CLUB DISTRICT”; TO AMEND SECTION 7‑5‑460, RELATING TO CUSTODY OF BOOKS AND THEIR RETURN AFTER AN ELECTION, SO AS TO DELETE A REFERENCE TO A “CLUB” AS AN ENTITY TO WHOM THE BOOKS ARE RESPONSIBLE; TO AMEND SECTIONS 7‑9‑20, 7‑9‑30, AS AMENDED, 7‑9‑40, 7‑9‑50, AS AMENDED, 7‑9‑60, AND 7‑9‑70, RELATING TO CLUBS IN PARTY ORGANIZATIONS, SO AS TO DELETE REFERENCES TO PARTY CLUBS WHICH CLARIFIES THE ORGANIZATIONAL RELATIONS WITH ELECTION PRECINCTS; TO PROVIDE THAT ALL ELECTED PRECINCT COMMITTEEMEN MAY VOTE ON QUESTIONS BEFORE THE COUNTY COMMITTEE, TO PROVIDE THAT THE CHAIRMAN MAY VOTE IN THE CASE OF A TIE, AND TO PROVIDE THAT AN ELECTED OFFICER OF THE COUNTY COMMITTEE WHO IS NOT A PRECINCT COMMITTEEMAN MAY VOTE DE FACTO, AND TO CLARIFY THE ELECTION PRECINCTS ORGANIZATIONAL RELATIONSHIP; AND TO AMEND SECTION 7‑13‑170, RELATING TO THE PROCEDURE WHEN A MANAGER FAILS TO ATTEND THE PLACE WHICH HAS BEEN SCHEDULED FOR HOLDING A POLL, SO AS TO DELETE THE TERM “CLUB” FROM THE QUALIFYING MEMBER TO BECOME A MANAGER IN THE PLACE OF ABSENT MANAGERS.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 405, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

S. 405 -- Senator Cleary: A BILL TO AMEND SECTION 12-37-220 OF THE 1976 CODE, RELATING TO PROPERTY TAX EXEMPTIONS, TO CLARIFY THAT A WATERCRAFT AND ITS MOTOR MAY NOT RECEIVE A FORTY-TWO AND 75/100 PERCENT EXEMPTION IF THE BOAT OR WATERCRAFT IS CLASSIFIED AS A PRIMARY OR SECONDARY RESIDENCE FOR PROPERTY TAX PURPOSES; TO AMEND SECTION 12-37-224, RELATING TO BOATS AS A PRIMARY OR SECONDARY RESIDENCE, TO PROVIDE THAT A BOAT OR WATERCRAFT THAT CONTAINS A COOKING AREA WITH AN ONBOARD POWER SOURCE, A TOILET WITH EXTERIOR EVACUATION, AND A SLEEPING QUARTER, SHALL BE CONSIDERED A PRIMARY OR SECONDARY RESIDENCE FOR PURPOSES OF AD VALOREM PROPERTY TAXATION IN THIS STATE; AND TO AMEND SECTION 12-37-714, RELATING TO BOATS WITH A SITUS IN THIS STATE, TO PROVIDE THAT UPON AN ORDINANCE PASSED BY THE LOCAL GOVERNING BODY, A COUNTY MAY SUBJECT A BOAT, INCLUDING ITS MOTOR IF THE MOTOR IS SEPARATELY TAXED, TO PROPERTY TAX IF IT IS WITHIN THIS STATE FOR NINETY DAYS IN THE AGGREGATE, REGARDLESS OF THE NUMBER OF CONSECUTIVE DAYS.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

S. 1296 -- Senator S. Martin: A BILL TO AMEND SECTION 50-11-710 OF THE 1976 CODE, RELATING TO NIGHT HUNTING, TO PROVIDE THAT COYOTES MAY BE HUNTED AT NIGHT, TO PROVIDE EXCEPTIONS, AND TO PROVIDE PENALTIES.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

S. 692 -- Senators Sheheen, McConnell, Hutto, Knotts, Scott and Coleman: A JOINT RESOLUTION TO EXTEND THE DEADLINE REQUIRING ALL CIRCUIT SOLICITORS TO HAVE A TRAFFIC EDUCATION PROGRAM IN EFFECT FROM JULY 1, 2009, AS PROVIDED IN ACT 176 OF 2008, TO JULY 1, 2010.

and has ordered the Joint Resolution enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

S. 915 -- Senators Land, Anderson, Nicholson, Leventis, Elliott, Williams, Sheheen and Setzler: A BILL TO AMEND ACT 314 OF 2000, TO TERMINATE THE PROVISIONS OF THE SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT ON JUNE 30, 2015.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

H. 4888 -- Reps. Duncan, Ott, Forrester and Mitchell: A JOINT RESOLUTION TO ADOPT THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY GREENHOUSE GAS REGULATIONS FOR STATIONARY SOURCES IN ORDER TO GIVE THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SUFFICIENT TIME TO PROMULGATE APPROPRIATE REGULATIONS, IF REQUIRED.

and has ordered the Joint Resolution enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

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 MANUFACTURE, 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.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

H. 4542 -- Reps. Harrison, Weeks and McLeod: A BILL TO AMEND SECTION 8‑13‑320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES AND POWERS OF THE STATE ETHICS COMMISSION, SO AS TO DELETE THE PROHIBITION OF THE RELEASE OF INFORMATION UNTIL FINAL DISPOSITION OF AN ETHICS INVESTIGATION AND REQUIRE THAT THE INFORMATION MAY NOT BE RELEASED UNTIL A FINDING OF PROBABLE CAUSE HAS BEEN MADE.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

H. 4900 -- Rep. Hayes: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF S.C. HIGHWAY 38 BUSINESS FROM S.C. HIGHWAY 9 IN BENNETTSVILLE TO THE INTERSECTION OF HIGH STREET (S.C. HIGHWAY 381) IN THE TOWN OF BLENHEIM AS THE “DOUGLAS JENNINGS, JR. HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THE WORDS “DOUGLAS JENNINGS, JR. HIGHWAY”.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it concurs in the amendments proposed by the Senate to:

S. 1030 -- Senators Hayes, Mulvaney, Coleman, Verdin, S. Martin, Bryant, O’Dell, Davis, Campsen and Pinckney: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑1‑714 SO AS TO DESIGNATE THE MARSH TACKY AS THE OFFICIAL STATE HERITAGE HORSE OF SOUTH CAROLINA.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

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

**READ THE THIRD TIME**

**ORDERED ENROLLED FOR RATIFICATION**

H. 4187 -- Reps. White and Kirsh: A BILL TO AMEND SECTION 55‑9‑190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS THAT AN ENTITY HAS TO ESTABLISH AN AIRPORT OR LANDING FIELD OR ACQUIRE, LEASE, OR SET APART PROPERTY FOR THAT PURPOSE, SO AS TO DELETE A PROVISION THAT LIMITS THE TERM OF A LEASE OF AIRPORTS OR LANDING FIELDS TO PRIVATE PARTIES FOR OPERATION.

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

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Bill was read the third time and ordered enrolled for Ratification.

**READ THE THIRD TIME**

**ORDERED ENROLLED FOR RATIFICATION**

H. 4839 -- Rep. J.E. Smith: 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 CLARIFY THAT THE PROPERTY TAX EXEMPTION FOR RECIPIENTS OF THE MEDAL OF HONOR AND PRISONERS OF WAR IN CERTAIN CONFLICTS APPLIES TO MEDAL OF HONOR RECIPIENTS REGARDLESS OF WHEN THE MEDAL OF HONOR WAS AWARDED OR THE CONFLICT INVOLVED.

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

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Bill was read the third time and ordered enrolled for Ratification.

**HOUSE BILL RETURNED**

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

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

**S. 913--Recorded Vote**

Senator BRYANT and O'DELL desired to be recorded as voting in favor of the third reading of the Resolution.

**READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 4341 -- Reps. Hutto, Stavrinakis, J.E. Smith, Harvin, Miller, Govan, Allen, Battle, Anderson, Simrill, Norman, T.R. Young and Wylie: A JOINT RESOLUTION TO CREATE THE AUTISM SPECTRUM DISORDER STUDY COMMITTEE ON EARLY INTERVENTION AND TO PROVIDE FOR ITS PURPOSE, MEMBERS, AND DUTIES AND TO PROVIDE THAT THE STUDY COMMITTEE MUST SUBMIT ITS FINDINGS AND RECOMMENDATIONS NO LATER THAN DECEMBER 1, 2011 AT WHICH TIME THE STUDY COMMITTEE IS ABOLISHED.

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

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

**Ayes 32; Nays 0**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Cromer Davis Elliott

Fair Grooms Hutto

Knotts Land Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey McConnell

McGill Mulvaney O’Dell

Peeler Rose Ryberg

Scott Setzler Shoopman

Verdin Williams

**Total--32**

**NAYS**

**Total--0**

The Joint Resolution was read the third time and ordered returned to the House.

**READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 4225 -- Reps. Rutherford, McLeod and Weeks: A BILL TO AMEND SECTION 16‑3‑1400, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE ARTICLE ON THE VICTIM ASSISTANCE PROGRAM, SO AS TO PROVIDE THAT THE TERM “VICTIM SERVICE PROVIDER” DOES NOT INCLUDE MAGISTRATE OR MUNICIPAL JUDGES AND THEIR STAFF.

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

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Bill was read the third time and ordered returned to the House.

**READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 4350 -- Reps. Limehouse, Sottile, Gilliard and Mack: A BILL TO AMEND SECTION 40‑29‑340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRITERIA REQUIRED FOR A MANUFACTURED HOME, SO AS TO PROVIDE THAT FOR A SALE OF A PREVIOUSLY OWNED MANUFACTURED HOME, THE BUYER MUST CERTIFY HE HAS DETERMINED AT LEAST TWO FUNCTIONING SMOKE DETECTORS ARE IN THE HOME.

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

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Peeler

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Bill was read the third time and ordered returned to the House.

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE**

H. 4562 -- Rep. Vick: A BILL TO AMEND SECTION 39‑11‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REGISTRATION FEES OF WEIGHMASTERS AND DEPUTY WEIGHMASTERS, SO AS TO REVISE THE REGISTRATION FEE FOR WEIGHMASTERS AND TO DELETE THE ADDITIONAL FEE FOR DEPUTY PUBLIC WEIGHMASTERS; TO AMEND SECTION 39‑11‑60, RELATING TO LENGTH OF REGISTRATION AND RENEWAL, SO AS TO REVISE THE TIME IN WHICH PUBLIC WEIGHMASTER REGISTRATIONS MUST BE RENEWED; TO AMEND SECTION 39‑11‑80, RELATING TO REFUSAL OR REVOCATION OF A LICENSE, SO AS TO DELETE THE REFUSAL OR REVOCATION OF A DEPUTY PUBLIC WEIGHMASTER LICENSE BY THE COMMISSIONER OF AGRICULTURE; AND TO REPEAL SECTIONS 39‑11‑40 AND 39‑11‑50 RELATING TO EMPLOYMENT OR DESIGNATION OF DEPUTY WEIGHMASTERS AND RENEWAL OF REGISTRATION, RESPECTIVELY.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the previously proposed amendment by Senator VERDIN and printed in the Journal of May 20, 2010.

Senator VERDIN asked unanimous consent to withdraw his previously proposed amendment.

There was no objection and the amendment was withdrawn.

**Motion Under Rule 26B**

Senator VERDIN asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection.

Senator VERDIN proposed the following amendment (4562R002.DBV), which was adopted:

Amend the bill, as and if amended, page 2, by striking SECTION 2 in its entirety and inserting:

/ SECTION 2. Section 39‑11‑60 of the 1976 Code is amended to read:

“Section 39‑11‑60. ~~Notwithstanding the provisions of Section 39‑11‑50, after June 8, 1971 registrations and renewals thereof for public weighmasters and deputy weighmasters shall be for three years.~~ Beginning on July 1, 2011, all registrations for public weighmasters are valid for one year and must be renewed annually on the anniversary date of the registration approval. There shall be no registration fee for public weighmasters.” /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

The amendment was adopted.

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

**THIRD READING BILL**

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

S. 913 -- Senators Land and Elliott: A BILL TO AMEND SECTION 47‑5‑60 OF THE 1976 CODE, RELATING TO PET INOCULATION AGAINST RABIES, TO RAISE THE MAXIMUM FEE ALLOWED TO BE CHARGED FROM THREE TO SIX DOLLARS.

**S. 913--Recorded Vote**

Senators BRIGHT, SHANE MARTIN and McCONNELL desired to be recorded as voting against the third reading of the Bill.

**Statement by Senators McCONNELL, KNOTTS, SHOOPMAN SHANE MARTIN and BRIGHT**

We voted against S. 913 for several reasons. First, the current law smacks of price regulation. The Bill, in our opinion, reinforces that by adjusting the price upward. Frankly, the Bill should have just repealed the law or amended it to let the price move with the market. The free enterprise system should be allowed to work.

**Motion Adopted**

On motion of Senator HAYES, with unanimous consent, Senators MASSEY, MALLOY and HAYES were granted leave to attend a meeting on S. 382 and be granted leave to vote from the balcony.

**SECOND READING BILLS**

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

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

Senator CLEARY explained the Bill.

**H. 4172--Recorded Vote**

Senator SHANE MARTIN desired to be recorded as voting in favor of the second reading of the Bill.

H. 4260 -- Reps. R.L. Brown and Whipper: A BILL TO AMEND SECTION 57‑9‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PETITIONING A COURT TO ABANDON OR CLOSE A STREET, ROAD, OR HIGHWAY, SO AS TO PROVIDE THAT NOTICE OF INTENTION TO FILE A PETITION MUST BE POSTED ALONG THE STREET, ROAD, OR HIGHWAY.

H. 4865 -- Rep. Lowe: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑1‑674 SO AS TO DESIGNATE THE SOUTH CAROLINA PECAN FESTIVAL IN FLORENCE COUNTY AS THE OFFICIAL STATE PECAN FESTIVAL.

**READ THE SECOND TIME**

**CARRYING OVER ALL AMENDMENTS TO THIRD**

H. 3748 -- Reps. Duncan, Clemmons, Chalk and Erickson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑20‑24 SO AS TO PROVIDE THAT THE VALUE OF OWNER OCCUPIED PROPERTY MUST BE INCLUDED IN THE CALCULATION OF THE INDEX OF TAXPAYING ABILITY UNTIL A PERMANENT CHANGE IN THE METHOD OF ITS CALCULATION IS ENACTED; AND TO CREATE THE INDEX OF TAXPAYING ABILITY STUDY COMMITTEE, TO PROVIDE FOR ITS MEMBERSHIP AND ITS PURPOSE, AND TO REQUIRE THE COMMITTEE TO REPORT ITS FINDINGS TO THE GENERAL ASSEMBLY BY JANUARY 10, 2010, UPON WHICH DATE THE COMMITTEE SHALL DISSOLVE.

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

There was no objection.

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

On motion of Senator HAYES, with unanimous consent, the Bill was given a second reading, carrying over all amendments to third.

There was no objection.

**READ THE SECOND TIME**

**PLACED ON THE THIRD READING CALENDAR**

H. 3835 -- Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Brady, Branham, Brantley, H.B. Brown, R.L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb‑Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D.C. Moss, Nanney, J.H. Neal, J.M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Scott, Sellers, Simrill, Skelton, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Spires, Stavrinakis, Stewart, Thompson, Toole, Umphlett, Vick, Viers, White, Whitmire, Williams, Willis, Wylie, A.D. Young and T.R. Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 9, TITLE 23 TO ENACT THE “SOUTH CAROLINA HYDROGEN PERMITTING ACT” SO AS TO CREATE THE STATE HYDROGEN PERMITTING PROGRAM AND TO STATE THE PURPOSE OF THE PROGRAM; TO PROVIDE CERTAIN DEFINITIONS; TO PROVIDE THAT ONLY THE STATE FIRE MARSHAL MAY PERMIT A HYDROGEN FACILITY IN THIS STATE, BUT MAY DELEGATE THIS AUTHORITY TO A COUNTY OR MUNICIPAL OFFICIAL IN SPECIFIC CIRCUMSTANCES; TO PROVIDE THE DUTIES AND OBLIGATIONS OF THE STATE FIRE MARSHAL UNDER THE ACT; TO PROVIDE REQUIREMENTS FOR A PARTY SEEKING TO RENOVATE OR CONSTRUCT A HYDROGEN FACILITY; TO PROVIDE THE STATE FIRE MARSHAL MAY IMPOSE CERTAIN FEES RELATED TO PERMITTING, LICENSING, AND INSPECTING UNDER THE ACT; TO PROVIDE PENALTIES FOR A PERSON WHO CONVEYS OR ATTEMPTS TO CONVEY HYDROGEN IN VIOLATION OF THE ACT; AND TO AMEND SECTION 23‑9‑20, RELATING TO DUTIES OF THE STATE FIRE MARSHAL, SO AS TO PROVIDE THE STATE FIRE MARSHAL SHALL SUPERVISE ENFORCEMENT OF THE SOUTH CAROLINA HYDROGEN PERMITTING PROGRAM.

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 25; Nays 12**

**AYES**

Alexander Anderson Campbell

Coleman Cromer Elliott

Fair Hayes Jackson

Land Leatherman Lourie

Malloy *Martin, Larry* Massey

McGill Nicholson Pinckney

Reese Ryberg Scott

Setzler Sheheen Verdin

Williams

**Total--25**

**NAYS**

Bright Bryant Campsen

Cleary Davis Grooms

Knotts *Martin, Shane* McConnell

Mulvaney Rose Shoopman

**Total--12**

The Bill was read the second time and ordered placed on the third reading Calendar.

**Statement by Senators McCONNELL, SHANE MARTIN,**

**SHOOPMAN and BRIGHT**

Our reading of this Bill indicates it gives the Fire Marshall the authority to impose a fee for permitting, licensing, or inspection of a hydrogen fueling station under the law in this article of the South Carolina statutes. We believe it is wrong to give a state official such authority to set fees without oversight by the elected representatives of the State.

**READ THE SECOND TIME**

**PLACED ON THE THIRD READING CALENDAR**

H. 3681 -- Reps. Ott, Kirsh, Brantley, McEachern, G.A. Brown, J.H. Neal, Cobb‑Hunter, Sellers, Gunn, Dillard, King, Anderson, Duncan, Agnew, Clyburn, Edge, Gambrell, Hosey, Howard, McLeod, M.A. Pitts, Hodges and Hutto: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 26 TO TITLE 50 SO AS TO ENACT “CHANDLER’S LAW” TO PROVIDE FOR REGULATION OF THE OPERATION OF ALL‑TERRAIN VEHICLES INCLUDING THE REQUIREMENT THAT PERSONS FIFTEEN AND YOUNGER MUST COMPLETE A SAFETY COURSE BEFORE THEY MAY OPERATE AN ALL‑TERRAIN VEHICLE, TO REQUIRE THAT VEHICLES MEETING SPECIFIC STANDARDS ONLY MAY BE OPERATED BY PERSONS OF A CERTAIN AGE, TO PROVIDE PENALTIES FOR VIOLATIONS, AND TO PROVIDE THAT ALL‑TERRAIN VEHICLES ARE EXEMPT FROM AD VALOREM TAXES BEGINNING WITH CALENDAR YEAR 2009; AND BY ADDING ARTICLE 9 TO CHAPTER 19, TITLE 56 SO AS TO PROVIDE A PROCEDURE FOR THE TITLING OF ALL‑TERRAIN VEHICLES.

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

Senator HUTTO explained the Bill.

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

**Ayes 21; Nays 18**

**AYES**

Alexander Anderson Campbell

Coleman Elliott Hayes

Hutto Knotts Land

Leatherman Lourie *Martin, Larry*

McGill Nicholson O’Dell

Pinckney Reese Scott

Setzler Sheheen Williams

**Total--21**

**NAYS**

Bright Bryant Campsen

Courson Cromer Davis

Fair Grooms Malloy

*Martin, Shane* Massey McConnell

Mulvaney Peeler Rose

Ryberg Shoopman Verdin

**Total--18**

The Bill was read the second time and ordered placed on the third reading Calendar.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**AMENDED, READ THE SECOND TIME**

H. 4478 -- Reps. Harrell, Cato, Cooper, Duncan, Harrison, Owens, Sandifer, White, Bingham, Barfield, D.C. Moss, Horne, Skelton, V.S. Moss, Bannister, Whitmire, Toole, J.R. Smith, Merrill, Hamilton, Thompson, Bedingfield, Stewart, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Battle, Bowen, Bowers, Brady, Branham, Brantley, G.A. Brown, Chalk, Clemmons, Clyburn, Cole, Crawford, Daning, Delleney, Dillard, Erickson, Forrester, Gambrell, Govan, Hardwick, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Hutto, Hosey, Jefferson, Kelly, Huggins, Kennedy, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Mack, McEachern, Miller, Millwood, Nanney, J.M. Neal, Norman, Ott, Parker, Parks, Pinson, M.A. Pitts, Rice, Scott, Simrill, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, Sottile, Spires, Stavrinakis, Stringer, Umphlett, Vick, Viers, Weeks, Willis, Wylie, A.D. Young, T.R. Young, Mitchell, Lucas and Jennings: A BILL TO ENACT THE “SOUTH CAROLINA ECONOMIC DEVELOPMENT COMPETITIVENESS ACT OF 2010” INCLUDING PROVISIONS TO AMEND SECTION 2‑75‑30, AS AMENDED, RELATING TO RESEARCH CENTERS OF EXCELLENCE MATCHING ENDOWMENTS, SO AS TO FURTHER PROVIDE FOR THE PROCESS AND PROCEDURES FOR AWARDING ENDOWMENTS AND FOR THE APPLICABILITY OF MATCHING REQUIREMENTS; TO AMEND SECTION 2‑75‑50, AS AMENDED, RELATING TO APPLICATION REQUIREMENTS FOR AN AWARD FROM THE CENTERS OF EXCELLENCE MATCHING ENDOWMENT, SO AS TO CLARIFY WHAT THE CONTENTS OF AN APPLICATION TO THE REVIEW BOARD MUST CONTAIN; TO AMEND SECTION 4‑12‑30, AS AMENDED, RELATING TO FEES IN LIEU OF TAXES, SO AS TO INCREASE THE NUMBER OF YEARS A FEE IS AVAILABLE AND TO DELETE A PROVISION THAT REQUIRES THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE REAL PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 4‑29‑67, AS AMENDED, RELATING TO INDUSTRIAL DEVELOPMENT PROJECTS REQUIRING A FEE IN LIEU OF PROPERTY TAXES AGREEMENT, SO AS TO ADD CERTAIN DEFINITIONS, TO FURTHER PROVIDE FOR THE MINIMUM LEVEL OF INVESTMENT FOR A QUALIFIED NUCLEAR PLANT FACILITY, TO PROVIDE FOR THE TIMELINE WHEN THE SPONSOR MUST ENTER INTO AN INITIAL LEASE AGREEMENT WITH THE COUNTY IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY, AND THE TIMELINES WHEN THE SPONSOR MUST MEET MINIMUM INVESTMENT REQUIREMENTS IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY AND PLACE THE PROJECT INTO SERVICE, AND TO DELETE A PROVISION REQUIRING THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 4‑29‑68, AS AMENDED, RELATING TO SPECIAL SOURCE REVENUE BONDS WHICH MAY BE ISSUED BASED ON THE RECEIPT OF CERTAIN REVENUES, SO AS TO SPECIFY THAT ONE OF THE PURPOSES FOR THE ISSUANCE OF THESE BONDS IS TO PAY FOR THE COST OF PERSONAL PROPERTY INCLUDING MACHINERY AND EQUIPMENT; BY ADDING CHAPTER 18 TO TITLE 11 SO AS TO ESTABLISH MECHANISMS AND PROCEDURES FOR THE ALLOCATION, REALLOCATION, AND ISSUANCE OF FEDERAL RECOVERY ZONE BONDS; TO AMEND SECTION 4‑29‑10, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO INDUSTRIAL DEVELOPMENT PROJECTS, SO AS TO REVISE THE DEFINITION OF “PROJECT” TO INCLUDE RECOVERY ZONE PROPERTY AS DEFINED BY FEDERAL LAW; TO AMEND SECTION 12‑6‑530, RELATING TO THE CORPORATE INCOME TAX, SO AS TO REDUCE THE RATE OF THE CORPORATE INCOME TAX FROM FIVE PERCENT ANNUALLY TO ZERO BEGINNING IN 2011 OVER A TEN‑YEAR PERIOD IN INTERVALS OF ONE‑HALF PERCENT PER YEAR; TO AMEND SECTION 12‑6‑3360, AS AMENDED, RELATING TO JOB TAX CREDITS, SO AS TO REVISE THE DESIGNATION TERMINOLOGY FOR COUNTIES COMING WITHIN SPECIFIC CLASSIFICATIONS, TO FURTHER PROVIDE FOR THE CRITERIA FOR DETERMINING HOW COUNTIES FALL WITHIN CERTAIN TIERS, AND TO REVISE SPECIFIC TERMS OR DEFINITIONS USED FOR PURPOSES OF THIS SECTION; TO AMEND SECTION 12‑6‑3375, AS AMENDED, RELATING TO TAX CREDITS FOR PORT CARGO VOLUME INCREASES, SO AS TO REVISE THE MANNER IN WHICH TAX CREDIT ALLOCATIONS ARE DETERMINED AND THE AMOUNT OF THE CREDITS WHICH MAY BE ALLOCATED TO A QUALIFYING TAXPAYER; TO AMEND SECTION 12‑10‑30, AS AMENDED, RELATING TO DEFINITIONS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO REVISE THE DEFINITIONS OF “EMPLOYEE” AND “PROJECT”; TO AMEND SECTION 12‑10‑50, AS AMENDED, RELATING TO QUALIFICATIONS FOR BENEFITS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO REVISE THESE QUALIFICATIONS AND TO FURTHER PROVIDE FOR WHAT A BUSINESS MUST DO TO MEET THESE QUALIFICATIONS; TO AMEND SECTION 12‑10‑60, AS AMENDED, RELATING TO REVITALIZATION AGREEMENTS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO FURTHER PROVIDE FOR THE TERMS, CONDITIONS, AND APPLICATION OF THESE REVITALIZATION AGREEMENTS, PROVIDE FOR WHEN SUCH AN AGREEMENT MUST BE EXECUTED, AND PERMIT THE ASSIGNMENT OF ENTERPRISE PROGRAM BENEFITS UNDER CERTAIN CONDITIONS; TO AMEND SECTION 12‑10‑80, AS AMENDED, RELATING TO JOB DEVELOPMENT CREDITS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO EXPAND ELIGIBLE EXPENDITURES WHICH QUALIFY FOR THE CREDIT, TO CAP THE AMOUNT OF THE CREDITS PER JOB PER YEAR, TO REVISE CERTAIN TERMINOLOGY TO CONFORM TO EARLIER CHANGES HEREIN, TO FURTHER PROVIDE FOR THE CIRCUMSTANCES WHEN THESE CREDITS MAY BE CLAIMED AND THE MANNER OF THE DETERMINATION OF CERTAIN FACTORS NECESSARY TO QUALIFY FOR THE CREDITS, AND TO PROVIDE FOR THE SUSPENSION OF THE CREDITS UNDER CERTAIN CONDITIONS AND FOR WHEN THE CREDITS MAY BE CLAIMED; TO AMEND SECTION 12‑10‑85, AS AMENDED, RELATING TO THE PURPOSE AND USE OF STATE RURAL INFRASTRUCTURE FUNDS, SO AS TO REVISE THE PURPOSES FOR WHICH THESE FUNDS MAY BE USED AND THEIR AVAILABILITY; TO AMEND SECTION 12‑14‑20, RELATING TO THE PURPOSES OF THE ECONOMIC IMPACT ZONE COMMUNITY DEVELOPMENT ACT OF 1995, SO AS TO REVISE THESE PURPOSES; TO AMEND SECTION 12‑14‑60, AS AMENDED, RELATING TO INVESTMENT TAX CREDITS UNDER THE ECONOMIC IMPACT ZONE COMMUNITY DEVELOPMENT ACT OF 1995, SO AS TO REVISE THE AMOUNT OF THE CREDITS, THE QUALIFYING CRITERIA FOR THE CREDITS, AND FOR THE APPLICABILITY OF CERTAIN PROVISIONS TO THESE CREDITS; TO AMEND SECTION 12‑15‑10, RELATING TO THE CITATION OF THE SOUTH CAROLINA LIFE SCIENCES ACT, SO AS TO CHANGE THE CITATION; TO AMEND SECTION 12‑15‑20, RELATING TO DEFINITIONS UNDER THE RENAMED LIFE SCIENCES AND RENEWABLE ENERGY MANUFACTURING ACT, SO AS TO DEFINE THE TERM “RENEWABLE ENERGY MANUFACTURING FACILITY”; TO AMEND SECTION 12‑15‑30, RELATING TO QUALIFICATIONS OF CERTAIN EXPENSES UNDER THE ENTERPRISE ZONE ACT, PROCEDURES FOR WAIVERS, AND THE DURATION OF THESE PROVISIONS, SO AS TO EXPAND THE TYPES OF FACILITIES THAT QUALIFY AND THE DURATION OF THESE PROVISIONS; TO AMEND SECTION 12‑15‑40, RELATING TO INCOME TAX ALLOCATION AND APPORTIONMENT AGREEMENTS BETWEEN THE DEPARTMENT OF REVENUE AND TAXPAYERS ESTABLISHING A LIFE SCIENCES FACILITY, SO AS TO EXPAND THE TYPES OF FACILITIES TO WHICH THIS PROVISION APPLIES; TO AMEND SECTION 12‑20‑105, AS AMENDED, RELATING TO CREDITS AGAINST ITS CORPORATE LICENSE TAX LIABILITY FOR A COMPANY WHO PAYS CASH FOR INFRASTRUCTURE FOR AN ELIGIBLE PROJECT, SO AS TO FURTHER PROVIDE FOR THE ELIGIBILITY FOR THE CREDIT UNDER CERTAIN CIRCUMSTANCES OR THE CONTINUATION OF THE CREDIT; TO AMEND SECTION 12‑28‑2910, AS AMENDED, RELATING TO THE SOUTH CAROLINA COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT, SO AS TO AUTHORIZE THE COUNCIL TO EXPEND CERTAIN FUNDS FOR SPECIFIED PURPOSES UNDER SPECIFIED CONDITIONS; TO AMEND SECTION 12‑37‑930, RELATING TO VALUATION OF PROPERTY FOR PROPERTY TAX PURPOSES AND DEPRECIATION ALLOWANCES FOR MANUFACTURERS, MACHINERY, AND EQUIPMENT, SO AS TO INCLUDE MACHINERY AND EQUIPMENT OF A RENEWABLE ENERGY MANUFACTURING FACILITY WITHIN THE DEPRECIATION ALLOWANCES ALLOWED FOR MACHINERY AND EQUIPMENT OF A LIFE SCIENCES FACILITY, AND TO DEFINE WHAT IS A QUALIFYING FACILITY; TO AMEND SECTION 12‑43‑220, AS AMENDED, RELATING TO CLASSIFICATION OF REAL PROPERTY FOR AD VALOREM TAX PURPOSES, SO AS TO PROVIDE THAT REAL PROPERTY OWNED BY OR LEASED TO A MANUFACTURER AND USED PRIMARILY RATHER THAN EXCLUSIVELY FOR WAREHOUSING AND WHOLESALE DISTRIBUTION IS NOT CONSIDERED USED BY THE MANUFACTURER IN THE CONDUCT OF ITS BUSINESS FOR PROPERTY TAX CLASSIFICATION PURPOSES; TO AMEND SECTION 12‑44‑30, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE CERTAIN DEFINITIONS AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION 12‑44‑40, AS AMENDED, RELATING TO THE REQUIRED FEE AGREEMENT BETWEEN THE SPONSOR AND THE COUNTY UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO PROVIDE THE TIME WITHIN WHICH A SPONSOR HAS TO ENTER INTO A FEE AGREEMENT IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY; TO AMEND SECTION 12‑44‑50, AS AMENDED, RELATING TO THE REQUIREMENT OF A FEE AGREEMENT UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO DELETE A PROVISION THAT REQUIRES THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 12‑44‑130, AS AMENDED, RELATING TO MINIMUM INVESTMENTS TO QUALIFY FOR A FEE AND OTHER REQUIREMENTS, SO AS TO CORRECT A REFERENCE; AND TO REPEAL SECTION 12‑6‑3450 RELATING TO AN INCOME TAX CREDIT FOR PERSONS TERMINATED FROM EMPLOYMENT AS A RESULT OF THE CLOSING OR REALIGNMENT OF A FEDERAL MILITARY INSTALLATION, SECTION 12‑10‑88 RELATING TO REDEVELOPMENT FEES IN REGARD TO CLOSED OR REALIGNED MILITARY INSTALLATIONS, SECTIONS 12‑14‑30, 12‑14‑40, 12‑14‑50, AND 12‑14‑70 RELATING TO ECONOMIC IMPACT ZONES AND ALLOWABLE DEDUCTIONS AGAINST SOUTH CAROLINA TAXABLE INCOME IN REGARD TO THESE ECONOMIC IMPACT ZONES.

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

**Amendment No. P-2**

Senator PEELER proposed the following Amendment No. P-2 (4478FIN012.HSP), which was adopted:

Amend the committee report, as and if amended, page [4478-5], by striking line 26 and inserting:

/ 12‑6‑3360(M) and including a qualified nuclear plant facility as defined in /

Renumber sections to conform.

Amend title to conform.

Senator PEELER explained the amendment.

The amendment was adopted.

**Amendment No. P-4**

Senator O'DELL proposed the following Amendment No. P-4 (4478FIN011.WHO), which was adopted:

Amend the committee amendment, as and if amended, page [4478-65], by striking lines 17 and 18 and inserting:

/ ~~sciences~~ facility meeting the requirements of subitem (1)(a) of this section. In determining whether to approve a /

Amend the committee amendment, as and if amended, page [4478-65], by striking lines 29 and 30 and inserting:

/ ~~sciences~~ facility meeting the requirements of subitem (1)(a) of Section ~~13‑23‑30~~ 12‑15‑30, the South Carolina /

Renumber sections to conform.

Amend title to conform.

Senator O’DELL explained the amendment.

The amendment was adopted.

**Amendment No. P-5**

Senators DAVIS and LEATHERMAN proposed the following Amendment No. P-5 (4478FIN016.TD), which was adopted:

Amend the committee report, as and if amended, page [4478-61], by deleting SECTION 24.

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

**Amendment No. P-6**

Senators DAVIS and LEATHERMAN proposed the following Amendment No. P-6 (4478FIN015.TD), which was adopted:

Amend the committee report, as and if amended, page [4478-52], by striking line 14 and inserting:

/ to claim the credit allowed by Section 12‑6‑3420.

(H) By March first of each year, the Department of Revenue shall issue a report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Secretary of the Department of Commerce outlining the history of the credit allowed pursuant to this section. The report shall include the amount of credit allowed pursuant to this section and the types of infrastructure provided to eligible projects.” /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

**Amendment No. P-7**

Senators DAVIS and LEATHERMAN proposed the following Amendment No. P-7 (4478FIN014.TD), which was adopted:

Amend the committee report, as and if amended, page [4478-50], by deleting SECTION 18.

Amend the committee report further, as and if amended, by adding a new SECTION to read:

/ SECTION \_\_\_. Act 150 of 2010 is repealed. /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

**Amendment No. P-8**

Senators DAVIS and LEATHERMAN proposed the following Amendment No. P-8 (4478FIN013.TD), which was adopted:

Amend the committee report, as and if amended, page [4478-46], by striking lines 26 through 39 and inserting:

/ (i) two hundred fifty jobs at a single location;

(ii) one hundred twenty‑five jobs at a single location and the jobs have an average cash compensation level of more than one and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located;

(iii) seventy‑five jobs at a single location and the jobs have an average cash compensation level of more than twice the lower of state per capita income or per capita income in the county where the jobs are located; or

(iv) thirty jobs at a single location and the jobs have an average cash compensation level of more than two and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located. /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

**Amendment No. P-9**

Senators DAVIS and LEATHERMAN proposed the following Amendment No. P-9 (4478FIN017.TD), which was adopted:

Amend the committee report, as and if amended, beginning on page [4478-54], by deleting line 42 through line 5 on page [4478-55].

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

**Amendment No. P-11A**

Senator ELLIOTT proposed the following Amendment No. P-11A (4478FIN020.DE), which was adopted:

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

/ SECTION \_\_\_. A. The General Assembly finds that in order to encourage economic development along the channels, canals, and waterways, it is essential to maintain the waterways at appropriate depths and widths. Accordingly, the General Assembly concludes that to avoid deleterious effects on economic development along the waterways of this State, it is necessary to preserve and maintain the waterways of this State, and that the creation of a municipal improvement district to widen and dredge the waterways by issuing bonds payable from assessments on the district is a practical manner in which to do so.

B. Section 5‑37‑35 of the 1976 Code is amended to read:

“Section 5‑37‑35. (A) Notwithstanding the provisions of Section 5‑37‑30, assessments, revenues, or debt service on bonds which may be used under this chapter to fund municipal improvements ~~shall~~ must not impose or be derived from, in whole or in part, a tax or assessment on property not located in the improvement district. Bonds issued pursuant to Section 5‑37‑30, however, may be made payable from assessments imposed on property located in the improvement district, and may be additionally secured, in whole or in part, by the full faith, credit, and taxing power of the municipality, if the governing body of the municipality certifies on the date of issuance of the bonds that the assessments as imposed are sufficient as to both amount and duration to pay all debt service on these bonds as they become due.

(B) The provisions of this section do not apply to projects or undertakings designated by a municipal governing body as a ‘system’ ~~under~~ pursuant to Section 6‑21‑40.”

C. Section 5‑37‑20(2) of the 1976 Code is amended to read:

“(2) ‘Improvements’ include open or covered malls, parkways, parks and playgrounds, recreation facilities, athletic facilities, pedestrian facilities, parking facilities, parking garages, and underground parking facilities, and facade redevelopment, the widening and dredging of existing channels, canals, and waterways used specifically for recreational or other purposes provided that the municipality, the State, or other public entity owns fee simple title or an easement for maintenance in these channels, canals, or waterways, the relocation, construction, widening, and paving of streets, roads, and bridges, including demolition of them, underground utilities, all activities authorized by Chapter 1, ~~of~~ Title 31 (State Housing Law), ~~any~~ a building or other facilities for public use, ~~any~~ a public works eligible for financing ~~under~~ pursuant to the provisions of Section 6‑21‑50, services or functions which a municipality in accordance with state law may by law provide, and all things incidental to the improvements, including planning, engineering, administration, managing, promotion, marketing, and acquisition of necessary easements and land, and may include facilities for lease or use by a private person, firm, or corporation. However, improvements as defined in this chapter must comply with all applicable state and federal laws and regulations governing these activities. ~~Any such~~ These improvements may be designated by the governing body as public works eligible for revenue bond financing pursuant to Section 6‑21‑50, and ~~such~~ these improvements, taken in the aggregate, may be designated by the governing body as a ‘system’ of related projects within the meaning of Section 6‑21‑40. The governing body of a municipality, after due investigation and study, may determine that improvements located outside the boundaries of an improvement district confer a benefit upon property inside an improvement district or are necessary to make improvements within the improvement district effective for the benefit of property inside the improvement district.”

D. Section 5‑37‑40(A)(5) and (B) of the 1976 Code, as last amended by Act 109 of 2005, are further amended to read:

“(5) it would be fair and equitable to finance all or part of the cost of the improvements by an assessment upon the real property within the district, the governing body may establish the area as an improvement district and implement and finance, in whole or in part, an improvement plan in the district in accordance with the provisions of this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals, owner‑occupied residential property which is taxed or will be taxed ~~under~~ pursuant to Section 12‑43‑220(c) must not be included within an improvement district unless the owner at the time the improvement district is created gives the governing body written permission to include the property within the improvement district.

(B) If an improvement district is located in a redevelopment project area created ~~under Title 31,~~ pursuant to Chapter 6, Title 31, the improvement district being created under the provisions of this chapter must be considered to satisfy items (1) through (5) of subsection (A). The ordinance creating an improvement district may be adopted by a majority of council after a public hearing at which the plan is presented, including the proposed basis and amount of assessment, or upon written petition signed by a majority in number of the owners of real property within the district which is not exempt from ad valorem taxation as provided by law. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals, owner‑occupied residential property which is taxed or will be taxed ~~under~~ pursuant to Section 12‑43‑220(c) must not be included within an improvement district unless the owner at the time the improvement district is created gives the governing body written permission to include the property within the improvement district.”

E. Section 5‑37‑50 of the 1976 Code, as last amended by Act 109 of 2009, is further amended to read:

“Section 5‑37‑50. The governing body ~~shall~~, by resolution ~~duly~~ adopted, shall describe the improvement district and the improvement plan to be effected ~~therein~~, including ~~any~~ a property within the improvement district to be acquired and improved, the projected time schedule for the accomplishment of the improvement plan, the estimated cost ~~thereof~~ and the amount of ~~such~~ the cost to be derived from assessments, bonds, or other general funds, together with the proposed basis and rates of ~~any~~ assessments to be imposed within the improvement district. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals, owner‑occupied residential property which is taxed or will be taxed ~~under~~ pursuant to Section 12‑43‑220(c) must not be included within an improvement district unless the owner at the time the improvement district is created gives the governing body written permission to include the property within the improvement district. ~~Such~~ The resolution ~~shall~~ also shall establish the time and place of a public hearing to be held within the municipality not sooner than twenty days nor more than forty days following the adoption of ~~such~~ the resolution at which ~~any~~ an interested person may attend and be heard either in person or by attorney on ~~any~~ a matter in connection ~~therewith~~ with the improvement district.”

F. Section 5‑37‑100 of the 1976 Code is amended to read:

“Section 5‑37‑100. Not sooner than ten days nor more than one hundred twenty days following the conclusion of the public hearing provided in Section 5‑37‑50, the governing body ~~may~~, by ordinance, may provide for the creation of the improvement district as originally proposed or with ~~such~~ the changes and modifications ~~therein~~ in it as the governing body may determine, and provide for the financing ~~thereof~~ by assessment, bonds, or other revenues as ~~herein~~ provided in this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals, owner‑occupied residential property which is taxed ~~under~~ pursuant to Section 12‑43‑220(c) must not be included within an improvement district unless the owner gives the governing body written permission to include the property within the improvement district. ~~Such~~ The ordinance ~~shall~~ may not become effective until at least seven days after it has been published in a newspaper of general circulation in the municipality. ~~Such~~ The ordinance may incorporate by reference plats and engineering reports and other data on file in the offices of the municipality~~; provided, that~~. The place of filing and reasonable hours for inspection ~~are~~ must be made available to all interested persons.”/

Renumber sections to conform.

Amend title to conform.

Senator LEATHERMAN explained the amendment.

The amendment was adopted.

Senator SETZLER asked unanimous consent to take Amendment No. P-14 up for immediate consideration.

There was no objection.

**Amendment No. P-14A**

Senator SETZLER proposed the following Amendment No. P-14A (AGM\18118BH10), which was adopted:

Amend the report of the Committee on Finance, as and if amended, by adding a new section to be appropriately numbered, on page [4478-64] immediately after SECTION 25 to read:

/ SECTION \_\_\_\_. Section 12-6-3631 of the 1976 Code, as amended by Act 261 of 2008, is further amended to read:

“Section 12-6-3631. (A) For taxable years beginning after 2007, and before 2012, a taxpayer is allowed a credit against the income tax imposed pursuant to this chapter for qualified expenditures for research and development.

(B) For purposes of this section:

(1) ‘Qualified expenditures for research and development’ means expenditures to develop feedstocks and processes for cellulosic ethanol, waste grease-derived biodiesel and for algae‑derived biodiesel, including:

(a) enzymes and catalysts involving cellulosic ethanol, waste grease-derived biodiesel and algae‑derived biodiesel;

(b) best and most cost efficient feedstocks for South Carolina; or

(c) product and development, including cellulosic ethanol, waste grease-derived biodiesel or algae‑derived biodiesel products.

(2) ‘Cellulosic ethanol’ means fuel from ligno‑cellulosic materials, including wood chips derived from noncommercial sources, corn stover, and switchgrass.

(C) The credit is equal to twenty-five percent of qualified expenditures for research and development, except for expenditures related to waste grease-derived biodiesel, which credit is equal to ten percent. A taxpayer’s total credit in all years, for all expenditures allowed pursuant to this section, must not exceed one hundred thousand dollars. Unused credits may be carried forward for five years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(D) Expenditures qualifying for a tax credit allowed by this section must be certified by the State Energy Office. The State Energy Office may consult with the Department of Agriculture and the South Carolina Institute for Energy Studies on standards for certification.

(E)(1) To obtain the maximum amount of the credit available to a taxpayer, each taxpayer must submit a request for the credit to the State Energy Office by January thirty‑first for qualifying research expenses incurred in the previous calendar year and the State Energy Office must notify the taxpayer that the submitted expenditures qualify for the credit and the amount of credit allocated to such taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit.

(2) For the state’s fiscal year beginning July 1, 2008, the maximum amount of the credit is to be determined based on an eighteen‑month period beginning July 1, 2008, through December 31, 2009. Applications are to be made by January 31, 2010, for the previous eighteen‑month period commencing July 1, 2008, and ending December 31, 2009. A taxpayer allocated a credit for this eighteen‑month period may claim the credit for its tax year which contains December 31, 2009.

(3) To the extent the maximum amount of the credit contained in this section is repealed, the elimination of the maximum amount shall be seen as the last expression of the legislature and to the extent any language in this act conflicts with that repeal, it shall be considered null and void.” /

Renumber sections to conform.

Amend title to conform.

Senator SETZLER explained the amendment.

The amendment was adopted.

**Amendment No. P-12**

Senators HUTTO and RYBERG proposed the following Amendment No. P-12 (4478HUTTOREDEV), which was adopted:

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

/ SECTION . Subsection (C) of Section 12-10-88 of the 1976 Code is amended to read:

“(C) Redevelopment fees may be remitted to the applicable redevelopment authority for a period beginning with the date that the applicable redevelopment authority first submits the information described in subsection (B) to the department and ending fifteen years later or January 1, ~~2015~~ 2017, whichever occurs last. If the redevelopment authority fails to provide the department with the required statement within the requisite time limits, no redevelopment fees must be remitted for that quarter.” /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

The amendment was adopted.

The Committee on Finance proposed the following amendment (4478FIN007.WHO), which was adopted:

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

/ SECTION 1. This act is known and may be cited as the “South Carolina Economic Development Competitiveness Act of 2010”.

SECTION 2. A. Section 4‑12‑30(B)(4)(b) of the 1976 Code, as last amended by Act 352 of 2008, is further amended to read:

(b) If the project consists of a manufacturing, research and development, corporate office, or distribution facility, as those terms are defined in Section 12‑6‑3360(M), each sponsor or sponsor affiliate is not required to invest the minimum investment required by subsection (B)(3), if the total investment in the project exceeds ~~ten~~ five million dollars.”

B. This provision takes effect for fee‑in‑lieu agreements executed after January 1, 2011, provided that a county may amend existing fee‑in‑lieu agreements at any time prior to the expiration of the fee to incorporate the amendment to Section 4‑12‑30(B)(4)(b) as contained in subsection A.

SECTION 3.A. Section 4‑12‑30(C)(4) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(4) The annual fee provided by subsection (D)(2) is available for no more than ~~twenty~~ thirty years for an applicable piece of property. The sponsor may apply to the county prior to the end of the ~~twenty‑year~~ thirty‑year period for an extension of the fee period for up to ten years. The county council of the county shall approve an extension by resolution upon a finding of substantial public benefit. A copy of the resolution shall be delivered to the department within thirty days of the date the resolution was adopted. For projects completed and placed in service during more than one year, each year’s investment may be subject to the fee in subsection (D)(2) for ~~twenty~~ thirty years or, if extended as provided in this subsection up to ~~thirty~~ forty years, for an aggregate fee period of up to ~~forty~~ fiftyyears. For those sponsors qualifying under subsection (D)(4), the annual fee is available for no more than ~~thirty~~ forty years for an applicable piece of property and for those projects placed in service in more than one year the annual fee is available for an aggregate fee period of up to ~~forty‑three~~ fifty‑three years, or for those sponsors qualifying pursuant to subsection (C)(3), ~~forty‑five~~ fifty‑five years.”

B. This provision takes effect for fee‑in‑lieu agreements executed after January 1, 2011, provided that a county may amend existing fee‑in‑lieu agreements at any time prior to the expiration of the fee to incorporate the amendment to Section 4‑12‑30(C)(4) as contained in subsection A.

SECTION 4. A. Section 4‑12‑30(D)(2)(a)(i) of the 1976 Code, as last amended by Act 462 of 1996, is further amended to read:

“(i) for real property, using the original income tax basis for South Carolina income tax purposes without regard to depreciation, if real property is constructed for the fee or is purchased in an arm’s length transaction; otherwise, the property must be reported at its fair market value for ad valorem property tax purposes as determined by appraisal. The fair market value estimate established for the first year of the fee remains the fair market value of the real property for the life of the fee. The county and the sponsor or sponsor affiliate may instead provide in the fee agreement or any amendment thereto that any real property subject to the fee shall be reported at its fair market value for ad valorem property taxes as determined by the department’s appraisal as if such property were not subject to the fee; provided, the department may not undertake such an appraisal more than once every five years; and”

B. This SECTION shall take effect in each county in the first property tax year in which a countywide reassessment program is implemented after December 31, 2010.

SECTION 5. Section 4‑12‑30(J)(1)(b) of the 1976 Code, as last amended by Act 352 of 2008, is further amended to read:

“(b) property which has been subject to South Carolina property taxes, but which has never been placed in service in South Carolina, or which was placed in service in South Carolina pursuant to an inducement agreement or other preliminary approval by the county prior to execution of the lease agreement pursuant to subsection (C)(1), may qualify for the fee.”

SECTION 6.A. Section 4‑29‑67 of the 1976 Code, as last amended by Act 352 of 2008, is further amended to read:

“Section 4‑29‑67. (A)(1) As used in this section:

(a) ‘Department’ means the South Carolina Department of Revenue.

(b) ‘Lease agreement’ means an agreement between the county and a sponsor leasing the property at the project from the county to a sponsor.

(c) ‘Project’ means land, buildings, and other improvements on the land including water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by a sponsor. ‘Project’ also may consist of or include aircraft hangered or utilizing an airport in a county so long as the county expressly consents to its inclusion. Aircraft previously subject to taxation in South Carolina qualify pursuant to this provision.

(d) ‘Qualified nuclear plant facility’ means a nuclear electric power generating plant regulated by the Nuclear Regulatory Commission and includes all real and personal property incorporated into or associated with the facility located or to be located within this State with a total minimum level of investment of one billion dollars.

(~~d~~e) ‘Sponsor’ means one or more entities which sign the inducement agreement with the county and also includes a sponsor affiliate unless the context clearly indicates otherwise.

(~~e~~f) ‘Sponsor affiliate’ means an entity that joins with, or is an affiliate of, a sponsor and that participates in the investment in, or financing of, a project.

(2) Notwithstanding the provisions of Section 4‑29‑60, and notwithstanding that the sponsor does not request the county to issue bonds to finance the property, the county and a sponsor may enter into an inducement agreement that provides for a fee in lieu of taxes as provided in this section for certain property, title to which is held by the county and which is leased to a sponsor.

(B) For property to qualify for the fee as provided in subsection (D)(2):

(1) Title to the property must be held by the county. In the case of a project located in an industrial development park as defined in Section 4‑1‑170, title may be held by more than one county, if each county is a member of the industrial development park. Real property transferred to the county through a lease agreement must include a legal description and plat of the real property. Property titled in the name of a county pursuant to this section is considered privately owned for purposes of Section 58‑3‑240.

(2) The project must be located in a single county or an industrial development park as defined in Section 4‑1‑170. A project located on a contiguous tract of land in more than one county, but not in an industrial development park, may qualify for the fee if:

(a) the counties agree on the terms of the fee and the distribution of the fee payment;

(b) the minimum millage rate is provided for in the agreement; and

(c) all the counties are parties to all agreements establishing the terms of the fee.

(3) The minimum level of investment in the project must be at least forty‑ five million dollars and must be invested within the time period provided in subsection (C). If a county has an average annual unemployment rate of at least twice the state average during the last twenty‑four months based on data available on the most recent November first, the minimum level of investment is one million dollars. The department shall designate these reduced investment counties by December thirty‑first of each year using data from the South Carolina Employment Security Commission and the United States Department of Commerce. The designations are effective for a sponsor whose inducement agreement is signed in the calendar year following the county designation. Investments may include amounts expended by a sponsor or sponsor affiliate as a nonresponsible party in a voluntary cleanup contract on the property at the project pursuant to Article 7, Chapter 56 of Title 44, the Brownfields Voluntary Cleanup Program, if the Department of Health and Environmental Control certifies completion of the cleanup. If the amounts under the Brownfields Voluntary Cleanup Program equal at least one million dollars, the investment threshold requirement of this section is met.

(4)(a) A sponsor and a sponsor affiliate may qualify for the fee if each sponsor and sponsor affiliate invests the minimum level of investment at the project. If the project consists of a manufacturing, research and development, corporate office, or distribution facility as those terms are defined in Section 12‑6‑3360(M) or a qualified nuclear plant facility as defined in Section 4-29-67(A)(1)(d), each sponsor or sponsor affiliate is not required to invest the minimum investment required by subsection (B)(3) if the total investment at the project exceeds forty‑five million dollars.

(b)(i) Investments by sponsor affiliates within the time periods provided in subsection (C)(1) and (2) qualify for the fee regardless of whether or not the sponsor affiliate was part of the inducement agreement, so long as sponsor affiliates are approved specifically by the county and agree to be bound by agreements with the county relating to the fee; except that sponsor affiliates are not bound by agreements, or portions of agreements, to the extent those agreements do not affect the county. The investments pursuant to this subsection must be at the same project. The inducement agreement or the lease agreement may provide for a process for approval of sponsor affiliates.

(ii) The department must be notified in writing of all sponsor affiliates that have investments subject to the fee on or before ninety days after the end of the calendar year during which the project or pertinent phase of the project is placed in service. The department may extend this period upon written request. Failure to meet this notice requirement does not affect adversely the fee, but a penalty of up to ten thousand dollars a month or portion of a month with the total penalty not to exceed one hundred twenty thousand dollars may be assessed by the department for late notification.

(iii) A. Except as provided in subsection (D)(4) if, at any time, a sponsor no longer has the minimum level of investment as provided in subsection (B)(3), that sponsor no longer qualifies for the fee.

B. Except as provided in subsection (Q), if a sponsor qualifies for the fee pursuant to subsection (D)(4), the sponsor must maintain the applicable level of investment, without regard to depreciation, and any applicable job requirements provided in (D)(4). If the sponsor fails to maintain the applicable investment or any job requirements provided in (D)(4), it no longer qualifies for the fee.

C. Except as provided in subsection (Q), if an inducement agreement or a lease agreement provides for an investment above the minimum investment provided in subsection (B)(3), and the sponsor fails to maintain the investment provided for in the agreement, the sponsor no longer qualifies for the fee.

(C)(1) Except as provided in subsection (W)(1), from the end of the property tax year in which the sponsor and the county execute an inducement agreement, the sponsor has five years in which to enter into an initial lease agreement with the county.

(2)(a) From the end of the property tax year in which the sponsor and the county execute the initial lease agreement, the sponsor has five years in which to complete its investment for purposes of qualifying for this section. If the sponsor does not anticipate completing the project within five years, the sponsor may apply to the county before the end of the five‑year period for making the investment for an extension of time to complete the project. If the county agrees to grant the extension, it must be in writing, and a copy must be delivered to the department within thirty days of the date the extension was granted. The extension may not exceed five years. If a project receives an extension of less than five years, the sponsor may apply to the county before the end of the extension period for an additional extension of time to complete the project for an aggregate extension of not more than five years. Unless approved as part of the original lease documentation, the county council of the county may approve any extension by resolution, a copy of which must be delivered to the department within thirty days of the date the resolution was adopted.

(b) An extension of the five‑year period in which to meet the minimum level of investment is not allowed. If the minimum level of investment is not met within five years, all property covered by the lease agreement or agreements reverts retroactively to the payments required by Section 4‑29‑60. The difference between the fee actually paid by the sponsor and the payment due pursuant to Section 4‑29‑60 is subject to interest, as provided in Section 12‑54‑25(D). To the extent necessary to determine if a sponsor or sponsor affiliate has met its investment requirements, any statute of limitation that might apply pursuant to Section 12‑54‑85 is suspended for all sponsors and sponsor affiliates and the department or the county may seek to collect any amounts that may be due pursuant to this section.

(c) Unless property qualifies as replacement property pursuant to a contract provision enacted pursuant to subsection (F)(2), property placed in service after the five‑year period, or the ten‑year period in the case of a project which has received an extension, is not part of the fee agreement pursuant to subsection (D)(2) and is subject to the payments required by Section 4‑29‑60 if the county has title to the property or ad valorem property taxes, if the sponsor has title to the property.

(d) For purposes of those businesses qualifying under subsection (D)(4), the five‑year period referred to in this subsection is eight years. For those sponsors which, after qualifying pursuant to subsection (D)(4), have more than five hundred million dollars in capital invested in this State and employ more than one thousand people in this State, the five‑year period referred to in this subsection is ten years, and the ten‑year period is fifteen years.

(3) The annual fee provided by subsection (D)(2) is available for no more than ~~twenty~~ thirty years for an applicable piece of property. The sponsor may apply to the county prior to the end of the ~~twenty‑year~~ thirty‑year period for an extension of the fee period for up to ten years. The county council of the county may approve an extension by resolution upon a finding of substantial public benefit. A copy of the resolution shall be delivered to the department within thirty days of the date the resolution was adopted. For projects which are completed and placed in service during more than one year, each year’s investment may be subject to the fee in subsection (D)(2) for ~~twenty~~ thirty years or, if extended as provided in this subsection, up to ~~thirty~~ forty years, for an aggregate maximum fee period of up to ~~forty~~ fifty years. For those sponsors qualifying under subsection (D)(4), the annual fee is available for no more than ~~thirty~~ forty years for an applicable piece of property and for those projects placed in service in more than one year, the annual fee is available for an aggregate fee period of up to ~~forty‑three~~ fifty‑three years or, for those sponsors qualifying pursuant to item (2)(d), ~~forty‑five~~ fifty‑five years.

(4) During the time period allowed to meet the minimum investment level, the investor annually must inform the appropriate county official of the total amount invested.

(D) The inducement agreement must provide for fee payments, to the extent applicable, as follows:

(1)(a) Any property is subject to an annual fee payment as provided in Section 4‑29‑60 before being placed in service.

(b) Any undeveloped land is subject to an annual fee payment as provided in Section 4‑29‑60 before being developed and placed in service. The time during which fee payments are made pursuant to Section 4‑29‑60 is not considered part of the maximum periods provided in subsection (C)(2) and (3), and a lease is not an “initial lease agreement” for purposes of this section until the first day of the calendar year for which a fee payment is due pursuant to subsection (D)(2) in connection with the lease.

(2) After property qualifying pursuant to subsection (B) is placed in service, an annual fee payment, determined in accordance with one of the following, is due:

(a) an annual payment in an amount not less than the property taxes that would be due on the project if it were taxable, but using:

(i) an assessment ratio of at least six percent, or four percent for those projects qualifying pursuant to subsection (D)(4);

(ii) a fixed millage rate as provided in subsection (G); and

(iii) a fair market value estimate determined by the department as follows:

A. for real property, using the original income tax basis for South Carolina income tax purposes without regard to depreciation. If real property is constructed for the fee or is purchased in an arms‑length transaction, using the original tax basis, otherwise the property must be reported at its fair market value for ad valorem property tax purposes as determined by appraisal. The fair market value established for the first year of the fee remains the fair market value for the life of the fee. The county and the sponsor or sponsor affiliate may instead provide in the fee agreement or any amendment thereto that any real property subject to the fee shall be reported at its fair market value for ad valorem property taxes as determined by the department’s appraisal as if such property were not subject to the fee; provided, the department may not undertake such an appraisal more than once every five years; and

B. for personal property, using the original tax basis for South Carolina income tax purposes, less depreciation allowable for property tax purposes; except that the sponsor is not entitled to any extraordinary obsolescence;

(b) an annual payment based on an alternative arrangement yielding a net present value of the sum of the fees for the life of the agreement not less than the net present value of the fee schedule as calculated pursuant to subsection (D)(2)(a). Net present value calculations performed pursuant to this subsection must use a discount rate equivalent to the yield in effect for new or existing United States Treasury bonds of similar maturity as published during the month in which the inducement agreement is executed. If no yield is available for the month in which the inducement agreement is executed, the last published yield for the appropriate maturity must be used. If there are no bonds of appropriate maturity available, bonds of different maturities may be averaged to obtain the appropriate maturity; or

(c) an annual payment as provided in subsection (D)(2)(a), except that every fifth year the applicable millage rate may increase or decrease in step with the average actual millage rate applicable in the district where the project is located based on the preceding five‑year period.

(3) At the conclusion of the payments determined pursuant to items (1) and (2) of this subsection the annual fee payment is equal to the taxes due on the project as if it were taxable. When the property is no longer subject to the fee pursuant to subsection (D)(2), the fee or property taxes must be assessed:

(a) with respect to real property, based on the fair market value as of the latest reassessment date for similar taxable property; and

(b) with respect to personal property, based on the then‑depreciated value applicable to the property under the fee, and after that continuing with the South Carolina property tax depreciation schedule.

(4)(a) The assessment ratio may not be lower than four percent:

(i) in the case of a single sponsor investing at least one hundred fifty million dollars and which is creating at least one hundred twenty‑five new full‑time jobs at the project;

(ii) in the case of a single sponsor investing at least four hundred million dollars in this State;

(iii) in the case of a project that satisfies the requirements of Section 11‑41‑30(2)(a), and for which the Secretary of Commerce has delivered certification pursuant to Section 11‑41‑70(2)(a).

For purposes of this item, if a single sponsor enters into a financing arrangement of the type described in Section 4‑29‑67(O)(2), the investment in or financing of the property by a developer, lessor, financing entity, or other third party in accordance with this arrangement is considered investment by the sponsor. Investment by a related person to the sponsor, as described in Section 12‑10‑80(D)(2), is considered investment by the sponsor.

(b) The new full‑time jobs requirement of this item does not apply in the case of a business that paid more than fifty percent of all property taxes actually collected in the county for more than the twenty‑five years ending on the date of the lease agreement.

(c) In an instance in which the governing body of a county has provided, by contractual agreement, for a change in fee in lieu of taxes arrangements conditioned on a future legislative enactment, a new enactment does not bind the original parties to the agreement unless the change is ratified by the governing body of the county.

(5) Notwithstanding the use of the term “assessment ratio”, a sponsor qualifying for the fee may negotiate an inducement agreement with a county using differing assessment ratios for different assessment years or levels of investment covered by the inducement agreement. The lowest assessment ratio allowed is the lowest ratio for which the sponsor may qualify under this section.

(E) Calculations pursuant to subsection (D)(2) must be made on the basis that the property, if taxable, is allowed all applicable property tax exemptions except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of this State and the exemptions allowed pursuant to Section 12‑37‑220(B)(32) and (34).

(F) With regard to calculation of the fee provided in subsection (D)(2), the inducement agreement may provide for the disposal of property and the replacement of property subject to the fee as follows:

(1) If a sponsor disposes of property subject to the fee, the fee must be reduced by the amount of the fee applicable to that property. Property is disposed of only when it is scrapped or sold or removed from the project. If it is removed from the project, it becomes subject to ad valorem property taxes to the extent it remains in the State. If the sponsor used any method to compute the fee other than that provided in subsection (D)(2)(a), the fee on the property which was disposed of must be recomputed in accordance with subsection (D)(2)(a) and to the extent the amount that would have been paid pursuant to subsection (D)(2)(a) exceeds the fee actually paid by the sponsor, the sponsor must pay the difference with the next fee payment due after the property is disposed of. If the sponsor used the method provided in subsection (D)(2)(c), the millage rate provided in subsection (D)(2)(c) must be used to calculate the amount which would have been paid pursuant to subsection (D)(2)(a). If there is no provision in the agreement dealing with the disposal of property in accordance with this subsection, the fee remains fixed and no adjustment to the fee is allowed for disposed property.

(2) Property placed in service as a replacement for property that is subject to the fee payment may become part of the fee payment as provided in this item:

(a) Replacement property may have a function that differs from the property it is replacing. Replacement property is considered to replace the oldest real or personal property subject to the fee and disposed of in the same property tax year as the replacement property is placed in service. Replacement property qualifies for fee treatment provided in subsection (D)(2) only up to the original income tax basis of fee property it replaces. More than one piece of replacement property may replace a single piece of fee property. To the extent that the income tax basis of the replacement property exceeds the original income tax basis of the property it replaces, the excess amount is subject to payments as provided in Section 4‑29‑60. Replacement property is entitled to the fee payment for the period of time remaining on the twenty‑year fee period for the property it replaces.

(b) The new replacement property that qualifies for the fee provided in subsection (D)(2) is recorded using its income tax basis, and the fee is calculated using the millage rate and assessment ratio provided on the original fee property. The fee payment for replacement property must be based on subsection (D)(2)(a) or (c) if the investor originally used that method, without regard to present value.

(c) To qualify as replacement property, title to the replacement property must be held by the county.

(d) If there is no provision in the inducement agreement dealing with replacement property, any property placed in service after the time period allowed for investments as provided by subsection (C)(2), is subject to the payments required by Section 4‑29‑60 if the county has title to the property or ad valorem property taxes, if the sponsor has title to the property.

(G)(1) The county and the sponsor may enter into a millage rate agreement to establish the millage rate for purposes of calculating payments pursuant to subsection (D)(2)(a) and the first five years pursuant to subsection (D)(2)(c). This millage rate agreement may be executed at any time up to and including, but not later than, the date of the initial lease agreement. This millage rate agreement may be a separate agreement or may be made a part of either the inducement agreement or the initial lease agreement.

(2) The millage rate established pursuant to item (1) of this subsection must be no lower than the cumulative property tax millage rate levied by or on behalf of all taxing entities within which the project is to be located on either:

(a) June thirtieth of the year preceding the year in which the millage rate agreement is executed or the initial lease agreement is executed if no millage rate agreement is executed; or

(b) June thirtieth of the year in which the millage rate agreement is executed if a millage rate agreement is not executed the lease agreement is deemed to be the millage rate agreement for purposes of this item.

(H)(1) Upon agreement of the parties, and except as provided in subsection (H)(2), an inducement agreement, a millage rate agreement, or both, may be amended or terminated and replaced with regard to all matters including, but not limited to, the addition or removal of sponsors or sponsor affiliates.

(2) An amendment or a replacement of an inducement agreement or millage rate agreement may not be used to lower the millage rate, discount rate, assessment ratio, or, except as provided in Sections 4‑29‑67(C)(2) and (C)(4) increase the term of the agreement; except that an existing inducement agreement that has not been implemented by the execution and delivery of a millage rate agreement or a lease agreement may be amended up to the date of execution and delivery of a millage rate agreement or a lease agreement in the discretion of the governing body.

(I) Investment expenditures incurred by a sponsor in connection with the project, or relevant phase of a project, for a project completed and placed in service in more than one year, qualify as expenditures subject to the fee in subsection (D)(2), so long as these expenditures are incurred before the end of the applicable five‑year, eight‑year, ten‑year, or fifteen‑year period referenced in subsection (C)(2) or (3). An inducement agreement must be executed within two years after the date the county adopts an inducement resolution; otherwise, only investment expenditures made or incurred by a sponsor after the date of the inducement agreement in connection with a project qualify as expenditures subject to the fee in subsection (D)(2).

(J) Subject to subsection (K), project expenditures incurred within the applicable time period provided in subsection (I) by an entity whose investments are not computed at the level of investment for purposes of subsection (B) or (C) qualify as investment expenditures subject to the fee in subsection (D)(2) if the:

(a) expenditures are part of the original cost of property that is transferred, within the applicable time period provided in subsection (I) to one or more other investors or investor affiliates whose investments are being computed at the level of investment for purposes of subsection (B) or (C);

(b) property would have qualified for the fee in subsection (D)(2) if it had been initially acquired by the sponsor instead of the transferor entity;

(c) the income tax basis of the property immediately before the transfer equal the income tax basis of the property immediately after the transfer; except that, to the extent income tax basis of the property immediately after the transfer unintentionally exceeds the income tax basis of the property immediately before the transfer, the excess is subject to payments pursuant to Section 4‑29‑60;

(d) the county agrees to an inclusion in the fee of the property described in subsection (J)(1).

(K)(1) Property previously subject to property taxes in South Carolina does not qualify for the fee except as provided in this subsection:

(a) land, excluding improvements on it, on which a new project is located may qualify for the fee even if it has previously been subject to South Carolina property taxes;

(b) property that has been subject previously to South Carolina property taxes, but has never been placed in service in South Carolina, or which was placed in service in South Carolina pursuant to an inducement agreement or other preliminary approval by the county prior to execution of the lease agreement pursuant to subsection (C)(1), may qualify for the fee; and

(c) property placed in service in South Carolina and subject to South Carolina property taxes that is purchased in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined pursuant to Chapter 6 of Title 12 as of the time of the transfer, may qualify for the fee if the sponsor invests at least an additional forty‑five million dollars in the project.

(2) Repairs, alterations, or modifications to real or personal property which are not subject to a fee are not eligible for a fee, even if they are capitalized expenditures, except for modifications to existing real property improvements constituting an expansion of the improvements.

(L)(1) For a project not located in an industrial development park as defined in Section 4‑1‑170, distribution of the fee in lieu of taxes on the project must be made in the same manner and proportion that the millage levied for school and other purposes would be distributed if the property were taxable but without regard to exemptions otherwise available to a project pursuant to Section 12‑37‑220 for that year.

(2) For a project located in an industrial development park as defined in Section 4‑1‑170, distribution of the fee in lieu of taxes on the project must be made in the manner provided for by the agreement establishing the industrial development park.

(3) A county or municipality or special purpose district that receives and retains revenues from a payment in lieu of taxes may use a portion of this revenue for the purposes outlined in Section 4‑29‑68 without the requirement of issuing special source revenue bonds or the requirements of Section 4‑29‑68(A)(4) by providing a credit against or payment derived from the fee due from the sponsor.

(4) Misallocations of the distribution of the fee in lieu of taxes on the project pursuant to this chapter may be corrected by adjusting later distributions, but these adjustments must be made in the same fiscal year as the misallocations. To the extent distributions are made improperly in prior years, a claim for adjustment must be made within one year of the distribution.

(M) As a directly foreseeable result of negotiating the fee, gross revenue of a school district in which a project is located in any year a fee negotiated pursuant to this section is paid may not be less than gross revenues of the district in the year before the first year for which a fee in lieu of taxes is paid. In negotiating the fee, the parties shall assume that the formulas for the distribution of state aid at the time of the execution of the inducement agreement must remain unchanged for the duration of the lease agreement.

(N) Projects on which a fee in lieu of taxes is paid pursuant to this section are considered taxable property at the level of the negotiated payments for purposes of bonded indebtedness pursuant to Sections 14 and 15 of Article X of the Constitution of this State, and for purposes of computing the index of taxpaying ability pursuant to Section 59‑20‑20(3). However, for a project located in an industrial development park as defined in Section 4‑1‑170, projects are considered taxable property in the manner provided in Section 4‑1‑170 for purposes of bonded indebtedness pursuant to Sections 14 and 15 of Article X of the Constitution of this State, and for purposes of computing the index of taxpaying ability pursuant to Section 59‑20‑20(3). Provided, however, that the computation of bonded indebtedness limitation is subject to the requirements of Section 4‑29‑68(E).

(O)(1) An interest in an inducement agreement, millage rate agreement, and lease agreement, and property to which these agreements relate, may be transferred to another entity at any time. Notwithstanding another provision of this chapter, an equity interest in a sponsor or sponsor affiliate may be transferred to another entity or person at any time. To the extent an agreement is transferred, the transferee assumes the current basis the sponsor has in the property subject to the fee for purposes of calculating the fee.

(2) A sponsor or county may enter into a lending, financing, security, lease, or similar arrangement, or succession of such arrangements, with a financing entity, concerning all or part of a project including, without limitation, a sale‑leaseback arrangement, equipment lease build‑to‑suit‑lease, synthetic lease, Nordic lease, defeased tax benefit, transfer lease, assignment, sublease, or similar arrangement, or succession of such arrangements, with one or more financing entities, concerning all or part of a project, regardless of the identity of the income tax owner of the property which is subject to the fee payment pursuant to subsection (D)(2). Even though income tax basis is changed for income tax purposes, neither the original transfer to the financing entity nor the later transfer from the financing entity back to the original sponsor pursuant to terms in the sale‑leaseback agreement, affects the amount of the fee due.

(3) A transfer undertaken with respect to other projects to effect a financing authorized by subsection (O) must meet the following requirements:

(a) The department and the county shall receive written notification, within sixty days after the transfer, of the identity of each transferee and other information required by the department with the appropriate returns. Failure to meet this notice requirement does not affect adversely the fee, but a penalty up to ten thousand dollars a year or portion of a year up to a maximum penalty of fifty thousand dollars may be assessed by the department for late notification.

(b) If the financing entity is the income tax owner of property, either the financing entity is primarily liable for the fee as to that portion of the project to which the transfer relates with the sponsor remaining secondarily liable for the payment of the fee or the sponsor agrees to be primarily liable for the payment of the fee as to that portion of the project to which the transfer relates.

(4) A sponsor may transfer an inducement agreement, millage rate agreement, lease agreement, or the assets subject to the lease agreement, if it obtains the prior approval, or subsequent ratification, of the county with which it entered into the original agreement. The county’s prior approval or subsequent ratification may be evidenced by any one of the following, in the absolute and sole discretion of the county providing the approval or ratification: (i) a letter or other writing executed by an authorized county representative as designated in the respective inducement, millage rate, or lease agreement; (ii) a resolution passed by the county council; or (iii) an ordinance passed by the county council following three readings and a public hearing. That approval is not required in connection with transfers to sponsor affiliates or other financing‑related transfers.

(P) An inducement agreement, a millage rate agreement, or a lease agreement, or the rights of a sponsor or sponsor affiliate pursuant to that agreement including, without limitation, the availability of the subsection (D)(2) fee, may not be affected adversely if the bonds issued pursuant to that agreement are purchased by one or more of the entities that are or become sponsor or sponsor affiliates.

(Q) Except as provided in subsection (B)(4)(a), if a sponsor fails to make the minimum investment required by subsection (D)(2) or an investment under subsection (D)(4) if applicable, within the time provided in subsection (C)(2), then the sponsor is entitled to the benefits of Chapter 12 of this title if and to the extent allowed pursuant to an applicable agreement between the sponsor and the county, and if the requirements of subsection (B)(4)(a) are satisfied. Otherwise, the fee provided in subsection (D)(2) or (D)(4) is no longer available and the sponsor must make the payments due pursuant to Section 4‑29‑60 for the remainder of the lease period.

(R) The minimum amount of the initial investment provided in subsection (B)(3) of this section may not be reduced except by a special vote which, for purposes of this section, 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.

(S)(1) The sponsor shall file the returns, contracts, and other information that may be required by the department.

(2) Fee payments, and returns showing investments and calculating fee payments, are due at the same time as property tax payments and property tax returns would be due if the property were owned by the sponsor obligated to make the fee payments and file such returns.

(3) Failure to make a timely fee payment and file required returns results in penalties being assessed as if the payment or return were a property tax payment or return.

(4) The department may issue rulings and promulgate regulations necessary or appropriate to carry out the purpose of this section.

(5) The provisions of Chapters 4 and 54 of Title 12, applicable to property taxes, apply to this section, and, for purposes of that application, the fee is considered a property tax. Sections 12‑54‑20, 12‑54‑80, and 12‑54‑155 do not apply to this section.

(6) Within thirty days of the date of execution of an inducement or lease agreement, a copy of the agreement must be filed with the department and the county auditor and the county assessor for every county in which the project is located. If the project is located in an industrial development park, the agreements must be filed with the auditors and assessors for all counties participating in the industrial development park.

(7) The department, for good cause, may allow additional time for filing of returns required under this section. The request for an extension may be granted only if the request is filed with the department on or before the date the return is due. However, the extension must not exceed sixty days from the date the return is due. The department shall develop applicable forms and procedures for handling and processing extension requests. An extension may not be granted to a sponsor who has been granted an extension for a previous period and has not fulfilled the requirements of the previous period.

(8) To the extent a form or return is filed with the department, the sponsor must file a copy of the form or return with the county auditor, assessor, and treasurer of the county or counties in which the project is physically located. To the extent requested, the county auditor of the county in which the project is physically located shall make these forms and returns available to any county auditor of a county participating in an industrial development park in which the project is located.

(T) Except as otherwise expressly provided in subsection (C)(2), a loss of fee benefits pursuant to this section is prospective only from the date of noncompliance and, subject to subsection (Q), only with respect to that portion of the project to which the noncompliance relates; except that the loss of fee benefits may not result in the recovery from the sponsor of fee payments for more than:

(1) three years from the date a return concerning the fee is filed for the time period during which the noncompliance occurs. A showing of bad faith noncompliance increases the three‑year period to a ten‑year period; or

(2) ten years if a return is not filed for the time period during which the noncompliance occurs.

(U) Section 4‑29‑65 does not apply to this section. All references in this section to taxes mean South Carolina taxes unless otherwise expressly stated.

(V)(1) Notwithstanding another provision of this section, in the case of a project consisting of a qualified recycling facility, the annual fee is available for no more than thirty years, and for those projects constructed or placed in service during a period of more than one year, the annual fee is available for a maximum of forty years.

(2) Notwithstanding another provision of this section, for a qualified recycling facility, the assessment ratio must be at least three percent.

(3) Any machinery and equipment foundations, port facilities, or railroad track systems used, or to be used, for a qualified recycling facility is considered tangible personal property.

(4) Notwithstanding subsections (F) and (I) of this section, the total costs of all investments made for a qualified recycling facility are eligible for fee payments as provided in this section.

(5) For purposes of fees that may be due on undeveloped property for which title has been transferred to the county by or for the owner or operator of a qualified recycling facility, the assessment ratio is three percent.

(6) Notwithstanding subsection (D)(2)(b) of this section, in the case of a qualified recycling facility, net present value calculations performed pursuant to that subsection must use a discount rate equivalent to the yield in effect for new or existing United States Treasury bonds of similar maturity as published on any day selected by the sponsor during the year in which assets are placed into service or in which the inducement agreement is executed.

(7) As used in this subsection, ‘qualified recycling facility’ and ‘investment’ have the meaning provided in Section 12‑7‑1275(A).

(W)(1) Notwithstanding subsection (C)(1), in the case of a qualified nuclear plant facility, the sponsor has five years from the end of the calendar year in which the Nuclear Regulatory Commission grants the sponsor a combined license to construct and operate a nuclear power plant to enter into an initial lease agreement with the county but in no event more than fifteen years from the latter of the adoption of an inducement resolution or execution of an inducement agreement by the county.

(2) Notwithstanding subsection (C)(2)(d), in the case of a qualified nuclear plant facility, the sponsor has fifteen years from the end of the calendar year in which the initial lease agreement is executed to meet the minimum investment and fifteen years from the end of the calendar year in which the first piece of property is placed into service to complete the project.

(~~W~~X)(1) All agreements entered into pursuant to this section must include as the first portion of the document a recapitulation of the remaining contents of the document which includes, but is not limited to, the following:

(a) the legal name of each party to the agreement;

(b) the county and street address of the project and property to be subject to the agreement;

(c) the minimum investment agreed upon;

(d) the length and term of the agreement;

(e) the assessment ratio applicable for each year of the agreement;

(f) the millage rate applicable for each year of the agreement;

(g) a schedule showing the amount of the fee and its calculation for each year of the agreement;

(h) a schedule showing the amount to be distributed annually to each of the affected taxing entities;

(i) a statement answering the following questions:

(i) Is the project to be located in a multi‑county park formed pursuant to Chapter 29 of Title 4?;

(ii) Is disposal of property subject to the fee allowed?;

(iii) Will special source revenue bonds be issued or credits for infrastructure investment be allowed in connection with this project?;

(iv) Will payment amounts be modified using a net present value calculation?; and

(v) Do replacement property provisions apply?;

(j) any other feature or aspect of the agreement which may affect the calculation of subitems (g) and (h) of this item;

(k) a description of the effect upon the schedules required by subitems (g) and (h) of this item of any feature covered by subitems (i) and (j) not reflected in the schedules for subitems (g) and (h);

(l) which party or parties to the agreement are responsible for updating any information contained in the summary document.

(2) The auditor shall prepare a bill for each installment of the fee according to the schedule set forth in subitem (1)(g) or as modified pursuant to subitem (1)(j), (k), or (l) and that payment must be distributed to the affected taxing entities according to the schedule in subitem (1)(g) or as modified pursuant to subitem (1)(j), (k), or (l).

(3) The county and the sponsor and sponsor affiliates may agree to waive any or all of the items described in this subsection.”

B. The provisions of this section take effect upon approval by the Governor except that the provisions of Section 4‑29‑67(C)(3) take effect January 1, 2011, provided that a county may amend an existing fee‑in‑lieu agreement at any time prior to the expiration of the fee to incorporate the amendments to Section 4‑29‑67(C)(3) as contained in subsection A. Also, except that Section 4‑29‑67(D) shall take effect in each county in the first property tax year in which a countywide reassessment program is implemented after December 31, 2010.

SECTION 7. Section 4‑29‑68(A)(2) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(2)(i) The bonds are issued for the purpose of paying the cost of designing, acquiring, constructing, improving, or expanding (a) the infrastructure serving the issuer or the project, (b) for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise, or (c) aircraft which qualifies as a project pursuant to Section 12‑44‑30(16), which property is determined by the issuer to enhance the economic development of the issuer. Costs of issuance of the bonds also may be paid from bond proceeds. Bonds issued pursuant to this section to finance the acquisition of real or personal property may be additionally secured by a mortgage of that real or personal property.

(ii) To the extent that the bonds or any credit or offset against a fee in lieu of taxes that is allowed in lieu of the issuance of the bonds, is used as payment for personal property, including machinery and equipment, and the personal property is removed from the project at any time during the life of the fee, the amount of the fee in lieu of taxes due on the personal property for the year in which the personal property was removed from the project also shall be due for the two years immediately following the removal. The amounts will be remitted by the Department to the county in which the project is located.

(a) To the extent that any payment amounts were used for both real property and personal property or infrastructure and personal property, all amounts will be presumed to have been first used for personal property.

(b) If personal property is removed from the project but is replaced with qualifying replacement property, then the personal property will not be considered to have been removed from the property.”

SECTION 8.A. Section 12‑44‑30 of the 1976 Code, as last amended by Act 352 of 2008, is further amended to read:

“Section 12‑44‑30. As used in this chapter:

(1) ‘Alternative payment method’ means fee payments as provided in Section 12‑44‑50(A)(3).

(2) ‘Commencement date’ means the last day of the property tax year during which economic development property is placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the county and the sponsor enter into a fee agreement. The commencement date for an economic development project as defined in Section 12‑44‑30(17) is the last day of the first property tax year in which economic development property is placed in service.

(3) ‘County’ means the county or counties in which the project is proposed to be located. A project may be located in more than one county, subject to the provisions of Section 12‑44‑40(~~G~~H).

(4) ‘County council’ means the governing body of the county in which the economic development property is located, except as specifically provided by Section 12‑44‑40(~~G~~H).

(5) ‘Department’ means the South Carolina Department of Revenue.

(6) ‘Economic development property’ means each item of real and tangible personal property comprising a project which satisfies the provisions of Section 12‑44‑40(C) and other requirements of this chapter and is subject to a fee agreement. That property, other than replacement property qualifying under Section 12‑44‑60, must be placed in service by the end of the investment period.

(7) ‘Enhanced investment’ means a project that results in a total investment:

(a) by a single sponsor investing at least one hundred fifty million dollars and creating at least one hundred twenty‑five new full‑time jobs at the project; provided that the new full‑time jobs requirement of this subsection does not apply to a taxpayer who paid more than fifty percent of all property taxes actually collected in the county for more than twenty‑five years, ending on the date of the fee agreement;

(b) by a single sponsor investing at least four hundred million dollars; or

(c) that satisfies the requirements of Section 11‑41‑30(2)(a), and for which the Secretary of Commerce has delivered certification pursuant to Section 11‑41‑70(2)(a).

For purposes of this item, if a single sponsor enters into a financing arrangement of the type described in Section 12‑44‑120(B), the investment in or financing of the property by a developer, lessor, financing entity, or other third party in accordance with this arrangement is considered investment by the sponsor. Investment by a related person to the sponsor, as described in Section 12‑10‑80(D)(2), is considered investment by the sponsor.

(8) ‘Exemption period’ means the period beginning on the first day of the property tax year after the property tax year in which an applicable piece of economic development property is placed in service and ending on the termination date. For projects which are completed and placed in service during more than one year, the exemption period applies to each year’s investment made by a sponsor during the investment period.

(9) ‘Fee’ means the amount paid in lieu of ad valorem property tax as provided in the fee agreement.

(10) ‘Fee agreement’ means an agreement between the sponsor and the county obligating the sponsor to pay fees instead of property taxes during the exemption period for each item of economic development property as more particularly described in Section 12‑44‑40.

(11) ‘Inducement resolution’ means a resolution of the county setting forth the commitment of the county to enter into a fee agreement.

(12) ‘Infrastructure improvement credit’ means a credit against the fee as provided by Section 12‑44‑70.

(13) ‘Investment period’ means the period beginning with the first day that economic development property is purchased or acquired and ending five years after the commencement date; except that for a project with an enhanced investment as described above, the period ends eight years after the commencement date. The minimum investment must be completed within five years of the commencement date. For an enhanced investment, the applicable minimum investment and job requirements under Section 12‑44‑30(7) must be completed within eight years of the commencement date. Investment period means for a qualified nuclear plant facility the period beginning with the first day that economic development property is purchased or acquired and ending ten years after the commencement date. For those sponsors that, after qualifying for the enhanced investment, have more than five hundred million dollars in capital invested in this State and employ more than one thousand people in this State, the investment period ends ten years after the commencement date. If the sponsor does not anticipate completing the project within these periods, the sponsor may apply to the county before the end of the investment period for an extension of time to complete the project. The extension may not exceed five years. If a project receives an extension of less than five years, the sponsor may apply to the county before the end of the extension period for an additional extension of time to complete the project for an aggregate extension of not more than five years. Unless approved as part of the original fee documentation, the county council of the county may approve an extension by resolution, a copy of which must be delivered to the department within thirty days of the date the resolution was adopted. An extension is not allowed for the time period in which the sponsor must meet the minimum investment requirement.

(14) ‘Minimum investment’ means an investment in the project of at least two and one‑half million dollars within the investment period. If a county has an average annual unemployment rate of at least twice the state average during the last twenty‑four month period based on data available on the most recent November first, the minimum investment is one million dollars. The department shall designate these reduced investment counties by December thirty‑first of each year using data from the South Carolina Employment Security Commission and the United States Department of Commerce. The designations are effective for a sponsor whose fee agreement is signed in the calendar year following the county designation. For all purposes of this chapter, the minimum investment may include amounts expended by a sponsor or sponsor affiliate as a nonresponsible party in a voluntary cleanup contract on the property pursuant to Article 7, Chapter 56 of Title 44, the Brownfields Voluntary Cleanup Program, if the Department of Health and Environmental Control certifies completion of the cleanup. If the amounts under the Brownfields Voluntary Cleanup Program equal at least one million dollars, the investment threshold requirement of this chapter is deemed to have been met.

(15) ‘Industrial development park’ means an industrial or business park developed by two or more counties as defined in Section 4‑1‑170.

(16) ’Project’ means land, buildings, and other improvements on the land, including water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery, apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by a sponsor. “Project” also may consist of or include aircraft hangered or utilizing an airport in a county so long as the county expressly consents to its inclusion. Aircraft previously subject to taxation in South Carolina qualify pursuant to this provision.

(17) ‘Qualified nuclear plant facility’ means a nuclear electric power generating plant regulated by the Nuclear Regulatory Commission and includes all real and personal property incorporated into or associated with the facility located or to be located within this State with a total minimum level of investment of one billion dollars.

(~~17~~18) ‘Replacement property’ means property placed under the fee agreement to replace economic development property previously subject to the fee agreement, as provided in Section 12‑44‑60.

(~~18~~19) ‘Sponsor’ means one or more entities which sign the fee agreement with the county and makes the minimum investment, subject to the provisions of Section 12‑44‑40, each of which makes the minimum investment as provided in Section 12‑44‑30(13) and also includes a sponsor affiliate unless the context clearly indicates otherwise. If a project consists of a manufacturing, research and development, corporate office, or distribution facility, as those terms are defined in Section 12‑6‑3360(M) and including a qualified nuclear plant facility as defined in subsection (17) of this section, each sponsor or sponsor affiliate is not required to invest the minimum investment if the total investment at the project exceeds ~~ten~~ five million dollars.

(~~19~~20) ‘Sponsor affiliate’ means an entity that joins with or is an affiliate of a sponsor and that participates in the investment in, or financing of, a project.

(~~20~~21) ‘Termination date’ means the date that is the last day of a property tax year that is the ~~nineteenth~~ twenty‑ninth year following the first property tax year in which an applicable piece of economic development property is placed in service~~; provided, however, that the~~. A sponsor may apply to the county prior to the termination date for an extension of the termination date beyond the ~~nineteenth~~ twenty‑ninth year up to ten years. The county council of the county shall approve an extension by resolution upon a finding of substantial public benefit. A copy of the resolution must be delivered to the department within thirty days of the date the resolution was adopted. ~~With respect to a fee agreement involving an enhanced investment, the termination date is the last day of a property tax year that is the twenty‑ninth year following the first property tax year in which an applicable piece of economic development property is placed in service.~~ If the fee agreement is terminated in accordance with Section 12‑44‑140, the termination date is the date the agreement is terminated.”

B. The provisions of this section take effect upon approval by the Governor except that the provisions of Section 12‑44‑30(21) take effect January 1, 2011, provided that a county may amend an existing fee‑in‑lieu agreement at any time prior to the expiration of the fee to incorporate the amendments to Section 12‑44‑30(21) as contained in subsection A.

SECTION 9. Section 12‑44‑40 of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“Section 12‑44‑40. (A) To obtain the benefits provided by this chapter, the sponsor and the county must enter into a fee agreement requiring the payment of the fee described in Section 12‑44‑50. The county must adopt an ordinance approving the fee agreement with the sponsor.

(B) If the county and the sponsor enter into a fee agreement, all economic development property is exempt from all ad valorem property taxation for the entire exemption period. Upon termination of the exemption period, the property is subject to property taxation in the manner provided by law, unless the property is otherwise exempt.

(C) Subject to the provisions of subsection (D) and the provisions of Section 12‑44‑110, real or tangible personal property of a sponsor or sponsor affiliate which has been acquired for which expenditures have been incurred by the sponsor or sponsor affiliate and which are used in connection with a project or a portion of a project, qualifies as economic development property, if the expenditures are incurred or the property is acquired before the end of the investment period.

(D) A county has two years from the date it takes action reflecting or identifying the project, or proposed project, to adopt an inducement resolution if the inducement resolution was not the original county action reflecting or identifying the project or proposed project. Otherwise, expenditures incurred before adoption of the inducement resolution do not qualify as economic development property.

(E) If a fee agreement is not executed within five years after action by the county identifying or reflecting the project, the real property or tangible personal property of a sponsor for which expenditures have been incurred by the sponsor with respect to the project does not qualify as economic development property. An action includes an inducement resolution adopted by the county council of the county.

(F) Notwithstanding another provision of this chapter, in the case of a qualified nuclear plant facility, the sponsor has five years from the end of the calendar year in which the Nuclear Regulatory Commission grants the sponsor a combined license to construct and operate a nuclear power plant to enter into a fee agreement with the county but in no event more than fifteen years from the latter of the adoption of an inducement resolution or execution of an inducement agreement by the county.

(~~F~~G) To be eligible to enter into a fee agreement, the sponsor shall commit to a project which meets the minimum investment level and, with respect to applicable enhanced investments, the total applicable investment and the minimum job creation levels required for an enhanced investment.

(~~G~~H) The project must be located in a single county or in an industrial development park. A project located on contiguous tracts of land in more than one county, but not in an industrial development park, may qualify for the fee if:

(1) the counties agree on the terms of the fee and the distribution of the fee payment;

(2) a minimum millage rate is provided for in the agreement; and

(3) all counties are parties to all agreements establishing the terms of the fee.

(~~H~~I)(1) Before undertaking a project, the county council shall find that:

(a) the project is anticipated to benefit the general public welfare of the locality by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;

(b) the project gives rise to no pecuniary liability of the county or incorporated municipality or a charge against its general credit or taxing power; and

(c) the purposes to be accomplished by the project are proper governmental and public purposes and the benefits of the project are greater than the costs.

(2) In making the findings of this subsection, the county council may seek the advice and assistance of the department or the Board of Economic Advisors. The determination and findings must be set forth in an ordinance.

(~~I~~J) If the county council has by contractual agreement provided for a change in fee in lieu of taxes arrangements conditioned on a future legislative enactment, a new enactment does not bind the original parties to the agreement unless the change is ratified by the county council.

(~~J~~K)(1) Upon agreement of the parties, and except as provided in item (2), a fee agreement may be amended or terminated and replaced with regard to all matters, including the addition or removal of sponsors or sponsor affiliates.

(2) An amendment or replacement of a fee agreement must not be used to lower the millage rate, discount rate, assessment ratio, or, except as provided in Sections 12‑44‑30(13) and (~~20~~21), increase the term of the agreement.”

SECTION 10. A. Section 12‑44‑50(A)(1)(c)(i) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(i) if real property is constructed for the fee or is purchased in an arm’s length transaction, the fair market value of real property is determined by using the original income tax basis for South Carolina income tax purposes without regard to depreciation, otherwise the property must be reported at its fair market value for ad valorem property taxes as determined by appraisal. The fair market value estimate established for the first year of the fee remains the fair market value of the real property for the life of the fee. The county and the sponsor or sponsor affiliate may instead provide in the fee agreement or any amendment thereto that any real property subject to the fee shall be reported at its fair market value for ad valorem property taxes as determined by appraisal as if such property were not subject to the fee; provided, the department may not undertake such an appraisal more than once every five years;”

B. This SECTION shall take effect in each county in the first property tax year in which a countywide reassessment program is implemented after December 31, 2010.

SECTION 11. Section 12‑44‑110(2) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(2) property which has been subject to property taxes in this State, but which has never been placed in service in this State, or which was placed in service in this State pursuant to an inducement agreement or other preliminary approval by the county prior to execution of the fee agreement pursuant to Section 12‑44‑40(E), may qualify as economic development property;”

SECTION 12. Section 12‑44‑130(A) of the 1976 Code, as last amended by Act 384 of 2006, is further amended to read:

“(A) Except as otherwise provided in Section 12‑44‑30(~~18~~19), to be eligible for the fee, a sponsor and each sponsor affiliate must invest the minimum investment as defined in Section 12‑44‑30(14). For an enhanced investment pursuant to Section 12‑44‑30(7), a single sponsor must make the investment, unless otherwise provided in that section. The county and the sponsors who are part of the fee agreement may agree that investments by other sponsor affiliates within the investment period qualify for the fee regardless of whether the sponsor affiliate was part of the fee agreement, except that each new sponsor affiliate must invest at least the minimum investment or the enhanced investment if applicable in the project, unless the project is a manufacturing, research and development corporate office, or distribution facility as provided in Section 12‑44‑30(~~18~~19). To qualify for the fee, the sponsor affiliates must be approved specifically by the county and must agree to be bound by agreements with the county relating to the fee. These sponsor affiliates are not bound by agreements, or portions of agreements, to the extent the agreements do not affect the county. The investments pursuant to this subsection must be at the sponsor’s project. The fee agreement may provide for a process for approval of sponsor affiliates.”

SECTION 13. Section 12‑43‑220(a)(4) of the 1976 Code, as last amended by Act 313 of 2008, is further amended to read:

“(4) Real property owned by or leased to a manufacturer and used ~~exclusively~~ primarily for warehousing and wholesale distribution is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a). For purposes of this subitem, the real property owned by or leased to a manufacturer and used primarily for warehousing and wholesale distribution must not be physically attached to the manufacturing plant unless the warehousing and wholesale distribution area is separated by a permanent wall.”

SECTION 14. Section 12‑10‑85 of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“Section 12‑10‑85. (A) Funds received by the department for the State Rural Infrastructure Fund must be deposited in the State Rural Infrastructure Fund of the Council. The fund must be administered by the council for the purpose of providing financial assistance to local governments for infrastructure and other economic development activities including, but not limited to:

(1) training costs and facilities;

(2) improvements to regionally planned public and private water and sewer systems;

(3) improvements to both public and private electricity, natural gas, and telecommunications systems including, but not limited to, an electric cooperative, electrical utility, or electric supplier described in Chapter 27 ~~of~~, Title 58; ~~or~~

(4) fixed transportation facilities including highway, rail, water, and air~~.~~;

(5) site preparation;

(6) acquiring or improving real property; and

(7) relocation expenses, but only for those employees to whom the company is paying gross wages at least two times the lower of the per capita income for either the state or the county in which the project is located.

The council may retain up to five percent of the revenue received for the State Rural Infrastructure Fund for administrative, reporting, establishment of grant guidelines, review of grant applications, and other statutory obligations.

(B) Rural Infrastructure Fund grants must be available to benefit counties or municipalities designated as ‘~~distressed~~ Tier IV’ or ‘~~least developed~~ Tier III’ as defined in Section 12‑6‑3360 according to guidelines established by the council, except that up to twenty‑five percent of the funds annually available in excess of ten million dollars must be set aside for grants to areas of ‘~~underdeveloped,~~ ‘~~moderately developed, and ‘developed’~~ ‘Tier II’ and ‘Tier I’ counties. A governing body of an ~~‘underdeveloped’, ‘moderately developed’, or ‘developed’~~ a ‘Tier II’ or ‘Tier I’ county must apply to the council for these set‑aside grants stating the reasons that certain areas of the county qualify for these grants because the conditions in that area of the county are comparable to those conditions qualifying a county as ~~‘distressed’ or ‘least developed~~ ‘Tier IV’ or ‘Tier III’.

(C) For purposes of this section, ‘local government’ means a county, municipality, or group of counties organized pursuant to Section 4‑9‑20(a), (b), (c), or (d).

(D) The council shall submit a report to the Governor and General Assembly by March fifteenth covering activities for the prior calendar year.

(E) The department shall retain unexpended or uncommitted funds at the close of the state’s fiscal year of the State and expend the funds in subsequent fiscal years for like purposes.”

SECTION 15.A. Title 11 of the 1976 Code is amended by adding:

“CHAPTER 18

South Carolina Volume Cap Allocation Act

Section 11–18–5. This chapter shall be known as the South Carolina Volume Cap Allocation Act.

Section 11–18–10. The General Assembly finds and determines that:

(a) Sections 1400U–2 and 1400U–3 of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111–5.123 Stat. 115 (2009) (codified at Section 1400U–2 and –3 of the Internal Revenue Code) (‘ARRA’) added two new types of bonds as recovery zone bonds:

(1) a new type of exempt facility bonds called ‘recovery zone facility bonds’ to be used to finance construction, renovation, and equipping of recovery zone property for use in any trade or business in a recovery zone, all as defined in ARRA; and

(2) a new type of governmental bond called ‘recovery zone economic development bonds.’

(b) The provisions of ARRA provide a formula for allocation of authority to issue recovery zone facility bonds and recovery zone economic development bonds to the states and by the states to the counties and large municipalities within the states. The United States Department of the Treasury, Internal Revenue Service provided for recovery zone bond volume cap allocations in IRS Notice 2009–50 and provided calculations for individual counties and large municipalities on that same date. The notice made specific provision for reallocation of the volume cap allocations that are waived or deemed waived by a county or municipality by giving the state in which such county or municipality is located the authority to reallocate the waived volume cap in any reasonable manner as it shall determine in good faith in its discretion.

(c) Section 1112 of ARRA amended Section 54D(d) of the Internal Revenue Code to increase the volume cap authorization for qualified energy conservation bonds, which were created by Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. 110–343.122 Stat. 1365 (2008). The United States Department of the Treasury, Internal Revenue Service provided for qualified energy conservation bond volume cap allocations to the states in IRS Notice 2009–29 and authorized the states to allocate such volume cap allocations.

(d) Because of several factors, including the relatively small amounts of some of the allocations, limitations on legal borrowing capacity affecting counties and large municipalities and the lack of access to borrowing by possible beneficiaries of the bonds described above, very little of the allocations of bonds described herein have been utilized in connection with the issuance of these bonds in South Carolina.

(e) These bonds are a valuable resource to South Carolina in its efforts to revitalize its economy and to provide additional employment, all to the promotion of the health and welfare of the citizens of South Carolina.

(f) Because recovery zone bonds must be issued before January 1, 2011, it is in the best interests of the State to provide a procedure for determining as to when counties or large municipalities have waived their allocations of these bonds and to provide for the reallocation of such waived allocations.

(g) Recovery zone facility bonds are bonds with substantially all of the proceeds of which are used for ‘recovery zone property, as defined in the ARRA. The definition of ‘recovery zone property’ includes facilities that may not currently be authorized under the State’s private activity bond enabling statutes. These projects will provide much needed employment, thus it is the best interest of the health and welfare of the citizens of the State to provide authorization for bonds to finance recovery zone property.

(h) The purposes of this chapter is to provide the procedures for the reallocation of recovery zone bonds as well as provide the authorization for the allocation of Qualified Energy Conservation Bonds and Other Federal Bonds as defined below.

Section 11–18–20. (a) ‘ARRA bonds’ mean:

(1) recovery zone bonds authorized under Section 1401 of ARRA; and

(2) Qualified Energy Conservation Bonds authorized under Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. 110–343, 122 Stat. 1365 (2008) as amended by Section 112 of ARRA.

(b) ‘Board’ means the South Carolina Budget and Control Board.

(c) ‘Code’ means the Internal Revenue Code of 1986, as amended.

(d) ‘Local Government’ means each county and municipality that received an allocation of Volume Cap pursuant to the Code and IRS Notice 2009–50.

(e) ‘Other federal bonds’ mean any such bond, whether tax–exempt, taxable or tax credit, created after the date hereof whereby a volume cap limitation is proscribed under the Code.

(f) ‘Qualified energy conservation bond’ means the term as defined in Section 54D(a) of the Code.

(g) ‘Recovery zone’ means the term as defined in Section 1400U–1(b) of the Code.

(h) ‘Recovery zone economic development bond’ means the term as defined in Section 1400U–2 of the Code.

(i) ‘Recovery zone facility bond’ means the term as defined in Section1400U–3 of the Code.

(j) ‘State’ means the State of South Carolina.

(k) ‘Volume Cap’ means the amount or other limitation of ARRA Bonds allocated to each state and to counties and large municipalities within each state in accordance with Section 1400U–1(a)(4) of the Code, with respect to Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds, Section 54D(e)(1) of the Code, with respect to Qualified Energy Conservation Bonds, and any other section of the Code which imposes a volume cap limitation on any other Federal Bonds.

Section 11–18–30. For any Volume Cap allocation of Qualified Energy Conservation Bonds and any other Volume Cap allocation for Other Federal Bonds, which has not been or shall not be further suballocated by the Code, the Internal Revenue Service or the United States Department of the Treasury, the Board is authorized to suballocate such Volume Cap allocation.

Section 11–18–40. (A) In accordance with the provisions of this chapter, the Board shall establish a method for determining when a Local Government has waived all or part of its Volume Cap allocation and shall manage the reallocation of such Volume Cap. All allocations and reallocations made pursuant to this chapter shall be made by the Board with the advice and recommendation of an advisory committee which the Board may from time to time appoint and which shall be comprised of members who are, in the sole determination of the Board, familiar with the subject matter germane to the specific federal bond program.

(B) When appropriate, the Board shall provide written notice of Volume Cap allocations of ARRA Bonds and Other Federal Bonds to Local Governments by United States registered or certified mail. Written notice shall be effective on the date shown on the return receipt. Such notice may include a deadline by which ARRA Bonds and Other Federal Bonds must be issued.

(C) A Local Government may waive its Volume Cap allocation by providing written notice of such waiver to the Board within thirty days of the written notice provided in subsection (b).

(D) In determining when a Local Government has waived all or part of its Volume Cap, the Board shall provide that if it has not received from a Local Government a notice of intent to use its Volume Cap allocation within a designated number of days of the written notice provided in subsection (B), the Local Government shall be deemed to have waived its Volume Cap allocation. The form of the notice of intent to use a Local Government’s Volume Cap allocation shall be determined by the Board. Each notice of intent to use its Volume Cap allocation submitted by a Local Government must contain evidence satisfactory to the Board, in its sole discretion, that the allocation will in fact be used. This evidence may consist of:

(1) resolution or otherwise of the designation of a Recovery Zone, if such designation is required;

(2) the form of the resolution or ordinance in substantially final form authorizing the issuance of bonds or approving such other financing as may be done accompanied by a written opinion of legal counsel that the Local Government has the legal ability to effect such issuance or borrowing;

(3) a written opinion of legal counsel that the ARRA Bonds or Other Federal Bonds that the Local Government intends to issue will qualify, based on information available at that time to such legal counsel, as such ARRA Bonds or Other Federal Bonds when issued;

(4) a schedule for the closing of the issue which must not be later than a date determined by the Board; and

(5) other documentation as the Board deems appropriate.

(E) Failure to issue ARRA Bonds or Other Federal Bonds by any deadline established by the Board shall constitute a waiver of Volume Cap allocation unless the Board extends such deadline.

Section 11–18–50. (A) Within thirty days of the effective date of this chapter, the Board shall develop a form for use by any eligible issuer in applying for reallocation of any waived Volume Cap allocation. Applications for reallocation may be accepted by the Board at times prescribed by the Board. The Board may make reallocations as soon as it determines that there is an actual or deemed waiver of any Volume Cap allocation.

(B) In making reallocations, the Board may consider the following factors:

(1) the likelihood of successful completion of such financing;

(2) the number of jobs to be created or preserved and the wages for such jobs;

(3) relative economic need and benefit to the applicant and any other entity benefiting from the proposed issue; and

(4) the overall best interest of the State and the people of the State.

(C) Upon making any reallocation, the Board shall provide written notice of the reallocation of Volume Cap to the eligible issuer by United States registered or certified mail.

Section 11–18–60. Local Governments allocated Volume Cap pursuant to this chapter may, by order or resolution of its governing body, suballocate such allocation to any other eligible issuers authorized to issue ARRA Bonds or Other Federal Bonds pursuant to the Code or any related pronouncements made by the Internal Revenue Service or the United States Treasury Department. Each Local Government that suballocates Volume Cap shall attach a copy of the order, ordinance or resolution authorizing the suballocation to its notice of intent to use Volume Cap required by Section 11–18–40. Local Governments shall be authorized to take any other action required by the Code or related pronouncements made by the Internal Revenue Service or the Treasury Department to issue ARRA Bonds or Other Federal Bonds.

Section 11–18–70. (A) The purpose of this chapter is to ensure that the State’s allocations of ARRA Bonds and Other Federal Bonds are used. To that end, the Board is authorized and directed to make such exceptions and waivers or extend or shorten time requirements as it deems most likely to effect the purposes hereof. The Board is encouraged to avoid the development of rigid procedures and formalities in the determination of waived allocations or reallocations. The Board is directed focus on the probability of the Local Governments’ using the Volume Cap for ARRA Bonds prior to January 1, 2011.

(B) The Board may adopt any further policies and procedures it considers necessary for the equitable and effective administration of this chapter.

Section 11–18–80. In order to make the maximum use of Volume Cap allocations, any bond enabling act which specifies particular projects or users must be construed to provide that any recovery zone property as defined in Section 1400U–3(b) of the Code will be deemed to qualify as a project. Accordingly any person engaged in a qualified business as defined in Section 1400U–3(b)(2) of the Code will be permitted as beneficiary of any such bonds.”

B. Section 4‑29‑10(3) of the 1976 Code, as last amended by 89 of 2001, is further amended to read:

“(3) ‘Project’ means any land and any buildings and other improvements on the land including, without limiting the generality of the foregoing, water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery, apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by the following investors or any combination of them:

(a) any enterprise for the manufacturing, processing, or assembling of any agricultural or manufactured products;

(b) any commercial enterprise engaged in storing, warehousing, distributing, transporting, or selling products of agriculture, mining, or industry, or engaged in providing laundry services to hospitals, to convalescent homes, or to medical treatment facilities of any type, public or private, within or outside of the issuing county or incorporated municipality and within or outside of the State;

(c) any enterprise for research in connection with any of the foregoing or for the purpose of developing new products or new processes or improving existing products or processes;

(d) any enterprise engaged in commercial business including, but not limited to, wholesale, retail, or other mercantile establishments; residential and mixed use developments of two thousand five hundred acres or more; office buildings; computer centers; tourism, sports, and recreational facilities; convention and trade show facilities; and public lodging and restaurant facilities if the primary purpose is to provide service in connection with another facility qualifying under this subitem; and

(e) any enlargement, improvement, or expansion of any existing facility in subitems (a), (b), (c), and (d) of this item.

The term ‘project’ does not include facilities for an enterprise primarily engaged in the sale or distribution to the public of electricity, gas, or telephone services. A project may be located in one or more counties or incorporated municipalities. The term ‘project’ also includes any structure, building, machinery, system, land, interest in land, water right, or other property necessary or desirable to provide facilities to be owned and operated by any person, firm, or corporation for the purpose of providing drinking water, water, or wastewater treatment services or facilities to any public body, agency, political subdivision, or special purpose district. This definition is for purposes of industrial revenue bonds only.

Notwithstanding another provision hereof, the term ‘project’ shall include any recovery zone property as defined in Section 1400U–3(b) of the Internal Revenue Code and any ‘Qualified Conservation Purpose’ as defined in Section 54D(f) of the Code or other purposes set forth in Section 54D(e) of the Code. No restriction herein relating to the user or use of a project shall apply to any recovery zone property.”

SECTION 16. Section 12‑6‑3360 of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“Section 12‑6‑3360. (A) Taxpayers that operate manufacturing, tourism, processing, warehousing, distribution, research and development, corporate office, qualifying service‑related facilities, agribusiness operations, extraordinary retail establishment, and qualifying technology intensive facilities, and banks as defined pursuant to this title are allowed an annual jobs tax credit as provided in this section. In addition, taxpayers that operate retail facilities and service‑related industries qualify for an annual jobs tax credit in counties designated as ~~least developed or distressed, and in counties that are under developed and not traversed by an interstate highway~~ Tier IV. As used in this section, ‘corporate office’ includes general contractors licensed by the South Carolina Department of Labor, Licensing and Regulation. Credits pursuant to this section may be claimed against income taxes imposed by Section 12‑6‑510 or 12‑6‑530, bank taxes imposed pursuant to Chapter 11 of this title, and insurance premium taxes imposed pursuant to Chapter 7 ~~of~~, Title 38, and are limited in use to fifty percent of the taxpayer’s South Carolina income tax, bank tax, or insurance premium tax liability. In computing a tax payable by a taxpayer pursuant to Section 38‑7‑90, the credit allowable pursuant to this section must be treated as a premium tax paid pursuant to Section 38‑7‑20.

(B) The department shall rank and designate the state’s counties by December thirty‑first each year using data from the South Carolina Employment Security Commission and the United States Department of Commerce. The county designations are effective for taxable years that begin in the following calendar year. ~~A county’s designation may not be lowered in credit amount more than one tier in the following calendar year.~~ The counties are ranked using the last three completed calendar years of per capita income data and the last thirty‑six months of unemployment rate data that are available on November first, with equal weight given to unemployment rate and per capita income as follows:

(1)~~(a)~~ The twelve counties with a combination of the highest unemployment rate and lowest per capita income are designated ~~distressed~~ Tier IV counties. Notwithstanding any other provision of law, no more than twelve counties may be designated or classified as ~~distressed~~ Tier IV and notwithstanding any other provision of this section, a county may be designated as ~~distressed~~ Tier IV only by virtue of the criteria provided in this subitem.

~~(b)~~ ~~A category with the same criteria as provided in subitem (a) of this item is designated least developed county which consists of underdeveloped counties otherwise eligible for this category.~~

(2) The twelve counties with a combination of the next highest unemployment rate and next lowest per capita income are designated ~~underdeveloped~~ Tier III counties.

(3) The eleven counties with a combination of the next highest unemployment rate and the next lowest per capita income are designated ~~moderately developed~~ Tier II counties.

(4) The eleven counties with a combination of the lowest unemployment rate and the highest per capita income are designated ~~developed~~ Tier I counties.

~~(5)(a)~~ ~~A county, any portion of which is located within twenty‑five miles of the boundaries of an applicable military installation or applicable federal facility as defined in Section 12‑6‑3450(1), shall receive the next increased credit designation for five years beginning with the year in which the military installation or federal facility became an applicable military installation or applicable federal facility as defined in Section 12‑6‑3450(1), with the additional requirement that the military installation must have reduced employment on the installation of at least three thousand employees.~~

~~(b)~~ ~~In addition to the designation in subitem (a), a county in which an applicable military installation or applicable federal facility is located is allowed an additional increased credit designation for five years beginning with the year the installation or facility meets the requirements.~~

~~(c)~~ ~~Notwithstanding the designations in Section 12‑6‑3360, Laurens, Cherokee, and Union Counties shall qualify for the next increased credit designation.~~

~~(d)~~ ~~In a county where less than five percent of the work force is in manufacturing, the credit allowed is one tier higher than the credit for which the county would otherwise qualify.~~

~~(e)~~ ~~For a job created in a county that is not traversed by an interstate highway, the credit allowed is one tier higher than the credit for which jobs created in the county would otherwise qualify. This subitem does not apply to a job created in a county eligible for a higher tier pursuant to another provision of this item.~~

~~(f)~~ ~~In a county in which one employer has lost at least 1,500 jobs in a calendar year, the credit allowed is one tier higher than the credit for which the county would otherwise qualify. The one‑tier‑higher credit allowed by this subsection is allowed for five taxable years for jobs created in 2006, 2007, and 2008. This subsection does not apply to a job created in a county eligible for a higher tier pursuant to another provision of this section.~~

~~(g)~~ ~~In a county which is at least one thousand square miles in size and which has had an unemployment rate greater than the state average for the past ten years and an average per capita income lower than the average state per capita income for the past ten years, and which is not included in any of the county classifications contained in subitems (a) through (f) of this item, the credit allowed is two tiers higher than the credit for which the county otherwise would qualify.~~

~~(h)~~ ~~In a county in which one employer has lost at least 1,500 jobs in calendar year 2006, the credit allowed is three tiers higher than the credit for which the county would otherwise qualify. The three‑tier‑higher credit allowed by this subsection is allowed for five taxable years for jobs created in 2007 and 2008. This subsection does not apply to a job created in a county eligible for a higher tier pursuant to another provision of this section.~~

(C)(1) Subject to the conditions provided in subsection (N) of this section, a job tax credit is allowed for five years beginning in year two after the creation of the job for each new full‑time job created if the minimum level of new jobs is maintained. The credit is available to taxpayers that increase employment by ten or more full‑time jobs, and no credit is allowed for the year or any subsequent year in which the net employment increase falls below the minimum level of ten. The amount of the initial job credit is as follows:

(a) Eight thousand dollars for each new full‑time job created in ~~distressed~~ Tier IV counties.

(b) ~~Four thousand five hundred dollars for each new full‑time job created in least developed counties.~~

~~(c)~~ ~~Three~~ Four thousand ~~five~~ two hundred fifty dollars for each new full‑time job created in ~~under developed~~ Tier III counties.

(~~d~~c) Two thousand ~~five~~ seven hundred fifty dollars for each new full‑time job created in ~~moderately developed~~ Tier II counties.

(~~e~~d) One thousand five hundred dollars for each new full‑time job created in ~~developed~~ Tier I counties.

(2)(a) Subject to the conditions provided in subsection (N) of this section, a job tax credit is allowed for five years beginning in year two after the creation of the job for each new full‑time job created if the minimum level of new jobs is maintained. The credit is available to taxpayers with ninety‑nine or fewer employees that increase employment by two or more full‑time jobs, and may be received only if the gross wages of the full‑time jobs created pursuant to this section amount to a minimum of one hundred twenty percent of the county’s or state’s average per capita income, whichever is lower. No credit is allowed for the year or any subsequent year in which the net employment increase falls below the minimum level of two. The amount of the initial job credit is as described in (C)(1).

(b) If the taxpayer with ninety‑nine or fewer employees increases employment by two or more full‑time jobs but the gross wages do not amount to a minimum one hundred twenty percent of the county’s or state’s average per capita income, whichever is lower, then the amount of the initial job credit is as follows:

(i) Four thousand dollars for each new full‑time job created in ~~distressed~~ Tier IV counties.

(ii) ~~Two thousand two hundred fifty dollars for each new full‑time job created in least developed counties.~~

~~(iii)~~ ~~One~~ Two thousand ~~seven~~ one hundred ~~fifty~~ twenty-five dollars for each new full‑time job created in ~~under developed~~ Tier III counties.

(~~iv~~iii) One thousand ~~two~~ three hundred ~~fifty~~ seventy-five dollars for each new full‑time job created in ~~moderately developed~~ Tier II counties.

(~~v~~iv) Seven hundred fifty dollars for each new full‑time job created in ~~developed~~ Tier I counties.

(D) If the taxpayer qualifying for the new jobs credit under subsection (C) creates additional new full‑time jobs in years two through six, the taxpayer may obtain a credit for those new jobs for five years following the year in which the job is created. The amount of the credit for each new full‑time job is the same as provided in subsection (C).

(E)(1) Taxpayers which qualify for the job tax credit provided in subsection (C) and which are located in a business or industrial park jointly established and developed by a group of counties pursuant to Section 13 of Article VIII of the Constitution of this State are allowed an additional one thousand dollar credit for each new full‑time job created. This additional credit is permitted for five years beginning in the taxable year following the creation of the job.

(2) Taxpayers which otherwise qualify for the job tax credit provided in subsection (C) and which are located and the qualifying jobs are located on property where a response action has been completed pursuant to a nonresponsible party voluntary cleanup contract pursuant to Article 7, Chapter 56 of Title 44, the Brownfields Voluntary Cleanup Program, are allowed an additional one thousand dollar credit for each new full‑time job created. This additional credit is permitted for five years beginning in the taxable year following the creation of the job. No credit under this item is allowed a taxpayer that is a ‘responsible party’ as defined in that article.

(F)(1) The number of new and additional new full‑time jobs is determined by comparing the monthly average number of full‑time employees subject to South Carolina income tax withholding in the applicable county for the taxable year with the monthly average in the prior taxable year. For purposes of calculating the monthly average number of full‑time employees in the first year of operation in this State, a taxpayer may use the actual months in operation or a full twelve‑month period. If a taxpayer’s business is in operation for less than twelve months a year, the number of new and additional new full‑time jobs is determined using the monthly average for the months the business is in operation.

(2)(a) A taxpayer who makes a capital investment of at least fifty million dollars at a single site within a three‑year period may elect to have the number of new and additional new full‑time jobs determined by comparing the monthly average number of full‑time jobs subject to South Carolina income tax withholding at the site for the taxable year with the monthly average for the prior taxable year.

(b) For purposes of this item, ‘single site’ means a stand‑alone building whether or not several stand‑alone buildings are located in one geographical location.

(c) The calculation of new and additional jobs provided for in this item is allowed for only a five‑year period commencing in the year in which the fifty million dollars of capital investment is completed.

(d) For purposes of this subsection a ‘new job’ does not include a job transferred from one site to another site by the taxpayer or a related person. A related person includes any entity or person that bears a relationship to the taxpayer as set forth in Section 267 of the Internal Revenue Code. ~~However, this exclusion of a new job created by a job transferred from one site to another site does not extend to a job created at a new or expanded facility located in a county in which is located an ‘applicable federal facility’ as defined in Section 12‑6‑3450(A)(1)(b).~~

(G) Except for credits carried forward under subsection (H), the credits available under this section are only allowed for the job level that is maintained in the taxable year that the credit is claimed. If the job level for which a credit was claimed decreases, the five‑year period for eligibility for the credit continues to run.

(H) A credit claimed pursuant to this section but not used in a taxable year may be carried forward for fifteen years from the taxable year in which the credit is earned by the taxpayer. Credits that are carried forward must be used in the order earned and before jobs credits claimed in the current year. A taxpayer who earns credits allowed by this section and who also is eligible for the moratorium provided in Section 12‑6‑3367 may claim the credits and may carry forward unused credits beginning after the moratorium period expires.

(I) The merger, consolidation, or reorganization of a taxpayer, where tax attributes survive, does not create new eligibility in a succeeding taxpayer, but unused job tax credits may be transferred and continued by the succeeding taxpayer subject to the limitations of Section 12‑6‑3320. In addition, a taxpayer may assign its rights to its jobs tax credit to another taxpayer if it transfers all or substantially all of the assets of the taxpayer or all or substantially all of the assets of a trade or business or operating division of a taxpayer related to the generation of the jobs tax credits to that taxpayer if the required number of new jobs is maintained for that amount of credit. A taxpayer is not allowed a jobs tax credit if the net employment increase for that taxpayer falls below two. The appropriate agency shall determine if qualifying net increases or decreases have occurred and may require reports, adopt rules or promulgate regulations, and hold hearings needed for substantiation and qualification.

(J) For a taxpayer which plans a significant expansion in its labor forces at a location in this State, the appropriate agency shall prescribe certification procedures to ensure that the taxpayer can claim credits in future years even if a particular county is removed from the list of ~~distressed, least developed, under developed, or moderately developed~~ Tier IV, Tier III, or Tier II counties.

(K)(1) An S corporation, limited liability company taxed as a partnership, or partnership that qualifies for a credit under this section may pass through the credit earned to each shareholder of the S corporation, partner of the partnership, or member of the limited liability company. For purposes of this subsection, limited liability company means a limited liability company taxed as a partnership.

(a) The amount of the credit allowed a shareholder, partner, or member by this subsection is equal to the shareholder’s percentage of stock ownership, partner’s interest in the partnership, or member’s interest in the limited liability company for the taxable year multiplied by the amount of the credit earned by the entity. This nonrefundable credit is allowed against taxes due under Section 12‑6‑510 or 12‑6‑530 and bank taxes imposed pursuant to Chapter 11 of this title and may not exceed fifty percent of the shareholder’s, partner’s, or member’s tax liability under Section 12‑6‑510 or 12‑6‑530 or bank tax liability imposed pursuant to Chapter 11 of this title.

(b) Notwithstanding subitem (a), the credit earned pursuant to this section by an S corporation owing corporate level income tax must be used first at the entity level. Only the remaining credit passes through to each shareholder.

(3) A credit claimed pursuant to this subsection but not used in a taxable year may be carried forward by each shareholder, partner, or member for fifteen years from the close of the tax year in which the credit is earned by the S corporation, partnership, or limited liability company. The entity earning the credit may not carry over credit that passes through to its shareholders, partners, or members.

(L) ~~Notwithstanding any other provision of this section, a county with a population under twenty‑five thousand as determined by the most recent United States Census shall receive the next increased credit designation for purposes of the credit allowed by this section.~~

~~(M)~~ As used in this section:

(1) ‘Taxpayer’ means a sole proprietor, partnership, corporation of any classification, limited liability company, or association taxable as a business entity that is subject to South Carolina taxes as contained in Section 12‑6‑510, Section 12‑6‑530, Chapter 11 ~~of~~, Title 12, or Chapter 7 ~~of~~, Title 38.

(2) ‘Appropriate agency’ means the Department of Revenue, except that for taxpayers subject to the premium tax imposed by Chapter 7 ~~of~~, Title 38, it means the Department of Insurance.

(3) ‘New job’ means a job created in this State at the time a new facility or an expansion is initially staffed. Except as otherwise provided in this item, the term does not include a job created when an employee is shifted from an existing location in this State to a new or expanded facility whether the transferred job is from, or to, a facility of the taxpayer or a related person. A related person includes any entity or person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code. However, this exclusion of a new job created by employee shifting does not extend to a job created at a new or expanded facility located in a county in which is located an ‘applicable federal facility’ as defined in Section 12‑6‑3450(A)(1)(b). The term ‘new job’ also includes an existing job at a facility of an employer which is reinstated after the employer has rebuilt the facility due to:

(a) its destruction by accidental fire, natural disaster, or act of God;

(b) involuntary conversion as a result of condemnation or exercise of eminent domain by the State or any of its political subdivisions or by the federal government.

Destruction for purposes of this provision means that more than fifty percent of the facility was destroyed. For purposes of this section, involuntary conversion as a result of condemnation or exercise of eminent domain includes a legally binding agreement for the purchase of a facility of an employer entered into between an employer and the State of South Carolina or a political subdivision of the State under threat of exercise of eminent domain by the State or its political subdivision.

The year of reinstatement is the year of creation of the job. All reinstated jobs qualify for the credit pursuant to this section, and a comparison is not required to be made between the number of full‑time jobs of the employer in the taxable year and the number of full‑time jobs of the employer with the corresponding period of the prior taxable year.

~~Notwithstanding another provision of law, ‘new job’ includes jobs created by a taxpayer when the taxpayer hires more than five hundred full‑time individuals:~~

~~(a)~~ ~~at a manufacturing facility located in a county classified as distressed;~~

~~(b)~~ ~~immediately before their employment by the taxpayer, the individuals were employed by a company operating, as of the effective date of this paragraph, under Chapter 11 of the United States Bankruptcy Code; and~~

~~(c)~~ ~~the taxpayer, as an unrelated entity, acquires as of March 12, 2004, substantially all of the assets of the company operating under Chapter 11 of the United States Bankruptcy Code.~~

(4) ‘Full‑time’ means a job requiring a minimum of thirty‑five hours of an employee’s time a week for the entire normal year of company operations or a job requiring a minimum of thirty‑five hours of an employee’s time for a week for a year in which the employee was hired initially for or transferred to the South Carolina facility. For the purposes of this section, two half‑time jobs are considered one full‑time job. A ‘half‑time job’ is a job requiring a minimum of twenty hours of an employee’s time a week for the entire normal year of the company’s operations or a job requiring a minimum of twenty hours of an employee’s time a week for a year in which the employee was hired initially for or transferred to the South Carolina facility.

(5) ‘Manufacturing facility’ means an establishment where tangible personal property is produced or assembled.

(6) ‘Processing facility’ means an establishment that prepares, treats, or converts tangible personal property into finished goods or another form of tangible personal property. The term includes a business engaged in processing agricultural, aquacultural, or maricultural products and specifically includes meat, poultry, and any other variety of food processing operations. It does not include an establishment in which retail sales of tangible personal property are made to retail customers.

(7) ‘Warehousing facility’ means an establishment where tangible personal property is stored but does not include any establishment where retail sales of tangible personal property are made to retail customers.

(8) ‘Distribution facility’ means an establishment where shipments of tangible personal property are processed for delivery to customers. The term does not include an establishment where retail sales of tangible personal property are made to retail customers on more than twelve days a year except for a facility which processes customer sales orders by mail, telephone, or electronic means, if the facility also processes shipments of tangible personal property to customers and if at least seventy‑five percent of the dollar amount of goods sold through the facility are sold to customers outside of South Carolina. Retail sales made inside the facility to employees working at the facility are not considered for purposes of the twelve‑day and seventy‑five percent limitation. For purposes of this definition, ‘retail sale’ and ‘tangible personal property’ have the meaning provided in Chapter 36 of this title.

(9) ‘Research and development facility’ means an establishment engaged in laboratory, scientific, or experimental testing and development related to new products, new uses for existing products, or improving existing products. The term does not include an establishment engaged in efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, banking, or research in connection with literary, historical, or similar projects.

(10) ‘Corporate office facility’ means a corporate headquarters that meets the definition of a ‘corporate headquarters’ contained in Section 12‑6‑3410(J)(1). The corporate headquarters of a general contractor licensed by the South Carolina Department of Labor, Licensing and Regulation qualifies even if it is not a regional or national headquarters as those terms are defined in Section 12‑6‑3410(J)(1).

(11) The terms ‘retail sales’ and ‘tangible personal property’ for purposes of this section are defined in Chapter 36 of this title.

(12) ‘Tourism facility’ means an establishment used for a theme park; amusement park; historical, educational, or trade museum; botanical garden; cultural center; theater; motion picture production studio; convention center; arena; auditorium; or a spectator or participatory sports facility; and similar establishments where entertainment, education, or recreation is provided to the general public. Tourism facility also includes new hotel and motel construction, except that to qualify for the credits allowed by this section and regardless of the county in which the facility is located, the number of new jobs that must be created by the new hotel or motel is twenty or more. It does not include that portion of an establishment where retail merchandise or retail services are sold directly to retail customers.

(13) ‘Qualifying service‑related facility’ means:

(a) an establishment engaged in an activity or activities listed under the North American Industry Classification System Manual (NAICS) Section 62, subsectors 621, 622, and 623; or

(b) a business, other than a business engaged in legal, accounting, banking, or investment services or retail sales, which has a net increase of at least:

(i) ~~two~~ one hundred fifty jobs at a single location;

(ii) ~~one hundred twenty‑five~~ seventy‑five jobs at a single location and the jobs have an average cash compensation level of more than one and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located; or

(iii) ~~seventy‑five~~ forty jobs at a single location and the jobs have an average cash compensation level of more than twice the lower of state per capita income or per capita income in the county where the jobs are located; ~~or~~

~~(iv)~~ ~~thirty jobs at a single location and the jobs have an average cash compensation level of more than two and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located.~~

A taxpayer shall use the most recent per capita income data available as of the end of the taxable year in which the jobs are filled. Determination of the required number of jobs is in accordance with the monthly average described in subsection (F).

(14) ‘Technology intensive facility’ means:

(a) a facility at which a firm engages in the design, development, and introduction of new products or innovative manufacturing processes, or both, through the systematic application of scientific and technical knowledge. Included in this definition are the following North American Industrial Classification Systems, NAICS, codes published by the Office of the Management and Budget of the federal government:

(i) 5114 database and directory publishers;

(ii) 5112 software publishers;

(iii) 54151 computer systems design and related services;

(iv) 541511 custom computer programming services;

(v) 541512 computer systems design services;

(vi) 541710 scientific research and development services;

(vii) 9271 space research and technology; or

(b) a facility primarily used for one or more activities listed under the 2002 version of the NAICS Codes 51811 (Internet Service Providers and Web Search Portals).

(15) ‘Extraordinary retail establishment’ as defined in Sections 12‑21‑6520 and 12‑21‑6590.

(~~N~~M) Except for employees employed in ~~distressed~~ Tier IV counties, the maximum aggregate credit that may be claimed in any tax year for a single employee pursuant to this section and Section 12‑6‑3470(A) is five thousand five hundred dollars.”

SECTION 17. Section 12‑6‑3375 of the 1976 Code, as last amended by Act 386 of 2006, is further amended to read:

“Section 12‑6‑3375. (A)(1) A taxpayer engaged in manufacturing, warehousing, or distribution which uses port facilities in this State and which increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume is eligible to claim ~~a~~ an income tax credit or a credit against employee withholding in the amount determined by the Coordinating Council for Economic Development (council).

(2) The maximum amount of tax credits allowed to all qualifying taxpayers pursuant to this section may not exceed eight million dollars for each calendar year and credits against employee withholdings may not exceed four million dollars out of eight million dollars. ~~A qualifying taxpayer may not receive more than one million dollars for each calendar year except as provided in subsection (B)(2).~~ The council has sole discretion in allocating the credits provided by this section on a priority basis or such other basis as the board deems appropriate, taking into consideration the following factors:

(a) the amount of base year port cargo volume;

(b) the total and percentage increase in port cargo volume;

(c) the number of qualifying taxpayers;

(d) the type of cargo transported; and

(e) other factors related to the economic benefit of the State, as determined by the council.

(3) If the credit exceeds the taxpayer’s tax liability for the taxable year, the excess amount may be carried forward and claimed against income taxes in the next five succeeding taxable years.

(4) The credit may be claimed by the taxpayer as provided in (A)(1) only if the taxpayer owns the cargo at the time the port facilities are used.

(B)(1) For every year in which a taxpayer claims the credit, the taxpayer shall submit an application to the council ~~by March first of the calendar year~~ after the calendar year in which the increase in port cargo volume occurs. The council may make allocations of the credit on a monthly, quarterly, or annual basis. The taxpayer shall attach a schedule to the taxpayer’s application to the council with the following information and information requested by the council or the department:

(a) a description of how the base year port cargo volume and the increase in port cargo volume was determined;

(b) the amount of the base year port cargo volume;

(c) the amount of the increase in port cargo volume for the taxable year stated both as a percentage increase and as a total increase in net tons of noncontainerized cargo and TEUs of cargo, including information which demonstrates an increase in port cargo volume in excess of the minimum amount required to claim the tax credits pursuant to this section;

(d) any tax credit utilized by the taxpayer in prior years; and

(e) the amount of tax credit carried over from prior years.

(2) ~~If on March fifteenth of each year, the eight‑million‑dollar amount of credit is not fully allocated among qualifying taxpayers, then those taxpayers who have been allocated the maximum one million dollar credit for a year must be allowed a pro rata share of the remaining allocated credit up to eight million dollars.~~

~~(3)~~ To receive the credit the taxpayer shall claim the credit on its income tax or withholding return in a manner prescribed by the department. The department may require a copy of the certification form issued by the council be attached to the return or otherwise provided.

(C) As used in this section:

(1) ‘TEU’ means a ‘twenty‑foot equivalent unit’; a volumetric measure based on the size of a container twenty feet long by eight feet wide by eight feet, six inches high.

(2) ‘Base year port cargo volume’ initially means the total amount of net tons of noncontainerized cargo or TEUs of cargo actually transported by way of a waterborne ship through a port facility during the period from January 1, ~~2005~~ 2009, through December 31, ~~2005~~ 2009. Base year port cargo volume must be at least seventy‑five net tons of noncontainerized cargo or ten TEUs for a taxpayer to be eligible for the credits provided in this section. For a taxpayer that does not ship that amount in the year ending December 31, ~~2005~~ 2009, including a taxpayer who locates in South Carolina after December 31, ~~2005~~ 2009, its base cargo volume will be measured by the initial January first through December thirty‑first calendar year in which it meets the requirements of seventy‑five net tons of noncontainerized cargo or ten loaded TEUs. Base year port cargo volume must be recalculated each calendar year after the initial base year.

(3) ‘Port facility’ means any publicly or privately owned facility located within this State through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside this State and which handles cargo owned by third parties in addition to cargo owned by the port facility’s owner.

(4) ‘Port cargo volume’ means the total amount of net tons of noncontainerized cargo or containers measured in twenty‑foot equivalent units (TEUs) of cargo transported by way of a waterborne ship or vehicle through a port facility.

(D) The council may annually award up to one million dollars of the eight million dollars of credits to a new warehouse or distribution facility which commits to expending at least forty million dollars at a single site and creating one hundred new full‑time jobs, and the base year cargo provisions contained in this section do not apply. The council may make the award in the year the facility is announced provided that it may not tender the certificate until it has received satisfactory proof that the capital investment and job creation requirements have, or will be, satisfied. Any credit certificate expires three years after issuance if satisfactory proof has not been received.

(~~D~~E) Notwithstanding Section 12‑54‑240, the department and the Department of Commerce may exchange information submitted by a taxpayer pursuant to this section.”

SECTION 18. Section 12‑6‑590 of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding:

“(C) One‑half of all income taxes paid by resident shareholders and nonresident shareholders under Section 12‑8‑590 or other provisions of law, up to five million dollars, of an ‘S’ Corporation engaged in manufacturing with a new five hundred million dollar capital investment at a single site and four hundred new employees, for a period of five years, must be paid by the department to the State Treasurer to be deposited into a fund and distributed pursuant to the approval of the Coordinating Council for Economic Development. The county or municipality in which the project is located may apply to the Council for grants from the fund by submitting a grant application. Upon review of the grant application, the Council shall determine the amount of monies to be received by each of the eligible counties or municipalities. All monies must be used for public infrastructure improvements which directly support the project. Grants may run for more than a year and may be based upon a specified dollar amount or a percentage of the monies deposited annually into the fund. After approval of a grant application, the Council may approve the release of monies. The Council shall adopt guidelines to administer the fund, including, but not limited to, grant application criteria for review and approval of grant applications.”

SECTION 19. Section 12‑20‑105 of the 1976 Code, as last amended by Act 313 of 2008, is further amended to read:

“Section 12‑20‑105. (A) Any company subject to a license tax under Section 12‑20‑100 may claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project.

(B)(1) To be considered an eligible project for purposes of this section, the project must qualify for income tax credits under Chapter 6, Title 12, withholding tax credit under Chapter 10, Title 12, income tax credits under Chapter 14, Title 12, or fees in lieu of property taxes under either Chapter 12, Title 4, Chapter 29, Title 4, or Chapter 44, Title 12.

(2) If a project ~~consists of~~ is located in an office, business, commercial, or industrial park, or combination of these, is used exclusively for economic development ~~which~~ and is owned or constructed by a county ~~or~~, political subdivision, or agency of this State when the qualifying improvements are paid for, the project does not have to meet the qualifications of item (1) to be considered an eligible project. As provided in subsection (C)(4), the county or political subdivision may sell all or a portion of the business or industrial park.

(C) For the purpose of this section, ‘infrastructure’ means improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services made to a building or land that are considered necessary, suitable, or useful to an eligible project. These improvements include, but are not limited to:

(1) improvements to both public or private water and sewer systems;

(2) improvements to both public or private electric, natural gas, and telecommunications systems including, but not limited to, ones owned or leased by an electric cooperative, electric utility, or electric supplier, as defined in Chapter 27, Title 58;

(3) fixed transportation facilities including highway, road, rail, water, and air;

(4) for a qualifying project under subsection (B)(2), infrastructure improvements include shell buildings, incubator buildings whose ownership is retained by the county, political subdivision, or agency of the State and the purchase of land for an office, business, commercial, or industrial park, or combination of these, used exclusively for economic development which is owned or constructed by a county ~~or~~, political subdivision, or agency of this State. The county ~~or~~, political subdivision, or agency may sell the shell building or all or a portion of the park at any time after the company has paid in cash to provide the infrastructure for an eligible project; and

(5) for a qualifying project pursuant to subsection (B)(2), infrastructure improvements also include due diligence expenditures relating to environmental conditions made by a county or political subdivision after it has acquired contractual rights to an industrial park. Due diligence expenditures include such items as Phase I and II studies and environmental or archeological studies required by state or federal statutes or guidelines or similar lender requirements. Contractual rights include options to purchase real property or other similar contractual rights acquired before the county or political subdivision files a deed to the property with the Register of Mesne Conveyances.

(D) A company is not allowed the credit provided by this section for actual expenses it incurs in the construction and operation of any building or infrastructure it owns, leases, manages, or operates.

(E) The maximum aggregate credit that may be claimed in any tax year by a single company is three hundred thousand dollars.

(F) The credits allowed by this section may not reduce the license tax liability of the company below zero. If the applicable credit originally earned during a taxable year exceeds the liability and is otherwise allowable under subsection (D), the amount of the excess may be carried forward to the next taxable year.

(G) For South Carolina income tax and license purposes, a company that claims the credit allowed by this section is ineligible to claim the credit allowed by Section 12‑6‑3420.”

SECTION 20. Section 12‑10‑80 of the 1976 Code, as last amended by Act 352 of 2008, is further amended to read:

“Section 12‑10‑80. (A) A business that qualifies pursuant to Section 12‑10‑50(A) and has certified to the council that the business has met the minimum job requirement and minimum capital investment provided for in the revitalization agreement may claim job development credits as determined by this section.

(1) A business may claim job development credits against its withholding on its quarterly state withholding tax return for the amount of job development credits allowable pursuant to this section.

(2) A business that is current with respect to its withholding tax and other tax due and owing the State and that has maintained its minimum employment and investment levels identified in the revitalization agreement may claim the credit on a quarterly basis beginning with the first quarter after the council’s certification to the department that the minimum employment and capital investment levels were met for the entire quarter. If a qualifying business is not current as to all taxes due and owing to the State as of the date of the return on which the credit would be claimed, without regard to extensions, the business may claim the credit only in an amount reduced by the amount of taxes due and owing to the State as of the date of the return on which the credit is claimed.

(3) A qualifying business may claim its initial job development credit only after the council has certified to the department that the qualifying business has met the required minimum employment and capital investment levels.

(4) To be eligible to apply to the council to claim a job development credit, a qualifying business shall create at least ten new, full‑time jobs, as defined in Section 12‑6‑3360(M), at the project described in the revitalization agreement within five years of the effective date of the agreement.

(5) A qualifying business is eligible to claim a job development credit pursuant to the revitalization agreement for not more than fifteen years.

(6) A company’s job development credits shall be suspended during any quarter in which the company fails to maintain one hundred percent of the minimum job requirement set forth in the company’s revitalization agreement. A company may only claim credits on jobs, including a range of jobs approved by the council, as set forth in the company’s final revitalization agreement.

(7) Credits may be claimed beginning the quarter subsequent to the council’s approval of the company’s documentation that the minimum jobs and capital investment requirements have been met.

(~~6~~8) To the extent any return of an overpayment of withholding that results from claiming job development credits is not used as permitted by subsection (C) or by Section 12‑10‑95, it must be treated as misappropriated employee withholding.

(~~7~~9) Job development credits may not be claimed for purposes of this section with regard to an employee whose job was created in this State before the taxable year of the qualifying business in which it enters into a preliminary revitalization agreement.

(~~8~~10) If a qualifying business claims job development credits pursuant to this section, it shall make its payroll books and records available for inspection by the council and the department at the times the council and the department request. Each qualifying business claiming job development credits pursuant to this section shall file with the council and the department the information and documentation requested by the council or department respecting employee withholding, the job development credit, and the use of any overpayment of withholding resulting from the claiming of a job development credit according to the revitalization agreement.

(~~9~~11) Each qualifying business claiming in excess of ten thousand dollars in a calendar year must furnish to the council and to the department a report that itemizes the sources and uses of the funds. The report must be filed with the council and the department no later than June thirtieth following the calendar year in which the job development credits are claimed, except when a qualifying business obtains the written approval by the council for an extension of that date. Extensions may be granted only for good cause shown. The department shall impose a penalty pursuant to Section 12‑54‑210 for all reports filed after June thirtieth or the approved extension date, whichever is later. The department shall audit each qualifying business with claims in excess of ten thousand dollars in a calendar year at least once every three years to verify proper sources and uses of the funds.

(~~10~~12) Each qualifying business claiming ten thousand dollars or less in any calendar year must furnish a report prepared by the company that itemizes the sources and uses of the funds. This report must be filed with the council and the department no later than June thirtieth following the calendar year in which the job development credits are claimed, except when a qualifying business obtains the written approval by the council for an extension of that date. Extensions may be granted only for good cause shown. The department shall impose a penalty pursuant to Section 12‑54‑210 for all reports filed after June thirtieth or the approved extension date, whichever is later.

(~~11~~13) An employer may not claim an amount that results in an employee’s receiving a smaller amount of wages on either a weekly or on an annual basis than the employee would receive otherwise in the absence of this chapter.

(B)(1) The maximum job development credit a qualifying business may claim for new employees is limited to the lesser of withholding tax paid to the State on a quarterly basis or the sum of the following amounts:

(a) two percent of the gross wages of each new employee who earns ~~$6.95~~ $8.74 or more an hour but less than ~~$9.27~~ $11.64 an hour;

(b) three percent of the gross wages of each new employee who earns ~~$9.27~~ $11.65 or more an hour but less than ~~$11.58~~ $14.55 an hour;

(c) four percent of the gross wages of each new employee who earns ~~$11.58~~ $14.56 or more an hour but less than ~~$17.38~~ $21.84 an hour; and

(d) five percent of the gross wages of each new employee who earns ~~$17.38~~ $21.85 or more an hour.

(2) The hourly gross wage figures in item (1) must be adjusted annually by an inflation factor determined by the State Budget and Control Board.

(3) The council, in its discretion, may allow a qualifying business which has invested at least one hundred million dollars and hired one hundred fifty new employees to collect credits at double the percentages contained in subsection (1) for a term not to exceed seven and one‑half years, but the credit collected for an employee for a quarter may not exceed the withholding for that employee for that quarter.

(C) To claim a job development credit, the qualifying business must incur qualified expenditures at the project or for utility or transportation improvements that serve the project. To be qualified, the expenditures must be:

(1) incurred during the term of the revitalization agreement, including a preliminary revitalization agreement, or within sixty days before council’s receipt of an application for benefits pursuant to this section;

(2) authorized by the revitalization agreement; and

(3) used for any of the following purposes:

(a) training costs and facilities;

(b) acquiring and improving real ~~estate~~ property whether constructed or acquired by purchase, or in cases approved by the council, acquired by capital or operating lease with at least a five‑year term or otherwise;

(c) improvements to both public and private utility systems including water, sewer, electricity, natural gas, and telecommunications;

(d) fixed transportation facilities including highway, rail, water, and air;

(e) construction or improvements of real property and fixtures constructed or improved primarily for the purpose of complying with local, state, or federal environmental laws or regulations;

(f) employee relocation expenses ~~associated with new or expanded qualifying service‑related facilities as defined in Section 12‑6‑3360(M)(13) or new or expanded technology intensive facilities as defined in Section 12‑6‑3360(M)(14) or relocation expenses associated with new national, regional, or global headquarters as defined in Section 12‑6‑3410(J)(1)(a) or relocation expenses associated with an expanded research and development facility to include personnel and laboratory research and development equipment~~, but only for those employees to whom the company is paying gross wages at least two times the lower of the per capita income for either the state or the county in which the project is located;

(g) financing the costs of a purpose described in items (a) through (f).

(h) training for all relevant employees that enable a company to export or increase a company’s ability to export its products, including training for logistics, regulatory, and administrative areas connected to the company’s export process and other export process training that allows a qualified company to maintain or expand its business in this State;

(i) apprenticeship programs.

(j) quality improvement programs of the South Carolina Quality Forum.”

(D)(1) The amount of job development credits a qualifying business may claim for its use for qualifying expenditures is limited according to the designation of the county as defined in Section 12‑6‑3360(B) as follows:

(a) one hundred percent of the maximum job development credits may be claimed by businesses located in counties designated as ~~distressed or least developed~~ ‘Tier IV’;

(b) eighty‑five percent of the maximum job development credits may be claimed by businesses located in counties designated as ‘~~underdeveloped~~ Tier III’;

(c) seventy percent of the maximum job development credits may be claimed by businesses located in counties designated as ‘~~moderately developed~~ Tier II’; or

(d) fifty‑five percent of the maximum job development credits may be claimed by businesses located in counties designated as ‘~~developed~~ Tier I’.

(2) The amount that may be claimed as a job development credit by a qualifying business is limited by this subsection and by the revitalization agreement. The council may approve a waiver of ninety‑five percent of the limits provided in item (1) for:

(a) a significant business; and

(b) a related person to a significant business if the related person is located at the project site of the significant business and qualifies for job development credits pursuant to this chapter.

For purposes of this item, a related person includes any entity or person that bears a relationship to a significant business as provided in Internal Revenue Code Section 267 and includes, without limitation, a limited liability company of which more than fifty percent of the capital interest or profits is owned directly or indirectly by a significant business or by a person or entity, or group of persons or entities which owns, more than fifty percent of the capital interest or profits in the significant business.

(3) The county designation of the county in which the project is located on the date the application for job development credit incentives is received in the Office of the Coordinating Council remains in effect for the entire period of the revitalization agreement, except as to additional jobs created pursuant to an amendment to a revitalization agreement entered into before June 1, 1997, as provided in Section 12‑10‑60. In that case the county designation on the date of the amendment remains in effect for the remaining period of the revitalization agreement as to any additional jobs created after the effective date of the amendment. ~~This item does not apply to a business whose application for job development fees or credits pursuant to Section 12‑10‑81 has been approved by council before the effective date of this act.~~

(E) The council shall certify to the department the maximum job development credit for each qualifying business. After receiving certification, the department shall remit an amount equal to the difference between the maximum job development credit and the job development credit actually claimed to the State Rural Infrastructure Fund as defined and provided in Section 12‑10‑85.

(F) Any job development credit of a qualifying business permanently lapses upon expiration or termination of the revitalization agreement. If an employee is terminated, the qualifying business immediately must cease to claim job development credits as to that employee.

(G) For purposes of the job development credit allowed by this section, an employee is a person whose job was created in this State.

(H) Job development credits may not be claimed by a governmental employer who employs persons at a closed or realigned military installation as defined in Section 12‑10‑88(E).

(I) A taxpayer who qualifies for the job development credit pursuant to the provisions of this section and who is located in a multicounty business or industrial park jointly established pursuant to Section 13 of Article VIII of the Constitution of this State is allowed a job development credit equal to the amount allowed pursuant to subsection (D) for the designation of the county which has the lowest development status of the counties containing the park if:

(1) the park is developed and established on the geographical boundary of adjacent counties; and

(2) the written agreement, pursuant to Section 4‑1‑170, requires revenue from the park to be allocated to each county on an equal basis.

(J) Where the qualifying business that creates new jobs under this section is a qualifying service‑related facility as defined in Section 12‑6‑3360~~(M)~~(L)(13), the determination of the number of jobs created must be based on the total number of new jobs created within five years of the effective date of the revitalization agreement, without regard to monthly or other averaging.”

SECTION 21. Section 12‑14‑20 of the 1976 Code is amended to read:

“Section 12‑14‑20. It is the purpose of this chapter to establish a program of providing tax incentives for the creation of ~~economic impact zones~~ capital investment in order:

(1) to revitalize ~~economically and physically distressed areas impacted as a result of the closing or realignment of a federal military installation area~~ capital investment in this State, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses; and

(2) to promote meaningful employment ~~for economic impact zone residents; and~~

~~(3)~~ ~~to encourage individuals to reside in the economic impact zones in which they are employed~~.”

SECTION 22. A. Section 12‑14‑60 of the 1976 Code, as last amended by Act 113 of 2005, is further amended to read:

“Section 12‑14‑60. (A)(1) There is allowed an ~~economic impact zone~~ investment tax credit against the tax imposed pursuant to Chapter 6 of this title for any taxable year in which the taxpayer places in service ~~economic impact zone~~ qualified manufacturing and productive equipment property.

(2) The amount of the credit allowed by this section is equal to the aggregate of:

three‑year property ~~one~~ one‑half percent of total aggregate bases for all three‑year property that qualifies;

five‑year property ~~two~~ one percent of total aggregate bases for all five‑year property that qualifies;

seven‑year property ~~three~~ one and one‑half percent of total aggregate bases for all seven‑year property that qualifies;

ten‑year property ~~four~~ two percent of total aggregate bases for all ten‑year property that qualifies;

fifteen‑year property ~~five~~ two and one‑half percent of total aggregate bases for all or greater fifteen‑year or greater property that qualifies.

For purposes of this section, whether property is three‑year property, five‑year property, seven‑year property, ten‑year property, or fifteen‑year property is determined based on the applicable recovery period for such property under Section 168(e) of the Internal Revenue Code.

(B) For purposes of this section:

(1) ‘~~economic impact zone~~ qualified manufacturing and productive equipment property’ means any property:

(a) which is used as an integral part of manufacturing or production, or used as an integral part of extraction of or furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services in the economic impact zone;

(b) which is tangible property to which Section 168 of the Internal Revenue Code applies;

(c) which is Section 1245 property (as defined in Section 1245(a)(3)of the Internal Revenue Code); and

(d)(i) the construction, reconstruction, or erection of which is completed by the taxpayer in ~~the economic impact zone~~ this State; or

(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer inside ~~the economic impact zone~~ this State.

(2) In the case of any computer software which is used to control or monitor a manufacturing or production process inside ~~the economic impact zone~~ this State and with respect to which depreciation (or amortization in lieu of depreciation) is allowable, the software must be treated as qualified manufacturing and productive equipment property.

(C) This section does not apply to any property to which the other tax credits would apply unless the taxpayer elects to waive the application of the other credits to the property.

(D)(1) Unused credit allowed pursuant to this section may be carried forward for ten years from the close of the tax year in which the credit was earned.

(2) In the case of credit unused within the initial ten‑year period, a taxpayer may continue to carry forward unused credits for use in any subsequent tax years if the taxpayer:

(a) is engaged in this State in an activity or activities listed under the North American Industry Classification System Manual (NAICS) Section 31, 32, or 33;

(b)(i) is employing one thousand or more full‑time workers in this State and having a total capital investment in this State of not less than five hundred million dollars; or

(ii) is employing eight hundred fifty or more full‑time workers in this State and having a total capital investment in this State of not less than seven hundred fifty million dollars; and

(c) made a total capital investment of not less than fifty million dollars in the previous five years.

Credits carried forward beyond the initial ten‑year period may not reduce a taxpayer’s state income tax liability in any subsequent tax year by more than twenty‑five percent.

(E) If during any taxable year and before the end of applicable recovery period for such property as determined under Section 168(e) of the Internal Revenue Code, the taxpayer disposes of or removes from ~~the economic impact zone, economic impact zone~~ this State qualified manufacturing and productive equipment property, then the tax due under Chapter 6 by the taxpayer for the current taxable year must be increased by an amount of any credit claimed in prior years with respect to such property determined by assuming the credit is earned ratably over the useful life of the property and recapturing pro rata the unearned portion of the credit.

(F) For South Carolina income tax purposes, the basis of the ~~economic impact zone~~ qualified manufacturing and productive equipment property must be reduced by the amount of any credit claimed with respect to the property. If a taxpayer is required to recapture the ~~economic impact zone~~ investment tax credit in accordance with subsection (E), the taxpayer may increase the basis of the property by the amount of any basis reduction attributable with claiming the ~~economic impact zone~~ investment tax credit in prior years. The basis must be increased in the year in which the credit is recaptured.

(G) ~~Credits claimed under this section for taxable years beginning after 1997 for investments made before July 1, 1998, may not reduce a taxpayer’s state income tax liability by more than fifty percent.~~

~~(H)~~ The credit allowed by this section for investments made after June 30, 1998, is limited to no more than five million dollars for an entity subject to the license tax as provided in Section 12‑20‑100.

~~(I)~~ ~~Notwithstanding any amendments to Section 12‑14‑60 of the 1976 Code enacted in the 1998 session of the General Assembly reducing the percentage amount of the economic impact zone investment tax credit or otherwise reducing the amount of the credit allowed, in the case of investments at a project operated by a company pursuant to a revitalization agreement entered into between the company and the South Carolina Advisory Council for Economic Development effective on or before July 1, 1996, the provisions of Section 12‑14‑60 in existence prior to the 1998 amendment shall apply.~~”

B. This SECTION takes effect upon approval by the Governor, except that Section 12‑14‑60(A)(2) only applies to new investment after December 31, 2010.

SECTION 23. Sections 12‑6‑3450, 12‑14‑30, 12‑14‑40, 12‑14‑50, and 12‑14‑70 of the 1976 Code are repealed.

SECTION 24.A. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3586. (A) As used in this section:

(1) ‘Solar energy equipment’ is equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

(2) ‘Tax liability’ includes income taxes imposed pursuant to this chapter, license taxes imposed pursuant to Chapter 20 of this title, bank and building and loan taxes imposed pursuant to Chapters 11 and 13 of this title, and premium taxes imposed pursuant to Title 38.

(B) If a taxpayer that has purchased solar energy equipment places it in service to serve a single-family dwelling in this State during the taxable year, the taxpayer is allowed a credit against his tax liability equal to thirty‑five percent of the cost of the equipment. The credit must be taken for the taxable year in which the equipment is placed in service. Unused credit with respect to a single family dwelling may be carried forward to the ten succeeding taxable years.

(C) No credit is allowed pursuant to this section to the extent the cost of the solar energy equipment was provided by public funds and the amount of any credit allowed pursuant to this section must be reduced by any credit claimed pursuant to Section 12‑6‑3587 or any other credit allowed pursuant to this title for solar energy equipment. In no case may a credit allowed pursuant to this section exceed one half of the taxpayer’s tax liability for a taxable year.

(D) The credit allowed by this section may not exceed the applicable ceilings provided in this subsection.

(1) The following ceilings apply to solar energy equipment placed in service for residential purposes:

(a) one thousand four hundred dollars for each dwelling unit for solar energy equipment for domestic water heating, including pool heating;

(b) three thousand five hundred dollars for each dwelling unit for solar energy equipment for active space heating, combined active space and domestic hot water systems, and passive space heating;

(c) ten thousand five hundred dollars for each installation for any other solar energy equipment for residential purposes.”

B. This section takes effect upon approval by the Governor and applies for installations of solar energy equipment placed in service in taxable years beginning after 2009.

SECTION 25. Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3588. (A) The General Assembly has determined to enact the ‘South Carolina Renewable Energy Tax Incentive Program’ as contained in this section to encourage business investment that will produce high quality employment opportunities and enhance this State’s position as a center for production and use of renewable energy products. The program accomplishes this goal by providing tax incentives to companies in the solar, wind, geothermal, and other renewable energy industries who are expanding or locating in South Carolina.

(B) As used in this section:

(1) ‘Capital investment’ means an expenditure to acquire, lease, or improve property that is used in operating a business, including land, buildings, machinery, and fixtures.

(2) ‘Manufacturing’ means fabricating, producing, or manufacturing raw or unprepared materials into usable products, imparting new forms, qualities, properties, and combinations. Manufacturing does not include generating electricity for off‑site consumption.

(3) ‘Qualifying investment’ means investment in land, buildings, machinery, and fixtures for expansion of an existing facility or establishment of a new facility in this State. Qualifying investment does not include relocating an existing facility in this State to another location in this State without additional capital investment.

(4) ‘Renewable energy operations’ are limited to manufacturers of systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage, testing and research and development, and transmission or distribution of electricity from renewable sources, including specialized packaging for the renewable energy equipment manufactured at the facility.

(C) A business or corporation meeting the requirements of this section beginning in 2010 is eligible to receive a ten percent nonrefundable income tax credit of the cost of the company’s total qualifying investments in plant and equipment in this State for renewable energy operations.

(D) The business or corporation must:

(1) manufacture renewable energy systems and components in South Carolina for solar, wind, geothermal, or other renewable energy uses in order to be eligible for the tax credit authorized by this section;

(2) invest at least five hundred million dollars in the year the tax credit is claimed in new qualifying plant and equipment; and

(3) have created one and one‑half fulltime jobs for every five hundred thousand dollars of capital investment qualifying for the credit that each pays at least one hundred twenty‑five percent of this State’s average annual median wage as defined by the Department of Commerce.

(E) The income tax credit program is for a five‑year period beginning January 1, 2010, and ending December 31, 2015.

(F) A taxpayer may separately qualify for new facilities in separate locations or for separate expansions of existing facilities located in this State.

(G) A taxpayer’s total credit for all expenditures allowed pursuant to this section must not exceed five hundred thousand dollars for any year and five million dollars total for all years. Unused credits may be carried forward for fifteen years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(H) Expenditures qualifying for a tax credit allowed by this section must be certified by the State Energy Office. The State Energy Office may consult with appropriate state and federal officials on standards for certification.

(I) To obtain the amount of the credit available to a taxpayer, each taxpayer must submit a request for the credit to the State Energy Office by January thirty‑first for qualifying expenses incurred in the previous calendar year and the State Energy Office must notify the taxpayer that the submitted expenditures qualify for the credit and the amount of credit allocated to such taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Commerce must certify to the State Energy Office that the taxpayer has met the job creation requirements of subsection (D)(4).

(J) The credits authorized by this section are in lieu of any other applicable income tax credits or abatements allowed by state law, and in the event of an overlap or conflict in available credits or abatements to a taxpayer, the taxpayer must select the credit or abatement he desires in the manner prescribed by the Department of Revenue to the extent the credits or abatements conflict or overlap.”

SECTION 26. Section 12‑15‑10 of the 1976 Code, as added by Act 187 of 2004, is amended to read:

“Section 12‑15‑10. This chapter may be cited as the South Carolina Life Sciences and Renewable Energy Manufacturing Act.”

SECTION 27. Section 12‑15‑20 of the 1976 Code, as added by Act 187 of 2004, is amended to read:

“Section 12‑15‑20. (A) For purposes of this chapter, a ‘life sciences facility’ means a business engaged in pharmaceutical, medicine, and related laboratory instrument manufacturing, processing, or research and development. Included in this definition are the following North American Industrial Classification Systems, NAICS Codes published by the Office of Management and Budget of the federal government:

(1) 3254 Pharmaceutical and Medical Manufacturing;

(2) 334516 Analytical Laboratory Instrument Manufacturing.

(B) A ‘renewable energy manufacturing facility’ means a business which manufactures qualifying machinery and equipment for use by solar and wind turbine energy producers. It also includes a facility manufacturing qualifying advanced lithium ion, or other batteries for the alternative energy motor vehicles described in Section 12‑6‑3377 or other vehicles certified by the South Carolina Energy Office. The South Carolina Energy Office shall qualify a facility as a Renewable Energy Manufacturing Facility and the South Carolina Energy Office’s decision is determinative as to whether a facility qualifies under this subsection.”

SECTION 28. Section 12‑15‑30 of the 1976 Code, as added by Act 187 of 2004, is amended to read:

“Section 12‑15‑30. (1) For all purposes of Chapter 10, Title 12 of the 1976 Code, the Enterprise Zone Act of 1995, including all definitions applicable to that chapter:

(a) Employee relocation expenses that qualify for reimbursement pursuant to Section 12‑10‑80(C)(3)(f) ~~of the 1976 Code~~ include such expenses associated with a new or expanded ~~life sciences~~ facility qualifying under Section 12‑15‑20 investing a minimum of one hundred million dollars in the project, as defined in Section 12‑10‑30(8) of the 1976 Code, and creating at least two hundred new full‑time jobs at the project with an average annual cash compensation of at least one hundred fifty percent of annual per capita income in this State or the county in which the facility is located, whichever is less. Per capita income must be determined using the most recent per capita income data available as of the end of the taxable year in which the jobs are filled.

(b) The waiver that may be approved by the Coordinating Council for Economic Development pursuant to Section 12‑10‑80(D)(2) ~~of the 1976 Code~~ on maximum job development credits that may be claimed also may be approved for a ~~life sciences~~ facility meeting the requirements of ~~subitem (1)(a) of this section~~ Section 12‑15‑20. In determining whether to approve a waiver for such a facility, the Coordinating Council for Economic Development shall consider the creditworthiness of the business and economic viability of the project, as defined in Section 12‑10‑30(8) ~~of the 1976 Code~~.

(2) The provisions of item (1) of this section apply with respect to capital investment made and new jobs created after June 30, ~~2004~~ 2010, and before July 1, ~~2008~~ 2014.”

SECTION 29. Section 12‑15‑40 of the 1976 Code, as added by Act 187 of 2004, is amended to read:

“Section 12‑15‑40. In the case of a taxpayer establishing a ~~life sciences~~ facility meeting the requirements of ~~subitem (1)(a) of Section 13‑23‑30~~ Section 12‑15‑20, the South Carolina Department of Revenue, in its discretion, may enter into an agreement with the taxpayer pursuant to Section 12‑6‑2320 of the 1976 Code for a period not to exceed fifteen years if the facility otherwise meets the requirements of that section.”

SECTION 30. Section 12‑37‑930 35. of the 1976 Code, as added by Act 187 of 2004, is amended to read:

“35. Life sciences and renewable energy manufacturing…...20%

Includes machinery and equipment used directly in the manufacturing process by a life sciences or renewable energy manufacturing facility. For purposes of this item, ~~life sciences~~ a qualifying facility means a business engaged in pharmaceutical, medicine, and related laboratory instrument manufacturing, processing, or research and development, or that manufactures qualifying machinery and equipment for use by solar and wind turbine energy producers, as well as manufacturers of qualifying batteries for alternative energy motor vehicles, that invests a minimum of one hundred million dollars in the project, as defined in Section 12‑10‑30(8), and creates at least two hundred new full‑time jobs at the project with an average cash compensation level of at least one hundred and fifty percent of the annual per capita income in this State or the county in which the facility is located, whichever is less. Per capita income must be determined using the most recent per capita income data available as of the end of the taxable year in which the jobs are filled. Included in this definition are the following North American Industrial Classification Systems, NAICS Codes published by the Office of Management and Budget of the federal government:

(i) 3254 Pharmaceutical and Medical Manufacturing;

(ii) 334516 Analytical Laboratory Instrument Manufacturing.”

SECTION 31. Section 12‑28‑2910 of the 1976 Code, as last amended by Act 176 of 2005, is further amended by adding:

“(E) From the amount set aside pursuant to subsection (A), the council is authorized to expend funds which were not obligated or committed as of July first of the current fiscal year only as necessary for the location or expansion of an industry or business facility in South Carolina. Eligible expenditures include water and sewer projects, road or rail construction and improvement projects, land acquisition, fiber‑optic cable, relocation of new employees, pollution control equipment, environmental testing and related due diligence reports, acquiring and improving real property, and site preparation. Site preparation is defined as surveying, environmental and geotechnical study and mitigation, clearing, filling, and grading. Relocation expenses constitute eligible expenditures only for those employees to whom the company is paying gross wages at least two times the lower of the per capita income for either the state or the county in which the project is located. The Coordinating Council annually shall prepare a detailed report for submission to the General Assembly by March fifteenth which itemizes the expenditures from the fund for the preceding calendar year. The report shall include an identification of the following information:

(a) company name or confidential project number;

(b) location of project;

(c) amount of grant award; and

(d) scope of grant award.”

SECTION 32. Section 2‑75‑30 of the 1976 Code, as last amended by Act 355 of 2008, is further amended to read:

“Section 2‑75‑30. (A) There is created the Centers of Excellence Matching Endowment. The endowment must be funded annually by appropriations from the South Carolina Education Lottery Account in an amount equal to thirty million dollars annually, except that endowment appropriations may not be funded until all state‑supported scholarships are fully funded and only if eighty percent of the total state appropriations have been awarded by the review board as of June thirtieth of the previous fiscal year. Three-quarters of the endowment shall be awarded by the review board in its discretion. One-quarter of the endowment shall be awarded by the review board pursuant to requests by and recommendations of the Secretary of Commerce as set forth in subsection (C). The total state appropriated funding amount shall include funds that have been returned to the endowment due to a dissolution, withdrawal, or termination of a center of excellence. The fund must be managed by the State Treasurer, subject to awards from the endowment as provided in this chapter. Interest earnings of the endowment must remain in the fund, and may be used at the review board’s discretion for additional state awards. Interest earnings are not considered part of the total state appropriations unless used by the review board for additional state awards.

(B) Except as provided in subsection (C), an endowed chair proposal is considered awarded once a full review process is complete and the review board has voted in an affirmative on each proposal. A full review process shall include the following, but is not limited to:

(1) a technical and scientific review of each proposal. The three research universities shall work with the review board staff to nominate reviewers. The review board staff shall select no fewer than five technical reviewers to review each proposal, and a minimum of three technical and scientific reviews must be received by the review board staff for each proposal. The review board staff shall determine an appropriate number of technical reviewers and scientific and technical reviews. The review board staff shall limit the number of university‑nominated reviewers to two per proposal;

(2) an on‑site review of each proposal. The review board staff shall contract with a minimum of five out‑of‑state expert reviewers, to include individuals with expertise in economic development as well as in appropriate scientific disciplines, to serve on a site review team that shall visit each of the research universities. The review board staff shall determine an appropriate number of expert reviewers. The on‑site review team shall interview relevant investigators and other university personnel regarding proposals and shall have access to collected scientific and technical reviews as well as other materials germane to the proposed projects. The on‑site review team shall evaluate the proposals using an approved set of metrics; each recommendation must include a detailed narrative which explains the on‑site review team’s recommendations; and

(3) a presentation of findings. The on‑site review team shall present its findings to the review board, which shall make final decisions on awards. The on‑site review team shall recommend an appropriate level of funding to achieve successfully the stated goals of each project. The review board shall consider these recommendations in determining award amounts for each project.

(C) The Secretary of Commerce may request that the review board allocate and award, pursuant to Sections 2‑75‑50 and 2‑75‑60, an endowment of up to two million dollars for each significant capital investment committed by a qualified project or industry sector. Upon such request, the review board shall review the requested endowment and may award the endowment upon an affirmative vote. Once allocated, the qualified project or industry sector will have thirty-six months from the date of allocation to make the significant capital investment. Once the significant capital investment has been made, the Secretary of Commerce shall certify to the review board and the review board shall make awards for one or more endowed professor who will directly support the industry in which the significant capital investment is made. The review board may only make awards from funds appropriated from the South Carolina Lottery Account pursuant to this section from Fiscal Year 2011 forward, together with any unallocated funds and any accrued interest earnings which have not already been awarded by the review board, including funds that have been returned to the endowment due to a dissolution, withdrawal, or termination of a center of excellence. A dissolution, withdrawal, or termination of a center of excellence includes the failure of the center to provide the requisite matching funds during the allowable timeframe. For purposes of this subsection:

(i) “qualified projects or industries” are those that have made a significant capital investment in South Carolina after January 1, 2010, in one or more of the following areas: Engineering, Nanotechnology, Biomedical Sciences, Energy Sciences, Environmental Sciences, Information and Management Sciences, Distribution and Logistics Sciences, or any other science, research, development, or industry that creates well‑paying jobs and enhanced economic opportunities for the State as determined by the Secretary of Commerce; and

(ii) ‘significant capital investment’ means at least one hundred million private dollars for a single project or at least five hundred million private dollars for an industry sector. No public funds used to support a qualified project or industry may be included as part of the significant capital investment.

The requirements related to matching funds contained in Sections 2‑75‑50, 2‑75‑90, and 2‑75‑110 shall not apply to these awards. Awards by the review board pursuant to this subsection may only be used to fund new or existing endowed professorships at one or more of the state’s three research universities.”

SECTION 33. Section 2‑75‑10 of the 1976 Code is amended to read:

“There is created the Research Centers of Excellence Review Board. The review board shall consist of eleven members. Of the eleven members, three must be appointed by the Governor, three must be appointed by the President Pro Tempore of the Senate, three must be appointed by the Speaker of the House of Representatives, one by the chairman of the Senate Finance Committee, and one by the chairman of the House Ways and Means Committee. The terms of members are three years and members are eligible to be appointed for no more than two additional terms. Of the members initially appointed by the Governor, the President Pro Tempore, and the Speaker of the House, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years, the initial term of each member to be designated by the Governor, President Pro Tempore, and Speaker of the House when making the appointments. The Governor, the President Pro Tempore, and the Speaker of the House shall appoint persons with substantial experience in business, law, accounting, technology, manufacturing, engineering, or other professions and experience which provide an understanding of the purposes of this chapter. The review board shall be responsible for providing annually to the Commission on Higher Education a schedule by which applications for funding are received and awarded on a competitive basis, the awarding of matching funds as provided in Section 2‑75‑60, and for oversight and operation of the fund created by Section 2‑75‑30. Members of the review board shall serve without compensation and must provide an annual report by ~~October 1~~ November thirtieth of each calendar year to the General Assembly as well as the State Budget and Control Board, which shall include an audit performed by an independent auditor. This annual report must include, but not be limited to, a complete accounting for total state appropriations to the endowment and total proposals awarded up to the previous fiscal year.”

SECTION 34. Section 13-1-1710 of the 1976 Code is amended to read:

“Section 13-1-1710. There is created the Coordinating Council for Economic Development. The membership consists of the Secretary of Commerce, the Commissioner of Agriculture, the Executive Director of the Department of Employment and Workforce ~~Chairman of the South Carolina Employment Security Commission~~, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Chairman of the State Board for Technical and Comprehensive Education, the Chairman of the South Carolina Ports Authority, the Chairman of the South Carolina Public Service Authority, the Chairman of the South Carolina Jobs Economic Development Authority, the Director of the South Carolina Department of Revenue, and the Chairman of the South Carolina Research Authority. The Secretary of Commerce serves as the chairman of the coordinating council.”

SECTION 35. Unless otherwise provided specifically herein, this act takes effect on January 1, 2011, except for SECTION 6, SECTION 8, SECTION 9, SECTION 15, and SECTION 23, SECTION 24, and SECTION 25 which take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

**Amendment No. 3B**

Senators LAND and LEVENTIS proposed the following Amendment No. 3B (4478PLJCL), which was adopted:

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

/ SECTION . Section 6‑1‑530(B)(2) of the 1976 Code, as last amended by Act 314 of 2006, is further amended to read:

“(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12‑36‑920, an amount not to exceed ~~twenty~~ fifty percent of the revenue in the preceding fiscal year of the local accommodations tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.”

Further amend the committee report, as and if amended by adding an appropriately numbered new SECTION to read:

SECTION . Section 6‑1‑730(B)(2) of the 1976 Code, as last amended by Act 314 of 2006, is further amended to read:

“(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12‑36‑920, an amount not to exceed ~~twenty~~ fifty percent of the revenue in the preceding fiscal year of the local hospitality tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.” /

Renumber sections to conform.

Amend title to conform.

Senator LAND explained the amendment.

The amendment was adopted.

**Recorded Vote**

Senator McCONNELL desired to be recorded as voting against the adoption of Amendment No. 3B.

**Amendment No. 5A**

Senators PEELER, MASSEY and MULVANEY proposed the following Amendment No. 5A (4478R005.HSP), which was adopted:

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

/ SECTION \_\_\_. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3760. (A) As used in this section, ‘creditable employee’ means an employee of a taxpayer employer who:

(1) is first employed by the employer after June 30, 2010, and before July 1, 2011;

(2) has filed a claim for unemployment compensation in this State and is currently receiving weekly unemployment compensation benefits on that claim for at least four weeks;

(3) was unemployed immediately before becoming employed;

(4) has no return to work date or promise of future employment;

(5) remains employed by the employer for at least four consecutive work weeks and the employment with that employer consists of at least thirty‑five hours a week; and

(6) executes and provides a notarized affidavit swearing or affirming that the employee is eligible to work in the United States because the person is either a United States citizen or a lawfully present alien according to federal law.

(B) An employer who has one or more creditable employees and who provides a notarized affidavit attesting to use of the federal employment verification system now known as ‘E‑Verify’ or any future federal employment verification system is eligible to apply for and receive a credit against these taxes as provided in subsection (C) of this section. The amount of the credit is one hundred dollars a month for each creditable employee. Eligibility for the credit must be established as of the time the creditable employee completes thirty consecutive days of employment and the credit must be claimed for the taxable year in which the employment was completed.

(C) The credit allowed pursuant to subsection (B) of this section may be taken against the income taxes imposed pursuant to this chapter, the bank tax imposed pursuant to Chapter 11 of this title, the savings and loan association tax imposed pursuant to Chapter 13 of this title, the corporate license tax imposed pursuant to Chapter 20 of this title, and insurance premium taxes imposed pursuant to Chapter 7, Title 38.

(D) The total amount of any tax credit for a taxable year may not exceed the taxpayer’s tax liability. Any unused tax may be carried over to apply to the taxpayer’s succeeding year’s liability.

(E) The tax credit provided for in subsection (B) remains in effect for twenty‑four consecutive months for each creditable employee.”/

Renumber sections to conform.

Amend title to conform.

The question then was the adoption of the amendment.

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

**Ayes 36; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Cromer

Davis Elliott Fair

Grooms Hayes Hutto

Jackson Knotts Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell Mulvaney

Nicholson Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Verdin Williams

**Total--36**

**NAYS**

**Total--0**

The amendment was adopted.

**Statement by Senator COURSON**

Had I been present at the time the vote was taken, I would have voted in favor of Amendment No. 5A.

**Amendment No. 2A**

Senator O’DELL proposed the following Amendment No. 2A (4478FIN021.WHO), which was adopted:

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

/ SECTION \_\_\_. A. Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3595. (A) A taxpayer may claim as a credit against state income tax imposed by Chapter 6 of Title 12, bank tax imposed by Chapter 11 of Title 12, license fees imposed by Chapter 20 of Title 12, or insurance premiums imposed by Chapter 7 of Title 38, or any combination of them, fifty percent of an amount contributed to the South Carolina Small Manufacturers’ Retention and Growth Fund at the South Carolina Manufacturing Partnership Extension (SCMEP) up to:

(1) a maximum credit of one hundred fifty thousand dollars for a single taxpayer, not to exceed an aggregate credit of seven hundred fifty thousand dollars for all taxpayers for tax year 2010;

(2) a maximum credit of one hundred fifty thousand dollars for a single taxpayer, not to exceed an aggregate credit of one million five hundred thousand dollars for all taxpayers for tax year 2011; and

(3) a maximum credit of one hundred fifty thousand dollars for a single taxpayer , not to exceed an aggregate credit of two million dollars for all taxpayers for years beginning after December 31, 2011, and ending before January 1, 2017.

For purposes of determining a taxpayer’s entitlement to the credit for qualified contributions for a given tax year in which more than the applicable aggregate annual limit on the credit is contributed by taxpayers for that year, taxpayers who have made contributions that are intended to be qualified contributions earlier in the applicable tax year than other taxpayers must be given priority entitlement to the credit. The SCMEP shall certify to taxpayers who express a bona fide intention of making one or more qualified contributions as to whether the taxpayer is entitled to that priority.

(B) The amount of the credit is equal to fifty percent of the amount of the taxpayer’s qualified contributions to the South Carolina Small Manufacturers’ Retention and Growth Fund, subject to the limitations in this section. The credit is nonrefundable.

(C) The use of the credit is limited to the taxpayer’s applicable income or premium tax or license fee liability for the tax year of the taxpayer after the application of all other credits. An unused credit may be carried forward ten tax years after the tax year of the taxpayer during which the qualified contribution was made.

(D) A contribution is not a qualified contribution if it is subject to conditions or limitations regarding the use of the contribution.

(E) ‘Taxpayer’ means an individual, corporation, partnership, trust, bank, insurance company, or other entity having a state income or insurance premium tax or license fee liability who has made a qualified contribution.

(F) To qualify for the credit, the taxpayer shall retain a form provided by SCMEP identifying the taxpayer and the year and amount of credit for which the taxpayer qualifies. The Department of Revenue may require a copy of the form be attached to the taxpayer’s income tax return or be provided otherwise to the department.

(G) The department may require information and submissions by the taxpayer as it considers appropriate in relation to a taxpayer’s claim of entitlement to the credit.

(H) The merger, consolidation, or reorganization of a corporation where tax attributes survive does not create new eligibility in a succeeding corporation, but unused credits may be transferred and continued by the succeeding corporation. In addition, a corporation or partnership may assign its rights to its unused credit to another corporation or partnership if it transfers all, or substantially all, of the assets of the corporation or partnership or all, or substantially all, of the assets of the trade or business or operating division of the corporation or partnership to another corporation or partnership.

(I) A taxpayer who claims the credit may not take a deduction in relation to the qualified contribution which gives rise to such credit.

(J)(1) There is created the ‘South Carolina Small Manufacturers’ Retention and Growth Fund’ at SCMEP. Any contribution made pursuant to this section must be credited to the fund. SCMEP shall make expenditures from the fund to increase the global competitiveness of South Carolina based small manufacturers by aiding their ability to:

(a) retain and increase their employees;

(b) maintain and increase their sales;

(c) reduce or improve their cost structure; or

(d) innovate and diversify their products, processes, and markets.

(2) For purposes of this subsection, a ‘small manufacturer’ is a manufacturer with less than two hundred fifty employees prior to receiving aid from SCMEP.”

B. This section takes effect upon approval by the Governor. However, the tax credit provision in this section is only applicable to contributions made between January 1, 2010, and December 31, 2016.

SECTION \_\_\_. Beginning after December 31, 2011, SCMEP must provide an annual report by January fifteenth each year to the General Assembly, which shall include, but not be limited to:

(1) an independent evaluation by the United States Department of Commerce’s National Institute of Standards and Technology of SCMEP;

(2) the results of a survey conducted by the United States Department of Commerce of South Carolina small manufacturers served by SCMEP measuring the impact of SCMEP’s assistance with those manufacturers; and

(3) a complete accounting of the amount and use of funds generated by the tax credits allowed under this act including any amount and use of state funding appropriated to SCMEP for the applicable fiscal year./

Renumber sections to conform.

Amend title to conform.

Senator O'DELL explained the amendment.

The question then was the adoption of the amendment.

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

**Ayes 27; Nays 12**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Cromer

Elliott Fair Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry* McGill

Nicholson O’Dell Peeler

Pinckney Reese Scott

Setzler Sheheen Williams

**Total--27**

**NAYS**

Bright Bryant Davis

Grooms *Martin, Shane* Massey

McConnell Mulvaney Rose

Ryberg Shoopman Verdin

**Total--12**

The 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 26; Nays 12**

**AYES**

Alexander Anderson Campbell

Coleman Cromer Elliott

Fair Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry* McGill

Nicholson O’Dell Peeler

Pinckney Reese Scott

Setzler Williams

**Total--26**

**NAYS**

Bright Bryant Cleary

Davis *Martin, Shane* Massey

McConnell Mulvaney Rose

Ryberg Shoopman Verdin

**Total--12**

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

**Statement by Senator COURSON**

Had I been present at the time the vote was taken, I would have voted in favor of second reading of H. 4478.

**Statement by Senators McCONNELL, BRIGHT**

**SHANE MARTIN, SHOOPMAN**

Unfortunately, we were forced to vote against this Bill. We voted against it even though we believe in what the Bill attempts to do and help with economic development in South Carolina. However, the Bill became a Christmas tree on which many amendments were added on varied subjects such as grease and algae biodiesel, dredging of canals, changes to the state’s hospitality tax, and nuclear power plants. Our State Constitution is very clear that each Bill relate but to one subject. This Bill, as amended, clearly does not. We have all sworn to uphold the Constitution of this State even when it means voting against Bills that are popular and that we support. All this Bill would do, as drafted, is get the State sued, costing our taxpayers money and make some trial lawyers rich. For that reason, we voted “no.”

**PRESIDENT PRESIDES**

At 2:13 P.M., the PRESIDENT assumed the Chair.

**AMENDED, READ THE SECOND TIME**

H. 4202 -- Reps. Mitchell, Long, Dillard, Cobb‑Hunter and Sellers: A BILL TO AMEND SECTION 16‑3‑930, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES, SO AS TO PROVIDE A MANDATORY MINIMUM PENALTY OF FIVE YEARS FOR A PERSON WHO COMMITS THE OFFENSE AND INCREASE THE MAXIMUM PENALTY TO THIRTY YEARS.

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

Senator MALLOY proposed the following amendment (JUD4202.002), which was adopted:

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

/ SECTION 1. 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); assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)); criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first 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); trafficking in persons (Section 16-3-930); 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 sixteen (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 2. Section 16-1-90(A) of the 1976 Code is amended to read:

“(A) The following offenses are Class A felonies and the maximum terms established for a Class A felony, as set forth in Section 16‑1‑20(A), apply:

10-11-325(B)(2) Detonating an explosive or destructive

device or igniting an incendiary device upon

the capitol grounds or within the capitol

building resulting in death to a person

where there was not malice aforethought

16-3-50 Manslaughter‑‑voluntary

16-3-652 Criminal sexual conduct

First degree

16-3-655(C)(2) Criminal sexual conduct, 1st degree, with

minor less than 16, 2nd offense

16-3-656 Assault with intent to commit criminal

sexual conduct

First degree

16-3-658 Criminal sexual conduct where victim is

legal spouse (separated)

First degree

16-3-910 Kidnapping

16-3-920 Conspiracy to commit kidnapping

16-3-930 Trafficking in persons

16-3-1075(B)(2) Carjacking (great bodily injury)

16-11-110(A) Arson in the first degree

16-11-330(A) Robbery while armed with a deadly weapon

16-11-380(A) Entering bank with intent to steal money,

securities for money, or property, by force,

intimidation, or threats

16-11-390 Safecracking

16-11-532(D)(2) Injuring real property when illegally

obtaining nonferrous metals and the act

results in the death of a person

16-23-720(A)(2) Detonating a destructive device or causing

an explosion, or intentionally aiding,

counseling, or procuring an explosion by

means of detonation of a destructive device

which results in the death of a person where

there was not malice aforethought

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

43-35-85(F) Abuse or neglect of a vulnerable

16-3-1050(F) adult resulting in death

44-53-370 Prohibited Acts A, penalties (b)(1) (narcotic

drugs in Schedules I(b) and (c), LSD, and

Schedule II) second, third, or subsequent

offense

44-53-370(e)(2) Prohibited Acts A, penalties (trafficking in

(a)2 cocaine, 10 grams or more but less than 28

grams)

Second offense

44-53-370(e)(2) Prohibited Acts, penalties (trafficking in

(b)2 cocaine, 28 grams or more but less than 100

grams)

Second offense

44-53-370(e)(5) Prohibited Acts, penalties (trafficking in

(a)2 LSD, 100 dosage units or more but less than

500 dosage units)

Second offense

44-53-370(e)(5) Prohibited Acts, penalties (trafficking in

(b)2 LSD, 500 dosage units or more but less than

1,000 dosage units)

Second offense

44-53-370(e)(5) Prohibited Acts, penalties (trafficking in

(a)3 LSD, 100 dosage units or more, but less than 500 dosage units)

Third or subsequent offense

44-53-370(e)(5) Prohibited Acts, penalties (trafficking in

(b)3 LSD, 500 dosage units or more, but less than

1,000 dosage units)

Third or subsequent offense

44-53-370(e) Prohibited Acts, penalties (trafficking in

(6)(d) flunitrazepam, 5 kilograms or more)

44-53-370(e)(8) Trafficking in MDMA or ecstasy, 100

(a)(ii) dosage units but less than 500‑‑Second

offense

44-53-370(e)(8) Trafficking in MDMA or ecstasy,

(a)(iii) 100 dosage units but less than 500‑‑Third or

subsequent offense

44-53-370(e)(8) Trafficking in MDMA or ecstasy, 100

(b)(ii) dosage units but less than 1000‑‑Third or

subsequent offense

44-53-370(e)(8) Trafficking in MDMA or ecstasy, 100

(b)(iii) dosage units but less than 1000‑‑Third or

subsequent offense

44-53-370(g)(1) Prohibited Acts A, penalties (distribution

(b) of narcotic drugs in Schedules I(b) and (c),

LSD, and Schedule II with intent to commit

a crime)

Second offense

44-53-370(g)(1) Prohibited Acts A, penalties (distribution

(c) of narcotic drugs in Schedules I(b) and

(c), LSD, and Schedule II with intent to

commit a crime)

Third or subsequent offense

44-53-375(B)(2) Manufacture, distribution of

methamphetamine or cocaine base, second

offense

44-53-375(B)(3) Manufacture, distribution, etc.,

methamphetamine, or cocaine base

Third or subsequent offense

44-53-375(C)(1) Trafficking in ice, crank, or crack cocaine

(b) (10 grams or more but less than 28 grams)

Second offense

44-53-375(C)(2) Trafficking in ice, crank, or crack cocaine

(b) (28 grams or more but less than 100 grams)

Second offense

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 Penalty for obstruction of railroad”

SECTION 3. Section 16-1-90(D) of the 1976 Code is amended to read:

“(D) The following offenses are Class D felonies and the maximum terms established for a Class D felony, as set forth in Section 16‑1‑20(A), apply:

10-11-325(A) Possessing, having readily accessible, or

transporting onto the capitol grounds or

within he capitol building an explosive,

destructive, or incendiary device

16-1-55 Accessory after the fact of a Class A, B, or C

Felony

~~16-3-930~~ ~~Knowingly subjecting another person to~~

~~forced labor or services, or recuiting,~~

~~harboring, transporting, providing, or~~

~~obtaining by any means a person knowing~~

~~that the person will be subject to forced labor~~

~~or services~~

16-3-1090(B) Assist another person in committing suicide

16-3-1730(C) Stalking within ten years of a conviction of

harassment or stalking

16-11-312 Burglary‑‑second degree

16-11-325 Common law robbery

16-11-525(D)(1) Injuring real property when illegally

obtaining nonferrous metals and the act

results in great bodily injury to person

16-15-140 Committing or attempting lewd act upon

child under 16

16-15-355 Disseminating obscene material to a minor

12 years or younger

16-23-720(C) Possessing, manufacturing, transporting,

distributing, possessing with the intent to

distribute any explosive device, substance,

or material configured to damage, injure, or

kill a person, or possessing materials which

when assembled constitute a destructive

device

16-23-720(D) Threaten by means of a destructive weapon

16-23-720(E) Harboring one known to have violated

provisions relating to bombs, weapons of

mass destruction, and destructive devises

16-23-730 Communicating or transmitting to a person

that a hoax device or replica is a destructive

device or detonator with intent to intimidate

or threaten injury, obtain property, or

interfere with the ability of a person or

government to conduct its affairs

16-23-750 Communicating or aiding and abetting the

communication of a threat or conveying

false information concerning an attempt to

kill, injure, or intimidate a person or damage

property or destroy by means of an

explosive, incendiary, or destructive device

(second or subsequent offense)

24-3-210 Furloughs for qualified inmates of state

prison system‑‑Failure to return (See Section

24-13-410)

24-13-410(B) Escaping or attempting to escape from

prison or possessing tools or weapons used

to escape

24-13-470 Inmate throwing bodily fluids on a

correctional facility employee

43-35-85(B) Abusing or neglecting a vulnerable adult that

results in great bodily injury

43-35-85(D) Abuse or neglect of a vulnerable

16-3-1050(E) adult resulting in great bodily injury

44-53-370(b)(1) Prohibited Acts A, penalties (narcotic drugs

in Schedule I (b) and (c), LSD, and

Schedule II)

First offense

44-53-370 Prohibited Acts A, penalties (g)(2)(a)

(distribution of controlled substances with

intent to commit a crime)

First offense

44-53-375(B)(1) Manufacture, distribution, etc.,

methamphetamine or cocaine

First offense

44-53-445(B)(2) Distribution, manufacture, sale, or

possession of crack cocaine within proximity

of a school

44-53-577 Unlawful to hire, solicit, direct a person

under 17 years of age to transport, conceal,

or conduct financial transaction relating to

unlawful drug activity

50-21-113(A)(1) Operating a moving water device while

under the influence of alcohol or drugs

where great bodily injury results

56-5-2945(A)(1) Causing great bodily injury by operating

vehicle while under influence of drugs or

alcohol”

SECTION 4. Section 16-3-20(C)(a)(1) of the 1976 Code is amended to read:

“(C) The judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(1) The murder was committed while in the commission of the following crimes or acts:

(a) criminal sexual conduct in any degree;

(b) kidnapping;

(c) trafficking in persons;

~~(c)~~(d) burglary in any degree;

~~(d)~~(e) robbery while armed with a deadly weapon;

~~(e)~~(f) larceny with use of a deadly weapon;

~~(f)~~(g) killing by poison;

~~(g)~~(h) drug trafficking as defined in Section 44‑53‑370(e), 44‑53‑375(B), 44‑53‑440, or 44‑53‑445;

~~(h)~~(i) physical torture;

~~(i)~~(j) dismemberment of a person; or

~~(j)~~(k) arson in the first degree as defined in Section 16‑11‑110(A).”

SECTION 5. Section 16-3-652(1)(b) of the 1976 Code is amended to read:

“(1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

(a) The actor uses aggravated force to accomplish sexual battery.

(b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.”

SECTION 6. Section 16-3-655(D)(2)(a) of the 1976 Code is amended to read:

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

(a) Statutory aggravating circumstances:

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

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

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

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

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

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

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

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

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

SECTION 7. Section 17-25-45(C) of the 1976 Code is amended to read:

“(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

16-3-930 Trafficking in persons

16‑3‑1075 Carjacking

16‑11‑110(A) Arson, First degree

16‑11‑311 Burglary, First degree

16‑11‑330(A) Armed robbery

16‑11‑330(B) Attempted armed robbery

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

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

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

25‑7‑40 Gathering information for an enemy

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) 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.”

SECTION 8. Section 23-3-430(C) of the 1976 Code is amended to read:

“(C) For purposes of this article, a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender:

(1) criminal sexual conduct in the first degree (Section 16‑3‑652);

(2) criminal sexual conduct in the second degree (Section 16‑3‑653);

(3) criminal sexual conduct in the third degree (Section 16‑3‑654);

(4) criminal sexual conduct with minors, first degree (Section 16‑3‑655(1));

(5) criminal sexual conduct with minors, second degree. If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16‑3‑655(3) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(6) engaging a child for sexual performance (Section 16‑3‑810);

(7) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

(8) criminal sexual conduct: assaults with intent to commit (Section 16‑3‑656);

(9) incest (Section 16‑15‑20);

(10) buggery (Section 16‑15‑120);

(11) committing or attempting lewd act upon child under sixteen (Section 16‑15‑140);

(12) peeping, voyeurism, or aggravated voyeurism (Section 16‑17‑470);

(13) violations of Article 3, Chapter 15 of Title 16 involving a minor;

(14) a person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;

(15) kidnapping (Section 16‑3‑910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(16) kidnapping (Section 16‑3‑910) of a person under eighteen years of age except when the offense is committed by a parent;

(17) trafficking in persons (Section 16‑3‑930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

~~(17)~~(18) criminal sexual conduct when the victim is a spouse (Section 16‑3‑658);

~~(18)~~(19) sexual battery of a spouse (Section 16‑3‑615);

~~(19)~~(20) sexual intercourse with a patient or trainee (Section 44‑23‑1150);

~~(20)~~(21) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(a) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16‑15‑375(5);

(b) perform a sexual activity in the presence of the person solicited (Section 16‑15‑342); or

~~(21)~~(22) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44‑53‑370(f), except petit larceny or grand larceny.”

SECTION 9. Section 23-3-490(D)(1) of the 1976 Code is amended to read:

“(D) For purposes of this article, information on a person adjudicated delinquent in family court for an offense listed in Section 23‑3‑430 must be made available to the public in accordance with the following provisions:

(1) If a person has been adjudicated delinquent for committing any of the following offenses, information must be made available to the public pursuant to subsections (A) and (B):

(a) criminal sexual conduct in the first degree (Section 16‑3‑652);

(b) criminal sexual conduct in the second degree (Section 16‑3‑653);

(c) criminal sexual conduct with minors, first degree (Section 16‑3‑655(1));

(d) criminal sexual conduct with minors, second degree (Section 16‑3‑655(2) and (3));

(e) engaging a child for sexual performance (Section 16‑3‑810);

(f) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); ~~or~~

(g) kidnapping (Section 16‑3‑910); or

(h) trafficking in persons (Section 16-3-930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.”

SECTION 10. Section 23-3-535(B) of the 1976 Code is amended to read:

“(B) It is unlawful for a sex offender who has been convicted of any of the following offenses to reside within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground:

(1) criminal sexual conduct with a minor, first degree;

(2) criminal sexual conduct with a minor, second degree;

(3) assault with intent to commit criminal sexual conduct with a minor; ~~or~~

(4) kidnapping a person under eighteen years of age; or

(5) trafficking in persons of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.”

SECTION 11. Section 23-3-540(G)(1) of the 1976 Code is amended to read:

“(G) This section applies to a person who has been:

(1) convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses:

(a) criminal sexual conduct with a minor in the first degree (Section 16‑3‑655(A));

(b) criminal sexual conduct with a minor in the second degree (Section 16‑3‑655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from illicit consensual sexual conduct, as contained in Section 16‑3‑655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, then the convicted person is not required to be electronically monitored pursuant to the provisions of this section;

(c) engaging a child for sexual performance (Section 16‑3‑810);

(d) producing, directing, or promoting sexual performance by a child (Section 16‑3‑820);

(e) criminal sexual conduct: assaults with intent to commit (Section 16‑3‑656) involving a minor;

(f) committing or attempting lewd act upon child under sixteen (Section 16‑15‑140);

(g) violations of Article 3, Chapter 15 of Title 16 involving a minor;

(h) kidnapping (Section 16‑3‑910) of a person under eighteen years of age except when the offense is committed by a parent; ~~or~~

(i) trafficking in persons (Section 16-3-930) of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense; or”

SECTION 12. Section 44-53-370(f) of the 1976 Code is amended to read:

“(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) trafficking in persons, Section 16-3-930;

~~(2)~~(3) criminal sexual conduct in the first, second, or third degree, Sections 16‑3‑652, 16‑3‑653, and 16‑3‑654;

~~(3)~~(4) criminal sexual conduct with a minor in the first or second degree, Section 16‑3‑655;

~~(4)~~(5) criminal sexual conduct where victim is legal spouse (separated), Section 16‑3‑658;

~~(5)~~(6) spousal sexual battery, Section 16‑3‑615;

~~(6)~~(7) engaging a child for a sexual performance, Section 16‑3‑810;

~~(7)~~(8) committing lewd act upon child under sixteen, Section 16‑15‑140;

~~(8)~~(9) petit larceny, Section 16‑13‑30 (A); or

~~(9)~~(10) grand larceny, Section 16‑13‑30 (B).”

SECTION 13. 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 14. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

The amendment was adopted.

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

**CARRIED OVER**

H. 3645 -- Reps. T.R. Young, Merrill, Hardwick, J.R. Smith, D.C. Smith, Erickson, Stringer, Stewart, G.R. Smith, Harrison, Gullick, Nanney, Cato, Huggins, Crawford, Spires, Allison, Ballentine, Bannister, Bedingfield, Bingham, Clyburn, Cole, Forrester, Hamilton, Harrell, Hearn, Herbkersman, Horne, Hosey, Limehouse, Long, Millwood, Parker, E.H. Pitts, Sandifer, Scott, Sellers, Simrill, Sottile, Toole, White, Wylie, A.D. Young, Bowers and Clemmons: A BILL TO AMEND SECTION 56‑1‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS TO WHOM THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE A DRIVER’S LICENSE OR PERMIT, SO AS TO PROVIDE THAT A DRIVER’S LICENSE MAY NOT BE ISSUED TO A PERSON WHO IS UNDER EIGHTEEN YEARS OLD OR A PERSON WHO HOLDS A CONDITIONAL DRIVER’S LICENSE; TO AMEND SECTION 56‑1‑176, RELATING TO SCHOOL ATTENDANCE CONDITIONS ASSOCIATED WITH THE ISSUANCE OF CONDITIONAL AND SPECIAL RESTRICTED DRIVER’S LICENSES, TO PROVIDE THAT THESE AND ADDITIONAL CONDITIONS SHALL APPLY TO THE ISSUANCE OR REINSTATEMENT OF A BEGINNER’S PERMIT, CONDITIONAL DRIVER’S LICENSE, SPECIAL RESTRICTED DRIVER’S LICENSE, AND A REGULAR DRIVER’S LICENSE ISSUED TO A PERSON LESS THAN EIGHTEEN YEARS OF AGE, TO PROVIDE FOR THE SUSPENSION OF A PERSON’S PERMIT OR LICENSE IF HE FAILS TO COMPLY WITH THESE CONDITIONS, AND TO REQUIRE THAT THE SUSPENSION REMAIN IN EFFECT UNTIL THE PERSON HAS DEMONSTRATED COMPLIANCE WITH THESE CONDITIONS FOR ONE FULL SEMESTER SUBSEQUENT TO THE SEMESTER DURING WHICH HIS PERMIT OR LICENSE WAS SUSPENDED; BY ADDING SECTION 56‑1‑177 SO AS TO PROVIDE THAT A MINOR’S PRIVILEGE TO DRIVE MUST BE SUSPENDED UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE FOR THE REINSTATEMENT OF A DRIVER’S LICENSE THAT HAS BEEN SUSPENDED; TO AMEND SECTION 56‑1‑180, RELATING TO THE ISSUANCE OF A SPECIAL RESTRICTED DRIVER’S LICENSE BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO INCREASE THE MAXIMUM AGE OF A PERSON WHO MAY BE ISSUED THIS DRIVER’S LICENSE; TO AMEND SECTION 59‑65‑10, RELATING TO COMPULSORY SCHOOL ATTENDANCE, SO AS TO PROVIDE THAT A CHILD MUST ATTEND SCHOOL UNTIL HE ATTAINS THE AGE OF EIGHTEEN; TO AMEND SECTION 63‑19‑20, RELATING TO DEFINITIONS OF THE CHILDREN’S CODE, SO AS TO DEFINE “CHILD” FOR THE PURPOSE OF TRUANCY AS A PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE; TO AMEND SECTION 63‑19‑1030, RELATING TO PREHEARING INQUIRY AND INVESTIGATION IN PROCEEDINGS AGAINST A CHILD, SO AS TO SPECIFY HOW COURT DOCUMENTS FOR TRUANCY PETITIONS MUST BE TITLED; TO AMEND SECTION 63‑19‑1420, RELATING TO SUSPENSION OR RESTRICTION OF A CHILD’S DRIVER’S LICENSE, SO AS TO PROVIDE THAT A COURT MAY RESTRICT THE DRIVER’S LICENSE OF A CHILD WHO IS ADJUDICATED DELINQUENT FOR TRUANCY; AND TO AMEND SECTION 63‑19‑1440, RELATING TO COMMITMENT OF A CHILD, SO AS TO PROVIDE THAT A CHILD MAY BE COMMITTED FOR A VIOLATION OF A COURT ORDER TO ATTEND SCHOOL PRIOR TO THE CHILD’S EIGHTEENTH BIRTHDAY.

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

Senator CAMPBELL proposed the following amendment (JUD3645.001), which was ruled out of order:

Amend the bill, as and if amended, by adding appropriately numbered SECTIONS before SECTION 4, line 33 on page 5, to read:

/ SECTION \_\_. Section 1‑23‑660(A) of the 1976 Code, as last amended by Act 279 of 2008, is further amended to read:

“Section 1‑23‑660. (A) There is created within the Administrative Law Court the Office of Motor Vehicle Hearings. The Chief Judge of the Administrative Law Court shall serve as the Director of the Office of Motor Vehicle Hearings. The duties, functions, and responsibilities of all hearing officers and associated staff of the Department of Motor Vehicles are devolved upon the Administrative Law Court effective January 1, 2006. The hearing officers and staff positions, together with the appropriations relating to these positions, are transferred to the Office of Motor Vehicle Hearings of the Administrative Law Court on January 1, 2006. The hearing officers and staff ~~shall~~must be appointed, hired, contracted, and supervised by the chief judge of the court and shall continue to exercise their adjudicatory functions, duties, and responsibilities under the auspices of the Administrative Law Court as directed by the chief judge and shall perform such other functions and duties as the chief judge of the court prescribes. The Office of Motor Vehicle Hearings shall employ at least five hearing officers, an attorney to advise the hearing officers, and support staff in the performance of their duties, and other support and supervisory staff as deemed necessary by the chief judge. All employees of the office shall serve at the will of the chief judge. The chief judge is solely responsible for the administration of the office, the assignment of cases, and the administrative duties and responsibilities of the hearing officers and staff. Notwithstanding another provision of law, the chief judge also has the authority to promulgate rules governing practice and procedures before the Office of Motor Vehicle Hearings. These rules are subject to review as are the rules of procedure promulgated by the Supreme Court pursuant to Article V of the South Carolina Constitution.”

SECTION \_\_\_. Section 56‑5‑2952 of the 1976 Code, as last amended by Act 279 of 2008, is further amended to read:

“Section 56‑5‑2952. The filing fee to request ~~any~~a contested case hearing before the Office of Motor Vehicle Hearings of the Administrative Law Court is ~~one~~two hundred fifty dollars, or as otherwise prescribed by the rules of procedure for the ~~Administrative Law Court~~Office of the Motor Vehicle Hearings. Funds generated from the collection of this fee ~~shall~~must be retained by the Administrative Law Court, provided, however, that these funds first must be used to meet the expenses of the Office of Motor Vehicle Hearings, including the salaries of its employees, as directed by the Chief Judge of the Administrative Law Court.”

SECTION \_\_\_. The two SECTIONS to be appropriately numbered above will take effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

**Point of Order**

Senator SHANE MARTIN raised a Point of Order that the amendment was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

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

**AMENDED, READ THE SECOND TIME**

H. 4430 -- Reps. Merrill, Lowe, Bingham, Hutto, Limehouse, Crawford, Harrell, Harrison and G.M. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-43-218 SO AS TO PROVIDE THAT IF A MUNICIPALITY CONSISTS OF REAL PROPERTY LOCATED IN TWO OR MORE COUNTIES AND ONE OF THOSE COUNTIES BUT NOT ALL UNDERGOES AND IMPLEMENTS A COUNTYWIDE REASSESSMENT AND EQUALIZATION PROGRAM IN A PARTICULAR YEAR, ANY HIGHER REAL PROPERTY TAX VALUATIONS IN THAT COUNTY RESULTING FROM THE REASSESSMENT SHALL NOT APPLY FOR PURPOSES OF COMPUTING MUNICIPAL AD VALOREM TAXES UNTIL THE YEAR IN WHICH ALL OTHER COUNTIES IN THE MUNICIPALITY HAVE COMPLETED AND IMPLEMENTED SUCH A REASSESSMENT AND EQUALIZATION PROGRAM.

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

Senators LAND and LEVENTIS proposed the following amendment (4430LEVENTIS), which was adopted:

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

/ SECTION . Section 6‑1‑530(B)(2) of the 1976 Code, as last amended by Act 314 of 2006, is further amended to read:

“(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12‑36‑920, an amount not to exceed ~~twenty~~ fifty percent of the revenue in the preceding fiscal year of the local accommodations tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.” /

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

/ SECTION 2. Section 6‑1‑730(B)(2) of the 1976 Code, as last amended by Act 314 of 2006, is further amended to read:

“(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12‑36‑920, an amount not to exceed ~~twenty~~ fifty percent of the revenue in the preceding fiscal year of the local hospitality tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.” /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the amendment.

The 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. 3541 -- Reps. Hiott, Frye, Duncan, M.A. Pitts, Whitmire and Rice: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑9‑525 SO AS TO ESTABLISH THE REQUIREMENT AND PROCEDURES FOR OBTAINING BEAR TAGS; BY ADDING SECTION 50‑9‑537 SO AS TO REQUIRE A TEN DOLLAR BEAR DRAW HUNT APPLICATION FEE; BY ADDING SECTION 50‑11‑435 SO AS TO PROHIBIT TAKING OR ATTEMPTING TO TAKE BEAR WEIGHING LESS THAN ONE HUNDRED POUNDS AND PROVIDE APPLICABLE PENALTIES; TO AMEND SECTION 50‑9‑920, RELATING TO REVENUE FROM THE SALE OF LIFETIME LICENSES, SO AS TO DEFINE THE USES FOR REVENUE GENERATED FROM THE SALE OF BEAR TAGS; TO AMEND SECTION 50‑11‑310, AS AMENDED, RELATING TO THE OPEN SEASON FOR ANTLERED DEER, SO AS TO DESIGNATE WHEN CERTAIN EQUIPMENT MAY BE USED IN GAME ZONE 1; AND TO AMEND SECTION 50‑11‑430, RELATING TO BEAR HUNTING, SO AS TO REDESIGNATE THE OPEN SEASON AND PROVIDE ADDITIONAL PENALTIES.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Fish, Game and Forestry.

The Committee on Fish, Game and Forestry, proposed the following amendment (NBD\11969AC10), which was adopted:

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

/SECTION 1. Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50‑9‑665. (A) For the privilege of taking bear, in addition to the required hunting license and big game permit a hunter must obtain a bear tag issued in his name, and the fee:

(1) for a resident is twenty‑five dollars per tag, one dollar of which may be retained by the license sales vendor;

(2) for a nonresident is one hundred dollars per tag, two dollars of which may be retained by the license sales vendor.

(B) In game zones other than Game Zone 1, applicants for bear tags must be chosen by a random drawing. The application fee is ten dollars per applicant and is nonrefundable. Tags are only valid for the specified game zone.

(C) Youth under the age of sixteen are required to obtain youth tags for bear from the department at its designated licensing locations at no cost.”

SECTION 2. Article 3, Chapter 11, Title 50 of the 1976 Code is amended by adding:

“Section 50‑11‑435. It is unlawful to take or attempt to take a bear of less than one hundred pounds. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both. In addition, each person convicted of a violation of this section may be required to pay restitution to the department of not more than one thousand five hundred dollars for each bear that is taken in violation of this section.”

SECTION 3. Section 50‑9‑920 of the 1976 Code is amended by adding at the end:

“(D) Revenue generated from the sale of bear tags and application fees must be used to administer the tag program, protect bear habitat, and support bear research and management.”

SECTION 4. Section 50‑11‑310(A) of the 1976 Code, as last amended by Act 286 of 2008, is further amended to read:

“(A) The open season for hunting and taking antlered deer is:

(1) In Game Zone 1: October 1 through October 10, with primitive weapons only; October 11 through October 16, with archery equipment and firearms; October 17 through October 30, with archery equipment only; and October 31 through January 1, with archery equipment and firearms.

(2) In Game Zone 2: September 15 through September 30, with archery equipment only; October 1 through October 10, with primitive weapons only; October 11 through January 1, with archery equipment and firearms.

(3) In Game Zone 3: August 15 through January 1, with archery equipment and firearms.

(4) In Game Zone 4: September 1 through September 14, with archery equipment~~,~~; and September 15 through January 1, with archery equipment and firearms.

(5) In Game Zone 5: August 15 through August 31, with archery equipment~~,~~; and September 1 through January 1, with archery equipment and firearms.

(6) In Game Zone 6: August 15 through January 1, with archery equipment and firearms.”

SECTION 5. Section 50‑11‑430 of the 1976 Code is amended to read:

“Section 50‑11‑430. (A)(1) The open season for hunting and taking bear ~~in Game Zone One~~ ~~is:~~

~~(1)~~ in Game Zone 1 for still gun hunts~~:~~ ~~the third Monday in October through the following Saturday inclusive~~ is October 17 through October 23; for party dog hunts~~: the fourth Monday in October through the following Saturday inclusive. In all other zones there is no open season for taking bear;~~ is October 24 through October 30. A party dog hunt in Game Zone 1 may not exceed twenty‑five participants per party and shall register with the department by September first. Party participants, except those not required to have licenses shall submit their hunting license number in order to register.

(2) ~~any bear taken must be reported to the department’s Clemson office within the next business day of the time of taking~~. In all other game zones, the General Assembly finds it in the best interest of the State to allow the taking of black bear under strictly controlled conditions and circumstances. The department may establish a bear management program that allows for hunting and selective removal of bear in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department must set the conditions for taking, including methods of take, areas, times, and seasons, and other conditions to properly control the harvest of bear. The department may issue bear permits to allow hunting and taking of bear in any game zone where bear occur. In Game Zones 2, 3, 4, 5, and 6, a person desiring to hunt and take bear must apply to the department. The application fee is ten dollars and is nonrefundable. Successful applicants must be randomly selected for the permit, and must pay a twenty‑five‑dollar fee for residents and one‑hundred‑dollar fee for nonresidents.

(B) In Game Zones 2, 3, 4, 5, and 6 where the department declares an open season, the department shall promulgate regulations necessary to properly control the harvest of bear.

(C) Any bear taken must be tagged with a valid bear tag and reported to the department. The tag must be attached to the bear as prescribed by the department before being moved from the point of kill.

(D) It is unlawful to:

(1) hunt, take, or attempt to take a bear except during the open season;

(2) ~~hunt, take, or attempt to take bear except as allowed by this title~~ possess an untagged bear;

(3) ~~to~~ take more than one bear per person during ~~still gun hunt season~~ all seasons. ~~or more than three per party during party dog hunt season~~ In Game Zone 1 a registered dog hunt party may take up to five bear per season per party; a person who has taken a bear during the season may participate in a registered party hunt as long as the hunting license shows the bear tag endorsement, but the person may not take another bear;

(4) ~~take or attempt to take a bear of under one hundred pounds;~~

~~(5)~~ take or attempt to take a sow bear with cubs;

~~(6)~~(5) possess or transport a freshly killed bear or bear part except during the open season for hunting and taking bear. This prohibition does not apply to bear lawfully taken in other jurisdictions. The department may issue a special permit for possession or transportation of a freshly killed bear or bear part outside of the season;

~~(7)~~(6) possess a captive bear except pursuant to a permit issued by the department. A violation of the terms of the permit may result in revocation or a civil penalty of up to five thousand dollars, or both. An appeal must be made in accordance with the Administrative Procedures Act;

~~(8)~~(7) pursue bear with dogs; except during the open season for hunting and taking bear with dogs;

~~(9)~~(8) hunt or take bear ~~near bait o~~r by the use or aid of bait~~.~~; or attempt to hunt or take bear by use or aid of bait; hunt or take bear on or over a baited area. As used in this item:

(a) ‘Bait’ means salt or shelled, shucked, or unshucked corn, wheat or other grain, or other foodstuffs that could constitute a lure, attraction, or enticement for bear.

(b) ‘Baiting’ or ‘to bait’ means placing, depositing, exposing, distributing, or scattering bait.

(c) ‘Baited area’ means an area where bait is directly or indirectly placed, exposed, deposited, distributed, or scattered, and the area remains a baited area for ten days following complete removal of all bait. Nothing in this section prohibits the hunting and taking of bear on or over lands or areas that are not otherwise baited and where:

(i) there are standing crops on the field where grown, including crops grown for wildlife management purposes; or

(ii) shelled, shucked, or unshucked corn, wheat or other grain, or seeds that have been distributed or scattered solely as the result of a normal agricultural practice as prescribed by the Clemson University Extension Service or its successor;

(9) buy, sell, barter, or exchange or attempt to buy, sell, barter, or exchange a bear or bear part;

(10) take or attempt to take a bear from a watercraft or other water conveyance or molest, take, or attempt to take a bear while the bear is swimming in a lake or river.

~~(C)~~(E)(1) Each of the ~~above~~ acts provided for in subsection (D) is a violation of this section and is a separate offense.

~~(D)~~(2) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than two years, or both. Hunting and fishing privileges of a person convicted under the provisions of this section must be suspended for three years. In addition, each person convicted of a violation of this section shall pay restitution to the department of not less than one thousand five hundred dollars for each bear or bear part ~~which~~ that is the subject of a violation of this section.

~~(E)~~ ~~Party dog hunts may not exceed twenty‑five participants and must register with the department.~~”

SECTION 6. Section 50‑11‑380 of the 1976 Code is repealed.

SECTION 7. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill, as amended.

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

**Ayes 32; Nays 7**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Cromer Elliott Fair

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Lourie Malloy

*Martin, Larry* Massey McConnell

McGill Nicholson O’Dell

Pinckney Reese Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--32**

**NAYS**

Bright Bryant Davis

*Martin, Shane* Mulvaney Rose

Ryberg

**Total--7**

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1257--Senator Rose: A BILL TO AMEND CHAPTER 5, TITLE 43 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE DIRECTORY OF NEW HIRES AND NEW HIRE REPORTING PROGRAM TO REPEAL SECTION 43‑5‑598; TO AMEND SECTION 63‑17‑1210, RELATING TO THE STATE DIRECTORY OF NEW HIRES AND THE NEW HIRE REPORTING PROGRAM, TO REQUIRE THAT BY JULY 1, 2010, THE CHILD SUPPORT ENFORCEMENT DIVISION OF THE DEPARTMENT OF SOCIAL SERVICES CREATE AN EMPLOYER NEW HIRE REPORTING PROGRAM AND A STATE DIRECTORY OF NEW HIRES. (Abbreviated Title)

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

The Committee on Judiciary proposed the following amendment (JUD1257.003), which was adopted:

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

/ SECTION 1. Section 63‑17‑1210 of the 1976 Code is amended to read:

“~~(A) By January 1, 1996, the Child Support Enforcement Division of the Department of Social Services shall create and develop an Employer New Hire Reporting program. The Employer New Hire Reporting program shall provide a means for employers to voluntarily assist in the state’s efforts to locate absent parents who owe child support and collect child support from those parents by reporting information concerning newly hired and rehired employees directly to the division.~~

~~(B) The following provisions apply to the Employer New Hire Reporting program:~~

~~(1) An employer doing business in this State may participate in the Employer New Hire Reporting program by reporting to the Child Support Enforcement Division:~~

~~(a) the hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; or~~

~~(b) the rehiring or return to work of an employee who was laid off, furloughed, separated, granted leave without pay, or terminated from employment.~~

~~(2) The Employer New Hire Reporting program applies to a person who is expected to:~~

~~(a) be employed for more than one month’s duration;~~

~~(b) be paid for more than three hundred fifty hours during a continuous six‑month period; or~~

~~(c) have gross earnings of more than three hundred dollars in each month of employment.~~

~~(3) An employer who voluntarily reports under item (1) shall submit monthly reports regarding each hiring, rehiring, or return to work of an employee during the preceding month. The report must contain:~~

~~(a) the employee’s name, address, social security number, date of birth, and salary information; and~~

~~(b) the employer’s name, address, and employer identification number.~~

~~(4) Employers reporting to the Employer New Hire Reporting program shall provide information to the Child Support Enforcement Division by:~~

~~(a) sending a copy of the new employee’s W‑4 form;~~

~~(b) completing a form supplied by the Child Support Enforcement Division; or~~

~~(c) any other means authorized by the Child Support Enforcement Division for conveying the required information, including electronic transmission or magnetic tapes in compatible formats.~~

~~(5) An employer is authorized by this section to disclose the information described in item (3) and is not liable to the employee for the disclosure or subsequent use by the Child Support Enforcement Division of the information.~~

~~(6) Information received by the South Carolina Employment Security Commission from employers which includes information contained in the reports provided for in this section must be transmitted to the Department of Social Services within fifteen working days after the end of each quarter~~. The Employer New Hire Reporting requirements, which are mandatory, are in Section 43‑5‑598.”

SECTION 2. Sections 43‑5‑598 (K), (L), and (M) of the 1976 Code are amended to read:

“(K) Within two business days after the date information regarding a newly hired employee is entered into the state directory of new hires, the department shall transmit a notice to the employer of the employee directing the employer to withhold from the income of the employee an amount equal to the monthly, or other periodic, child support obligation, including any past‑due child support obligation, of the ~~employee~~ new hire, unless the employee’s income is not subject to withholding pursuant to Article 11, Chapter 17, Title 63.

(L) Within three business days after the date information regarding a ~~newly hired employee~~ new hire is entered into the state directory of new hires, the state directory of new hires shall furnish the information to the national directory of new hires.

(M) The state directory of new hires shall include reports received from the Employment Security Commission ~~pursuant to~~ and any other reports received from other departments or agencies as provided for in Section 43‑5‑620. The state directory of new hires shall furnish these reports, on a quarterly basis, to the national directory of new hires by the dates, in the format, and containing the information the Secretary of the United States Department of Health and Human Services specifies in regulations.”

SECTION 3. The repeal or amendment by this act of 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 4. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the committee amendment.

The committee amendment was adopted.

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

**PRESIDENT *Pro Tempore* PRESIDES**

At 2:47 P.M., Senator McCONNELL assumed the Chair.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

H. 4413 -- Reps. Chalk, Gunn, Hardwick, Clemmons, Lowe, Crawford, Long, J.M. Neal, G.R. Smith, Harrison, A.D. Young, Horne, Brady, Erickson, Herbkersman, Millwood, Allison, Parker, Duncan, M.A. Pitts, Harvin, Williams, Neilson, Battle, Miller, Huggins, Spires, Willis, Hearn, Scott, Daning, J.E. Smith, Vick and H.B. Brown: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 70 TO TITLE 44 TO ENACT THE “LICENSURE OF IN‑HOME CARE PROVIDER ACT” SO AS TO REQUIRE A BUSINESS TO BE LICENSED TO PROVIDE, OR TO MAKE PROVISIONS FOR, IN‑HOME CARE SERVICES THROUGH ITS EMPLOYEES OR AGENTS OR THROUGH CONTRACTUAL ARRANGEMENTS; TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL PROMULGATE REGULATIONS FOR LICENSURE IN ACCORDANCE WITH REQUIREMENTS PROVIDED FOR IN THIS ACT, INCLUDING, BUT NOT LIMITED TO, CRIMINAL BACKGROUND CHECKS; TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR IN‑HOME CAREGIVERS EMPLOYED BY IN‑HOME CARE PROVIDERS; AND TO PROVIDE THAT THE DEPARTMENT SHALL RETAIN ALL FEES COLLECTED PURSUANT TO THIS CHAPTER TO BE USED EXCLUSIVELY TO CARRY OUT THE DEPARTMENT’S RESPONSIBILITIES UNDER THIS CHAPTER.

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

Senators PEELER and CLEARY proposed the following amendment (H-4413 - PERFECTING), which was adopted:

Amend the committee amendment, as and if amended, page [4413-2] by striking line 8 and inserting:

/ standards for the appropriate levels of care as outlined in /

Amend the committee amendment further, page [4413-3] by striking lines 1-2 and inserting:

/ home care provider shall be subject to random drug testing./

Renumber sections to conform.

Amend title to conform.

Senator CLEARY explained the perfecting amendment.

The perfecting amendment was adopted.

Senator RYBERG proposed the following amendment (H-4413 PERFECTING2), which was adopted:

Amend the committee amendment, as and if amended, page [4413-2] after line 2 by adding:

/ (f) an entity or person who provides companion-sitting, transportation or cooking. /

Renumber sections to conform.

Amend title to conform.

Senator CLEARY explained the perfecting amendment.

The perfecting amendment was adopted.

The Committee on Medical Affairs proposed the following amendment (H-4413), which was adopted:

Amend the bill, as and if amended, by striking lines 29-34 and inserting:

/ (b) an individual or agency who provides only a house cleaning service;

(c) an individual hired directly by the person receiving care or hired by his family;

(d) a direct care entity defined by Section 44‑7‑2910 (B)(1)(e), a direct caregiver or caregiver defined by Section 44‑7‑2910 (B)(2)(e) or an individual who provides a service or services defined by Section 44‑21‑60; or

(e) a church or another religious institution recognized as a 501(c)(3) organization by the Internal Revenue Service that provides in-home care services without compensation or for a nominal fee collected to cover incidental expenses directly related to such care./

Amend the bill further, beginning on page 2, beginning on line 41, by striking Section 44-70-40 in its entirety and inserting:

/ Section 44‑70‑40. The department shall promulgate regulations for the licensure of in‑home care providers. The department must use as a basis for these regulations the current standards for the appropriate levels of care of as outlined in Medicaid Scope of Services for Personal Care Services as outlined by the Department of Health and Human Services and in use on July 1, 2010, and must include:

(1) license application and renewal procedures;

(2) criminal background checks for licensure applicants, which may include criminal offenses that preclude licensure;

(3) responsibilities and duties of a licensee, including requirements for bonding, record keeping, and reporting;

(4) fees the department may charge to process an application for a license, the issuance of a license, the renewal of a license, and the reinstatement of a revoked or suspended license;

(5) criteria that a licensee’s employee, agent, independent contractor or referral must satisfy before providing in‑home care service. These criteria must include, but are not limited to, personal information, completion of a minimum education requirement, completion of minimum training and continuing education requirements, and screening for communicable diseases; and

(6) sanctions that the department may impose for a violation of this chapter, including the suspension or revocation of a license or the imposition of a monetary penalty. Sanctions imposed may be appealed pursuant to Section 44‑1‑60. /

Amend the bill further, page 3, beginning on line 32, by striking Section 44-70-60 in its entirety and inserting:

/ Section 44‑70‑60. (A) Before becoming licensed as an in‑home care provider, a person must undergo a criminal background check as provided for in Section 44-7-2910 and submit to a drug test.

(B) Before being employed as an in‑home caregiver by a licensed in‑home care provider, a person shall undergo a criminal background check as provided for in Section 44‑7‑2910 and submit to a drug test./

Amend the bill further, page 3, after line 43 by adding:

/ Section 44-70-80. A licensed in-home provider and an individual employed as an in-home caregiver by a licensed in-home care provider shall be subject to random drug testing by the department.

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

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

**AMENDED, CARRIED OVER**

S. 1462 -- Senators McConnell, Setzler, L. Martin, Bright and Alexander: A CONCURRENT RESOLUTION TO MEMORIALIZE THE PRESIDENT OF THE UNITED STATES, THE CONGRESS OF THE UNITED STATES, AND THE FEDERAL COMMUNICATIONS COMMISSION OF THE UNITED STATES TO REFRAIN FROM REGULATING INTERNET BROADBAND SERVICES AS COMMON CARRIER SERVICES UNDER TITLE II OF THE COMMUNICATIONS ACT OF 1934.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the Resolution.

Senator SETZLER proposed the following amendment (1462SETZLER), which was adopted:

Amend the concurrent resolution, as and if amended, by striking line 11, page 1, through line 23, page2, and inserting:

/ A CONCURRENT RESOLUTION TO MEMORIALIZE THE PRESIDENT OF THE UNITED STATES, THE CONGRESS OF THE UNITED STATES, AND THE FEDERAL COMMUNICATIONS COMMISSION OF THE UNITED STATES TO REFRAIN FROM REGULATING INTERNET BROADBAND SERVICES AS COMMON CARRIER SERVICES UNDER TITLE II OF THE COMMUNICATIONS ACT OF 1934 AND TO IMPLEMENT THE NATIONAL BROADBAND PLAN IN A MANNER THAT FACILITATES INVESTMENT IN RURAL AREAS.

Whereas, due in large part to the unregulated efforts of private enterprise over the past twenty‑five years, the development of the Internet has dramatically transformed the way South Carolina citizens work, live, and learn. The deployment of efficient, fast, and reliable broadband networks throughout South Carolina has created thousands of jobs and economic benefits for local economies; and

Whereas, in order to encourage the growth and development of the Internet, the Federal Communications Commission (FCC) has historically followed a policy to refrain from regulating broadband Internet services as common carrier services under Title II of the Communications Act of 1934. As a result, the United States has been at the forefront of technological, business, and social innovation on the Internet; and

Whereas, on March 16, 2010, the FCC released the congressionally mandated plan to create a National Broadband Plan. The Plan articulates the goal of ensuring affordable broadband access to all Americans and other commendable goals. It is important and in the public interest that the Plan be implemented in such a way that it is consistent with federal and state law and policy that comparable broadband services be available at comparable prices in urban and rural areas, so as to facilitate rural economic development efforts; and

Whereas, it is important and in the public interest that the National Broadband Plan be implemented in such a way that it provides for certainty in funding mechanisms, in order to encourage the State’s broadband service providers to continue to invest in rural broadband infrastructure and to foster rural economic development efforts; and

Whereas, the State of South Carolina has made significant public policy decisions that encourage universal access to modern communication systems and has taken steps to ensure all of the State’s citizens have access to comparable services at reasonably comparable rates as required by Federal law; and

Whereas, on April 6, 2010 the United States Court of Appeals for the District of Columbia Circuit released an opinion in the matter of Comcast vs. the Federal Communication Commission that calls into question the Federal Communications Commission’s authority to regulate Broadband Internet under existing rules; and

Whereas, on May 6, 2010, the Chairman of the FCC announced a policy to reclassify broadband Internet services as common carrier services so that they can be more tightly regulated, with a proposal to forbear from imposing certain common carrier obligations on broadband Internet providers; and

Whereas, it is the judgment of the South Carolina General Assembly that using provisions of Title II of the Communications Act of 1934 to regulate the Internet will slow investment in South Carolina’s Internet broadband infrastructure and jeopardize future job growth; and

Whereas, the South Carolina General Assembly has made significant public policy decisions that encourage investment in broadband and emerging technologies. Now, therefore, Be it resolved by the Senate, the House of Representatives concurring:

That the South Carolina General Assembly memorializes the President of the United States, the Congress of the United States, and the Federal Communications Commission of the United States to refrain from regulating Internet broadband services as common carrier services under Title II of the Communications Act of 1934; and

Be it further resolved that we memorialize the President of the United States, the Congress of the United States, and the Federal Communications Commission of the United States to implement the National Broadband Plan’s recommendations in a manner that facilitates investment in broadband facilities in rural areas, facilitates rural economic development efforts, and ensures that Americans in rural and high cost areas have access to broadband services that are reasonably comparable to the broadband services available in urban areas at reasonably comparable prices; and

Be it further resolved that copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the South Carolina congressional delegation, and the Commissioners of the Federal Communications Commission of the United States. /

Renumber sections to conform.

Amend title to conform.

Senator SETZLER explained the amendment.

The amendment was adopted.

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

**ADOPTED**

H. 4606 -- Reps. Duncan, Willis, M.A. Pitts, Bowen, Hardwick, Bedingfield, Rice, Forrester, Owens, Clemmons, Viers and Loftis: A CONCURRENT RESOLUTION TO MEMORIALIZE CONGRESS TO ADOPT LEGISLATION THAT WOULD POSTPONE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY’S (EPA) EFFORT TO REGULATE GREENHOUSE GAS (GHG) EMISSIONS FROM STATIONARY SOURCES USING EXISTING CLEAN AIR ACT AUTHORITY UNTIL CONGRESS ADOPTS A BALANCED APPROACH TO ADDRESS CLIMATE AND ENERGY SUPPLY ISSUES WITHOUT CRIPPLING THE ECONOMY.

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

**ADOPTED**

H. 4973 -- Reps. H.B. Brown, Brady, Harrison, G.M. Smith, J.E. Smith, Agnew, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Branham, Brantley, G.A. Brown, R.L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb‑Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gunn, Haley, Hamilton, Hardwick, Harrell, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D.C. Moss, V.S. Moss, Nanney, J.H. Neal, J.M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D.C. Smith, J.R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A.D. Young and T.R. Young: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 213 IN FAIRFIELD FROM ITS INTERSECTION WITH THE FAIRFIELD/NEWBERRY COUNTY LINE TO ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 215 THE “SILAS C. ‘SLICK’ MCMEEKIN NUCLEAR HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THE WORDS “SILAS C. ‘SLICK’ MCMEEKIN NUCLEAR HIGHWAY”.

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

**AMENDED**

**OBJECTION TO FURTHER CONSIDERATION**

H. 4261 -- Reps. Harrison and Weeks: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑3‑75 SO AS TO PROVIDE THAT THE DIRECTOR OF THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, OR HIS DESIGNEE, MAY ISSUE AN ADMINISTRATIVE SUBPOENA FOR THE PRODUCTION OF RECORDS DURING THE INVESTIGATION OF CERTAIN CRIMINAL CASES THAT INVOLVE FINANCIAL CRIMES.

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

**Motion Under Rule 26B**

Senator MASSEY asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection.

Senator MASSEY proposed the following amendment (JUD4261.002), which was adopted:

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

/ SECTION 1. Article 1, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑75. (A) For purposes of this section:

(1) ‘Attorney General’ means the Attorney General of the State of South Carolina or the Attorney General’s designee who is employed by the Attorney General and is an officer of the court.

(2) ‘SLED’ means the South Carolina Law Enforcement Division.

(B) An officer of the court who is employed by SLED may issue an administrative subpoena to a financial institution, public or private utility, or communications provider for the production of subscriber or customer information as described in subsection (E), not including the contents of any communications, if:

(1) SLED has reasonable cause to believe that the information is material to an active investigation of at least one of the following financial crimes:

(a) breach of trust with fraudulent intent (Section 16‑13‑230);

(b) obtaining a signature or property by false pretenses (Section 16‑13‑240);

(c) financial identity fraud (Section 16‑13‑510 et seq);

(d) financial transaction card or number theft (Section 16‑14‑20 et seq);

(e) financial transaction card fraud (Section 16‑14‑60 et seq);

(f) computer crimes (Section 16‑16‑10 et seq); or

(g) crimes against a federally chartered or insured financial institution (Section 34‑3‑110); and

(2) SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to:

(a) the court not being able to issue a warrant or subpoena in a timely fashion and the immediate need to obtain the information; or

(b) SLED having reasonable cause to believe that obtaining a warrant or subpoena from the court could result in the subscriber or customer, or an agent of the subscriber or customer, destroying, erasing, transferring, or otherwise changing the information in order to knowingly conceal evidence material to an investigation.

(C)(1) An administrative subpoena must be made in writing upon oath or affirmation of the officer of the court who is employed by SLED. The officer must sign the administrative subpoena affirming that SLED has reasonable cause to believe that the information is material to an active investigation of at least one of the financial crimes listed in subsection (B)(1), and that SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to one of the reasons listed in subsection (B)(2).

(2) The officer must submit the administrative subpoena to the Attorney General for review prior to issuing the administrative subpoena to a financial institution, public or private utility, or communications provider. The officer must not issue the administrative subpoena without authorization by the Attorney General pursuant to subsection (D). The officer may submit the administrative subpoena with signature to the Attorney General in person, by mail, by facsimile, or by other electronic means. If the officer, after a good faith effort, is not able to submit the administrative subpoena with signature to the Attorney General in person, by mail, by facsimile, or by other electronic means, the officer may orally or electronically explain and affirm the administrative subpoena to the Attorney General.

(D)(1) The Attorney General must authorize an officer of the court who is employed by SLED to issue an administrative subpoena to a financial institution, public or private utility, or communications provider if, after review, the Attorney General determines that SLED has reasonable cause to believe that the information is material to an active investigation of at least one of the financial crimes listed in subsection (B)(1), and that SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to one of the reasons listed in subsection (B)(2).

(2) If the Attorney General authorizes the officer of the court who is employed by SLED to issue the administrative subpoena, the Attorney General must sign and return the administrative subpoena to SLED. The Attorney General may return the administrative subpoena with signature to SLED in person, by mail, by facsimile, or by other electronic means.

(3) If the Attorney General, after a good faith effort, is not able to return the administrative subpoena with signature to SLED in person, by mail, by facsimile, or by other electronic means, or the officer of the court employed by SLED was not able to submit the administrative subpoena with signature to the Attorney General and had to orally or electronically explain and affirm the administrative subpoena, the Attorney General may orally confirm authorization of the administrative subpoena. The Attorney General must return the administrative subpoena with signature to SLED within forty-eight hours after the Attorney General authorizes the administrative subpoena, or by the next business day if the time period falls on a weekend or holiday, whichever is later.

(4) The good faith reliance by the Attorney General as to the information affirmed by SLED to obtain an administrative subpoena constitutes a complete defense to any civil, criminal, or administrative action arising out of the administrative subpoena. The Attorney General is not responsible for any costs related to the defense of any civil, criminal, or administrative action arising out of the administrative subpoena.

(E)(1) Upon receipt of an administrative subpoena from SLED, a financial institution, public or private utility, or communications provider shall disclose, as applicable, the subscriber’s or customer’s:

(a) name;

(b) address;

(c) local and long distance telephone connection or electronic communication records, or records of session times and durations;

(d) length of service, including the start date, and types of service utilized;

(e) telephone or instrument number or other customer or subscriber number of identity, including any temporarily assigned network addresses; and

(f) means and source of payment for such service, including any credit card or bank account numbers.

(2) If a financial institution, public or private utility, or communications provider fails to obey an administrative subpoena without lawful excuse, SLED may apply to a circuit court having jurisdiction for an order compelling compliance. The financial institution, public or private utility, or communications provider may object to the administrative subpoena on the grounds that the administrative subpoena fails to comply with this section, or upon any constitutional or other legal right or privilege. The court may issue an order modifying or setting aside the administrative subpoena or directing compliance with the original administrative subpoena.

(3) The good faith reliance by a financial institution, public or private utility, or communications provider to provide information to SLED pursuant to an administrative subpoena, constitutes a complete defense to any civil, criminal, or administrative action arising out of the administrative subpoena.

(F) Information obtained by SLED pursuant to an administrative subpoena must not be made public and is not subject to the Freedom of Information Act.

(G)(1) SLED is authorized to promulgate permanent regulations, pursuant to the Administrative Procedures Act in Chapter 23, Title 1, to define the procedures and guidelines needed to issue an administrative subpoena.

(2) Pursuant to Section 1-23-130, SLED is authorized to promulgate emergency regulations to define the procedures and guidelines needed to issue an administrative subpoena until such time as permanent regulations are promulgated. The provisions of Section 1-23-130(A), (B), (D), and (E) are applicable to emergency regulations promulgated pursuant to this subitem. The provisions of Section 1-23-130(C) are not applicable to emergency regulations promulgated pursuant to this subitem. An emergency regulation promulgated pursuant to this subitem becomes effective upon issuance and continues for one year unless terminated sooner by SLED or concurrent resolution of the General Assembly.

(H) An administrative subpoena must comply with the provisions of federal law 18 U.S.C. Section 2703(c)(2).” /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

The amendment was adopted.

Senators LAND and COURSON objected to further consideration of the Bill.

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

**MOTION ADOPTED**

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.**

**S. 1027--REPORT OF THE**

**COMMITTEE OF CONFERENCE ADOPTED**

S. 1027 -- Senator McGill: A BILL TO AMEND CHAPTER 11, TITLE 50 OF THE 1976 CODE, BY ADDING SECTION 50‑11‑770 TO ENACT THE “RENEGADE HUNTER ACT”, TO PROHIBIT USING DOGS TO HUNT ON PROPERTY WITHOUT PERMISSION OF THE LANDOWNER, AND TO PROVIDE APPROPRIATE PENALTIES.

On motion of Senator CROMER, with unanimous consent, the Report of the Committee of Conference was taken up for immediate consideration.

Senator CROMER spoke on the report.

The question then was adoption of the conference report.

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

**Ayes 36; Nays 2**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Pinckney

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Verdin Williams

**Total--36**

**NAYS**

Bright Bryant

**Total--2**

On motion of Senator CROMER, the Report of the Committee of Conference to S. 1027 was adopted as follows:

**S. 1027--Conference Report**

The General Assembly, Columbia, S.C., June 2, 2010

The Committee of Conference, to whom was referred:

S. 1027 -- Senator McGill: A BILL TO AMEND CHAPTER 11, TITLE 50 OF THE 1976 CODE, BY ADDING SECTION 50‑11‑770 TO ENACT THE “RENEGADE HUNTER ACT”, TO PROHIBIT USING DOGS TO HUNT ON PROPERTY WITHOUT PERMISSION OF THE LANDOWNER, AND TO PROVIDE APPROPRIATE PENALTIES.

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. This act may be referred to and cited as the “Renegade Hunter Act”.

SECTION 2. Chapter 11, Title 50 of the 1976 Code is amended by adding:

“Section 50‑11‑770. (A) For purposes of this section:

(1) ‘Hunting’ includes:

(a) attempting to take any game animal, hog, or coyote by occupying stands, standing, or occupying a vehicle while:

(b) possessing, carrying, or having readily accessible:

(i) a centerfire rifle with ammunition capable of being fired in that rifle; or

(ii) a shotgun with shot size larger than number four that is capable of being fired from that shotgun.

(2) ‘Possessing’, ‘carrying’, or ‘having readily available’ does not include a centerfire rifle or a shotgun that is:

(a) unloaded and cased in a closed compartment or vehicle;

(b) unloaded and cased in a vehicle trunk or tool box;

(c) in a vehicle traveling in a normal manner on a public road or highway; or

(d) in case of a stander with no vehicle, encased or unloaded with the shells at least thirty feet away and stacked, piled, or otherwise gathered together in like fashion.

(B) Notwithstanding the provisions contained in Section 50‑11‑760, it shall be unlawful for any person to hunt from any road, right of way, property line, boundary, or property upon which he does not have hunting rights with the aid or use of a dog when the dog has entered upon the land of another without written permission or over which the person does not have hunting rights. The provisions of this section apply whether the person in control of the dog intentionally or unintentionally releases, allows, or otherwise causes the dog to enter upon the land of another without permission of the landowner.

(C) It is not a violation of this section if a person, with the landowner’s permission, uses a single dog to recover a dead or wounded animal on the land of another and maintains sight and voice contact with the dog.

(D) A dog that has entered upon the land of another without permission given to the person in control of the dog shall not be killed, maimed, or otherwise harmed simply because the dog has entered upon the land. A person who violates this subsection may be fined not more than five hundred dollars or imprisoned for not more than thirty days. The penalties for violations of this section as provided in subsection (E) do not apply to violations of this subsection.

(E) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars, no part of which may be suspended, or imprisoned for not more than thirty days, or both. The court must transmit record of the conviction to the department for hunting license suspension pursuant to subsection (F).

(F) In addition to any other penalties provided by law, a person convicted of a violation of this section must have his hunting privileges suspended by the department for one year from the date of his conviction. He may not have his hunting privileges reinstated by the department until after he successfully completes a hunter education class administered by the department.

(G)(1) The provisions of this section do not apply to bear hunting.

(2) The provisions of this section do not apply to Game Zones One or Two.”

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

Amend title to conform.

/s/Sen. Ronnie W. Cromer /s/Rep. David R. Hiott

/s/Sen. John Y. McGill /s/Rep. C. David Umphlett, Jr.

/s/Sen. Paul G. Campbell, Jr. /s/Rep. Patsy G. Knight

On Part of the Senate. On Part of the House.

, and a message was sent to the House accordingly.

**THE SENATE PROCEEDED TO A CONSIDERATION OF THE VETOES.**

**Message from the House**

Columbia, S.C., May 25, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.218, H. 4923 by a vote of 2 to 0:

(R218, H4923) -- Reps. Govan, Cobb‑Hunter, Ott and Sellers: AN ACT TO AUTHORIZE THE BOARD OF TRUSTEES OF ORANGEBURG CONSOLIDATED SCHOOL DISTRICT NO. 4 OF ORANGEBURG COUNTY TO ISSUE GENERAL OBLIGATION BONDS OF THE DISTRICT UP TO ITS CONSTITUTIONAL DEBT LIMIT IN AN AMOUNT NOT TO EXCEED SEVEN HUNDRED FIFTY THOUSAND 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.

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

(R218, H4923) -- Reps. Govan, Cobb‑Hunter, Ott and Sellers: AN ACT TO AUTHORIZE THE BOARD OF TRUSTEES OF ORANGEBURG CONSOLIDATED SCHOOL DISTRICT NO. 4 OF ORANGEBURG COUNTY TO ISSUE GENERAL OBLIGATION BONDS OF THE DISTRICT UP TO ITS CONSTITUTIONAL DEBT LIMIT IN AN AMOUNT NOT TO EXCEED SEVEN HUNDRED FIFTY THOUSAND 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.

The veto of the Governor was taken up for immediate consideration.

Senator HUTTO moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 1; Nays 0**

**AYES**

Hutto

**Total--1**

**NAYS**

**Total--0**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**MESSAGE FROM THE GOVERNOR**

State of South Carolina

Office of the Governor

P. O. Box 11369

Columbia, SC 29211

May 28, 2010

The Honorable André Bauer

President of the Senate

State House, First Floor, East Wing

Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval S. 836, R. 222, which criminalizes certain activities committed while on the Riverbanks Park’s property.

(R222, S836) -- Senator Cromer: AN ACT TO AMEND SECTION 51‑13‑80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RULES AND REGULATIONS OF THE RIVERBANKS PARKS COMMISSION, SO AS TO DELETE PROVISIONS THAT AUTHORIZE THE RIVERBANKS PARKS COMMISSION TO ADOPT RULES AND REGULATIONS REGARDING PARK PROPERTY AND AUTHORIZE THE COMMISSION TO EMPLOY POLICE OFFICERS, TO PROHIBIT CERTAIN ACTIVITIES WHILE ON PARK PROPERTY, AND TO DELETE THE PROVISION THAT FINES AND FORFEITURES COLLECTED PURSUANT TO SECTIONS 51‑13‑50 THROUGH 51‑13‑80 BE FORWARDED TO THE RIVERBANKS PARKS COMMISSION.

Before we address the merits of S. 836, we want to recognize the Riverbanks Parks Commission for the Park’s success and express our appreciation for the Park’s contribution to our State. We also appreciate the important role that the Park’s staff and law enforcement play in maintaining the Park’s peaceful, family atmosphere. However, this Bill outlines a long list of Park-related crimes that are redundant to existing state and local laws. It also creates new crimes which we believe are unreasonable and because we believe S. 836 duplicates existing law and overreaches in other areas, we are unable to support this Bill.

Currently, the Parks Commission has the authority to create rules defining the bounds of acceptable behavior within the Park. The Commission may also hire its own police force to enforce these rules, and, in more extreme cases, the Park may coordinate with local law enforcement to address disruptive or criminal behavior. A brief look at the Park’s practical experience shows that the Park’s staff and police officers from the City of Columbia and the City of West Columbia have successfully responded to incidents at the Park in the past. As we researched this Bill, the City of Columbia Police Department informed us that they currently enforce laws that address the same behaviors outlined in S. 836 – such as speeding on Park’s property, trespassing, public intoxication, underage drinking, vandalism, littering, arson, and other criminal laws. The City of Columbia Police Department also stated that they were not aware of any problems regarding the enforcement of existing laws or any jurisdictional issues.

Additionally, to our knowledge, S. 836 would make the Riverbanks Parks Commission the only special purpose district in the State to have its own laws criminalizing certain conduct, and we believe that carving out an exception for the Commission sets a precedent that would allow for a quiltwork of differing civil and criminal penalties at locations like these. Because the existing laws give the Commission rulemaking authority, and because the existing law enforcement framework is capable of addressing the problems that brought forth this legislation, we do not see the need for S. 836.

For these reasons, I am vetoing and returning without my approval S. 836, R. 222.

Sincerely,

Mark Sanford

**VETO OVERRIDDEN**

(R222, S836) -- Senator Cromer: AN ACT TO AMEND SECTION 51‑13‑80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RULES AND REGULATIONS OF THE RIVERBANKS PARKS COMMISSION, SO AS TO DELETE PROVISIONS THAT AUTHORIZE THE RIVERBANKS PARKS COMMISSION TO ADOPT RULES AND REGULATIONS REGARDING PARK PROPERTY AND AUTHORIZE THE COMMISSION TO EMPLOY POLICE OFFICERS, TO PROHIBIT CERTAIN ACTIVITIES WHILE ON PARK PROPERTY, AND TO DELETE THE PROVISION THAT FINES AND FORFEITURES COLLECTED PURSUANT TO SECTIONS 51‑13‑50 THROUGH 51‑13‑80 BE FORWARDED TO THE RIVERBANKS PARKS COMMISSION.

The veto of the Governor was taken up for immediate consideration.

Senator CROMER moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 31; Nays 7**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Fair

Grooms Hayes Hutto

Knotts Land Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* McConnell McGill

Mulvaney Nicholson O’Dell

Pinckney Rankin Reese

Rose Scott Setzler

Sheheen Shoopman Verdin

Williams

**Total--31**

**NAYS**

Bright Bryant Campsen

Cleary Davis Massey

Ryberg

**Total--7**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator PEELER**

I was out of the Chamber due to an out of town meeting. Had I been present, I would have voted in favor of overriding the veto.

**MESSAGE FROM THE GOVERNOR**

State of South Carolina

Office of the Governor

P. O. Box 11369

Columbia, SC 29211

May 28, 2010

The Honorable André Bauer

President of the Senate

State House, 1st Floor, East Wing

Columbia, South Carolina 29202

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval S. 906, R. 223, which allows judges and solicitors to transfer their Retirement System for Judges and Solicitors service credit to the State Retirement System.

(R223, S906) -- Senators Leatherman, Land, Coleman and Elliott: AN ACT TO AMEND SECTION 9‑8‑50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE CREDIT IN THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, SO AS TO PROVIDE THAT A MEMBER UPON TERMINATION WHO DOES NOT QUALIFY FOR A MONTHLY BENEFIT MAY TRANSFER HIS SERVICE CREDIT TO THE SOUTH CAROLINA RETIREMENT SYSTEM, AND TO CLARIFY PROVISIONS RELATED TO THE TRANSFER OF EARNED SERVICE CREDIT IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS.

We recognize the distinct and important service that judges and solicitors provide to our state. State leaders speak frequently of the Judicial Branch’s importance, but the judiciary is nothing without the judges, solicitors, and public defenders necessary for it to function. Although I respect this Bill’s intentions, ultimately I am vetoing this Bill because the State simply cannot afford to take on any more obligations to its underfunded retirement system – no matter how merited or small.

Approximately 80 percent of public employees nationally receive benefits from pension plans with guaranteed pension payments, while private sector employees receive benefits from their 401(k) accounts which grow or shrink according to market performance. Because political pressures and economic reality so often conflict, states all across the nation are coming to terms with the fact that the states currently lack the funds to fulfill political promises to state retirees. In fact, hedge fund manager and New Jersey Retirement System Director Orin Kramer estimates that the national pension fund deficit is at least $2 trillion. According to statements by professors from the University of Chicago and Northwestern University in a recent *Barron*’s article, state pension funds have a one-in-twenty chance of meeting their obligations over the next 15 years. Because of this massive deficit, state leaders must now come to terms with the fact that the current systems are unsustainable, and must choose between cutting retirement benefits, cutting government services, or dramatically increasing taxes in an effort to bring some sanity to the states’ budgets. South Carolina is no exception.

The Budget and Control Board contracted with an outside accounting firm to conduct an Actuarial Valuation of the liabilities associated with the state’s retirement system in 2009. According to the valuation, which we received just within the last few weeks, the state’s unfunded liability for future retirement benefits of state employees is nearly $12 billion. We believe that if state retirement accounts were subject to the same valuation and accounting standards that are applied to private retirement accounts, then the long-term deficit figure would be substantially higher. We simply cannot support an effort to increase the retirement system’s obligation – no matter how valid – until the General Assembly addresses the larger question of how we’re going to uphold our bargain with retirees while not dramatically increasing taxes or eliminating important government services.

It’s only natural that the General Assembly wants to extend retirement benefits to valuable state employees like judges and solicitors, but South Carolina taxpayers and people currently in the system are depending on us to be prudent administrators of a sustainable plan. With the South Carolina Retirement System currently more than $12 billion in the debt, we believe the State must address our existing challenges before even contemplating proposals that would make this task any more difficult. Otherwise, we are simply digging a deeper hole.

For this reason, I am vetoing and returning without my approval S. 906, R. 223.

Sincerely,

/s/ Mark Sanford

**VETO OVERRIDDEN**

(R223, S906) -- Senators Leatherman, Land, Coleman and Elliott: AN ACT TO AMEND SECTION 9‑8‑50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE CREDIT IN THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, SO AS TO PROVIDE THAT A MEMBER UPON TERMINATION WHO DOES NOT QUALIFY FOR A MONTHLY BENEFIT MAY TRANSFER HIS SERVICE CREDIT TO THE SOUTH CAROLINA RETIREMENT SYSTEM, AND TO CLARIFY PROVISIONS RELATED TO THE TRANSFER OF EARNED SERVICE CREDIT IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS.

The veto of the Governor was taken up for immediate consideration.

Senator LAND moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 36; Nays 2**

**AYES**

Alexander Campbell Campsen

Cleary Coleman Cromer

Davis Elliott Fair

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Pinckney

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Verdin Williams

**Total--36**

**NAYS**

Bright Bryant

**Total--2**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator PEELER**

I was out of the Chamber due to an out of town meeting. Had I been present, I would have voted in favor of overriding the veto.

**MESSAGE FROM THE GOVERNOR**

State of South Carolina

Office of the Governor

P. O. Box 11369

Columbia, SC 29211

May 28, 2010

The Honorable André Bauer

President of the Senate

State House, First Floor, East Wing

Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval S. 1190, R. 227, a Joint Resolution which allows Richland County to use accommodations tax revenue to continue paying its loan on the Pineview Road tract that was previously to be used for the new State Farmers’ Market.

(R227, S1190) -- Senator Leatherman: A JOINT RESOLUTION TO MAKE CERTAIN FINDINGS BY THE GENERAL ASSEMBLY IN REGARD TO THE SETTLEMENT OF LITIGATION INVOLVING A SITE ACQUIRED BY THE STATE OF SOUTH CAROLINA IN RICHLAND COUNTY FOR THE PROPOSED STATE FARMERS’ MARKET, AND TO CONFIRM AND VALIDATE THE USE OF SPECIFIC TRACTS OF LAND RECEIVED BY THE SOUTH CAROLINA RESEARCH AUTHORITY, AND RICHLAND COUNTY AS PART OF THE SETTLEMENT, AND THE USE OF CERTAIN REVENUES TO MEET OBLIGATIONS CONTINUING UNDER THE SETTLEMENT.

Before we explain the grounds for our veto, it is necessary to establish the background for this Joint Resolution. Richland County purchased the Pineview Road property as part of a plan to move the State Farmers’ Market from its current location next to Williams-Brice Stadium. To pay for the loan, Richland County was permitted to use revenue from its accommodations tax because the Farmers’ Market was sufficiently tourism-related.

Unfortunately for Richland County, poor decision-making on behalf of the Department of Agriculture, the General Assembly and even Richland County led the State to ultimately change its plans and relocate the new Farmers’ Market to a location in Lexington County instead. Because of this decision, Richland County was left with a piece of property it no longer needed and a large loan that it could no longer pay from the accommodations tax revenue. Richland County sued both the State and the Department of Agriculture for failure to keep their ends of the bargain. As part of a settlement agreement to dispose of that lawsuit, most of the Pineview Road tract was transferred to the South Carolina Research Authority (SCRA) – purportedly for use as an industrial park – which is decidedly not tourism-related.

This Joint Resolution allows Richland County to continue to use the accommodations tax to pay off the loan for the property, even though that use is outside the permissive uses of the accommodations tax.

Let us be clear, the original decision to move the Farmers’ Market was rushed – and the taxpayers suffered the consequences for the poor decision making. While it has long been our belief that the best move for taxpayers would have been to leave it where it is – and while we have voted accordingly in Budget and Control Board meetings, we lost that battle.

However, two wrongs do not make a right. Asking taxpayers in Richland County, who have already spent enough of their hard-earned money on this debacle, to fork out more money to cover the misguided efforts that led to this failed venture we believe would be bad policy. Fortunately, the taxpayers have an out: SCRA. Since the SCRA now owns the property and will supposedly develop an industrial park, we do not believe it is unreasonable for SCRA to pay off this loan and spare the taxpayers any further expense.

While the taxpayers will not ultimately receive any benefit from the millions spent on this failed project, ideally the experience will lead state officials to make more prudent decisions when spending taxpayer money.

For these reasons, I am vetoing and returning without my approval S. 1190, R. 227.

Sincerely,

/s/ Mark Sanford

**VETO OVERRIDDEN**

(R227, S1190) -- Senator Leatherman: A JOINT RESOLUTION TO MAKE CERTAIN FINDINGS BY THE GENERAL ASSEMBLY IN REGARD TO THE SETTLEMENT OF LITIGATION INVOLVING A SITE ACQUIRED BY THE STATE OF SOUTH CAROLINA IN RICHLAND COUNTY FOR THE PROPOSED STATE FARMERS’ MARKET, AND TO CONFIRM AND VALIDATE THE USE OF SPECIFIC TRACTS OF LAND RECEIVED BY THE SOUTH CAROLINA RESEARCH AUTHORITY, AND RICHLAND COUNTY AS PART OF THE SETTLEMENT, AND THE USE OF CERTAIN REVENUES TO MEET OBLIGATIONS CONTINUING UNDER THE SETTLEMENT.

The veto of the Governor was taken up for immediate consideration.

Senator O’DELL moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 26; Nays 13**

**AYES**

Alexander Campbell Coleman

Cromer Elliott Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Lourie Malloy *Martin, Larry*

McGill Nicholson O’Dell

Pinckney Rankin Reese

Scott Setzler Sheheen

Verdin Williams

**Total--26**

**NAYS**

Bright Bryant Campsen

Cleary Davis Fair

*Martin, Shane* Massey McConnell

Mulvaney Rose Ryberg

Shoopman

**Total--13**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator PEELER**

I was out of the Chamber due to an out of town meeting. Had I been present, I would have voted in favor of overriding the veto.

**MESSAGE FROM THE GOVERNOR**

State of South Carolina

Office of the Governor

P. O. Box 11369

Columbia, SC 29211

May 28, 2010

The Honorable André Bauer

President of the Senate

State House, First Floor, East Wing

Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval S. 1363, R. 234, which makes some modifications to the existing National Board Certification (NBC) program that offers South Carolina teachers who have already received the $7,500 annual incentive for 10 years to receive the incentive for yet another 10 years.

(R234, S1363) -- Senators Hayes, Setzler and Courson: AN ACT TO AMEND SECTION 59‑26‑85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NATIONAL BOARD RECERTIFICATION AND PAY INCREASES RELATING TO NATIONAL BOARD CERTIFICATION, SO AS TO PROVIDE THAT TEACHERS WHO RECEIVE NATIONAL BOARD CERTIFICATION BEFORE JULY 1, 2010, SHALL ENTER INTO A RECERTIFICATION CYCLE CONSISTENT WITH THE RECERTIFICATION CYCLE FOR NATIONAL BOARD CERTIFICATION, AND TO PROVIDE THAT NATIONAL BOARD CERTIFIED TEACHERS WHO RECEIVE THE CERTIFICATION BEFORE JULY 1, 2010, SHALL RECEIVE A PAY INCREASE FOR THE INITIAL TEN‑YEAR CERTIFICATION PERIOD AND NO MORE THAN ONE TEN‑YEAR RENEWAL PERIOD.

While we applaud the General Assembly for recognizing that the current program is unsustainable and for proposing some changes to the program, we simply believe that the modifications included in this Bill are not far-reaching enough to justify allowing this Bill to become law.

As we have consistently stated throughout our administration, we admire and support the important work that teachers do to educate and prepare our children for a productive future – and have often backed up our words with action. For example, until the recent economic downturn, our administration fully funded the Base Student Cost in each of our Executive Budgets. Given the scarcity of resources currently available when drafting state budgets, and the even greater challenges that lie in the near future, we believe it is important to assess every program to ensure that every dollar is being directed toward effective programs in the classroom and toward teachers.

This year, the NBC program will cost the State $60 million – up 25 percent from four years ago. While the program was certainly well-intended at its inception, we believe that in the current budget climate, the NBC program and the rapid expansion of its costs are having a detrimental impact on K-12 education in South Carolina. The Base Student Cost is slated to be cut by $85 million dollars in the budget passed by the Conference Committee, leading some to speculate that an estimated 2,000 teachers could lose their jobs due to budget cuts. While it might be ideal to have an NBC teacher in every classroom in every school in the State, we believe it is more important to have *a* teacher in each classroom. Data received from the South Carolina Department of Education estimates that the average salary (with fringe benefits) is $59,880. If the State were to direct the funding for the NBC program toward the Base Student Cost, over 1,000 teacher salaries could be funded.

While we realize that it is not practical to shut down the entire NBC program this year, we do not believe that extending the opportunity for current recipients to receive a second 10-year supplement (at $7,500 per year) is sound fiscal policy given the budget challenges that we will be facing for the foreseeable future. If the 6,716 teachers currently receiving the certification seek an additional 10-year incentive, the State will be obligated to fund $503 million in incentives over the next decade – a clearly unsustainable amount.

As far back as 2004, our administration has advocated making modifications to the NBC program because certified teachers are not locating in districts where they could have the greatest impact on improving student achievement in our state. We have consistently advocated for tying the incentive associated with this certification to the teacher’s willingness to locate in a critical needs school district – or to teach a critical needs subject. Our position is consistent with a proposal made by the Democratic Leadership Council in its *2004 State and Local Book* when it advocated in a position paper entitled, “Employing Board Certified Teachers Wisely” using the National Board Certification incentive to recruit teachers into the poorest school districts.

To give an example of how the program is not attracting certified teachers to districts that need the most assistance, one need look no further than the disparity in certified teachers in Richland One and Richland Two. In Richland One, 69 percent of students are on free or reduced lunch, and the district has been identified as a “high needs” district, yet only 9 percent of the teachers are NBC Teachers – equating to about 1 certified teacher for every 50 students. On the other hand, in Richland Two, 40 percent of students are on free or reduced lunch, but approximately 25 percent of teachers are NBC – nearly 1 teacher for every 26 students. Richland Two’s 412 National Board Certified teachers comprise more than the entire State of Colorado and more than the State of Hawaii and the District of Columbia combined. Other states, such as California and New York, require the NBC teacher to locate in low performing or high poverty schools. If the NBC program is to continue in South Carolina, then the program should require similar commitments from teachers.

For these reasons, we are vetoing and returning without my approval S. 1363, R. 234.

Sincerely,

/s/ Mark Sanford

**VETO OVERRIDDEN**

(R234, S1363) -- Senators Hayes, Setzler and Courson: AN ACT TO AMEND SECTION 59‑26‑85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NATIONAL BOARD RECERTIFICATION AND PAY INCREASES RELATING TO NATIONAL BOARD CERTIFICATION, SO AS TO PROVIDE THAT TEACHERS WHO RECEIVE NATIONAL BOARD CERTIFICATION BEFORE JULY 1, 2010, SHALL ENTER INTO A RECERTIFICATION CYCLE CONSISTENT WITH THE RECERTIFICATION CYCLE FOR NATIONAL BOARD CERTIFICATION, AND TO PROVIDE THAT NATIONAL BOARD CERTIFIED TEACHERS WHO RECEIVE THE CERTIFICATION BEFORE JULY 1, 2010, SHALL RECEIVE A PAY INCREASE FOR THE INITIAL TEN‑YEAR CERTIFICATION PERIOD AND NO MORE THAN ONE TEN‑YEAR RENEWAL PERIOD.

The veto of the Governor was taken up for immediate consideration.

Senator HAYES moved that the veto of the Governor be overridden.

**ACTING PRESIDENT PRESIDES**

At 3:48 P.M., Senator LARRY MARTIN assumed the Chair.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 39; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Grooms Hayes

Hutto Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Mulvaney

Nicholson O’Dell Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Verdin Williams

**Total--39**

**NAYS**

**Total--0**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator PEELER**

I was out of the Chamber due to an out of town meeting. Had I been present, I would have voted in favor of overriding the veto.

**MESSAGE FROM THE GOVERNOR**

State of South Carolina

Office of the Governor

P. O. Box 11369

Columbia, SC 29211

May 28, 2010

The Honorable André Bauer

President of the Senate

State House, 1st Floor, East Wing

Columbia, South Carolina 29202

Dear Mr. President and Members of the Senate:

I am hereby vetoing and returning without my approval S. 1379, R. 235, a Bill that renames the “South Carolina Guardian *ad Litem* Program” as the “Cass Elias McCarter Guardian *ad Litem* Program.”

(R235, S1379) -- Senators Peeler, Campbell and O’Dell: AN ACT TO AMEND SECTION 63‑11‑500, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM, SO AS TO HONOR THE MEMORY OF CASS ELIAS MCCARTER BY NAMING THE PROGRAM THE CASS ELIAS MCCARTER GUARDIAN AD LITEM PROGRAM.

The Bill is intended to honor Mrs. Cass Elias McCarter, and I’d begin by highlighting her outstanding record of service. Anyone who takes the time to learn about Mrs. McCarter’s contributions to our State knows that she should indeed be remembered as a distinguished citizen. For 16 years, she devoted her life and energy to protecting South Carolina’s children from abuse and neglect. In 1984, she helped to establish the first state-funded Guardian *ad Litem* program in the nation that utilizes volunteers as Guardians *ad Litem* in abuse and neglect proceedings. She also served on the South Carolina Children’s Committee and assisted the Joint Legislative Committee on Children with developing the training program for the Guardian *ad Litem* volunteers. Children also benefited from her work and support on behalf of the Children’s Hospital and the Ronald McDonald House.

Nonetheless, our administration has long opposed the naming of state projects and programs for public figures or state employees regardless of the stature and quality of their service. This position goes back to my time in Congress when I voted against the renaming of National Airport to Ronald Reagan National Airport, though I had the utmost respect for President Reagan’s character and accomplishments. Similarly, I voted against a variety of Bills that would have named federal post offices after former members of Congress.

On a personal level, I want to reiterate my respect for Mrs. McCarter and her service to our state and children. Unfortunately, though, this legislation would continue a practice with which I respectfully disagree.

For these reasons, I am vetoing and returning without my approval S. 1379, R. 235.

Sincerely,

/s/ Mark Sanford

**VETO OVERRIDDEN**

(R235, S1379) -- Senators Peeler, Campbell and O’Dell: AN ACT TO AMEND SECTION 63‑11‑500, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM, SO AS TO HONOR THE MEMORY OF CASS ELIAS MCCARTER BY NAMING THE PROGRAM THE CASS ELIAS MCCARTER GUARDIAN AD LITEM PROGRAM.

The veto of the Governor was taken up for immediate consideration.

Senator CAMPBELL moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 35; Nays 2**

**AYES**

Alexander Anderson Bright

Campbell Cleary Coleman

Courson Cromer Davis

Elliott Fair Grooms

Hayes Hutto Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McGill Mulvaney

Nicholson O’Dell Pinckney

Rankin Reese Ryberg

Scott Setzler Shoopman

Verdin Williams

**Total--35**

**NAYS**

Campsen Rose

**Total--2**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator PEELER**

I was out of the Chamber due to an out of town meeting. Had I been present, I would have voted in favor of overriding the veto.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.238, H. 3536 by a vote of 78 to 20:

(R238, H3536) -- Reps. J.E. Smith and McLeod: AN ACT TO AMEND SECTION 17‑5‑130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS OF CORONERS, SO AS TO INCREASE THOSE QUALIFICATIONS BY REQUIRING THOSE PERSONS TO HAVE OBTAINED CERTAIN LEVELS OF EDUCATION COMBINED WITH VARYING DEGREES OF EXPERIENCE IN THE FIELD, TO REQUIRE THAT A CANDIDATE FOR CORONER FILE A SWORN AFFIDAVIT WITH THE COUNTY EXECUTIVE COMMITTEE OF THE PERSON’S POLITICAL PARTY UNDER SPECIFIED TIME FRAMES, TO PROVIDE FOR THE FILING OF THE AFFIDAVIT BY PETITION CANDIDATES, AND TO DELINEATE THE INFORMATION THAT THE AFFIDAVIT MUST CONTAIN; AND BY ADDING SECTION 17‑15‑115 SO AS TO PROVIDE CONDITIONS UPON WHICH A DEPUTY CORONER MAY BE TRAINED TO ENFORCE THE LAWS AND RETAIN HIS LAW ENFORCEMENT STATUS.

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

(R238, H3536) -- Reps. J.E. Smith and McLeod: AN ACT TO AMEND SECTION 17‑5‑130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS OF CORONERS, SO AS TO INCREASE THOSE QUALIFICATIONS BY REQUIRING THOSE PERSONS TO HAVE OBTAINED CERTAIN LEVELS OF EDUCATION COMBINED WITH VARYING DEGREES OF EXPERIENCE IN THE FIELD, TO REQUIRE THAT A CANDIDATE FOR CORONER FILE A SWORN AFFIDAVIT WITH THE COUNTY EXECUTIVE COMMITTEE OF THE PERSON’S POLITICAL PARTY UNDER SPECIFIED TIME FRAMES, TO PROVIDE FOR THE FILING OF THE AFFIDAVIT BY PETITION CANDIDATES, AND TO DELINEATE THE INFORMATION THAT THE AFFIDAVIT MUST CONTAIN; AND BY ADDING SECTION 17‑15‑115 SO AS TO PROVIDE CONDITIONS UPON WHICH A DEPUTY CORONER MAY BE TRAINED TO ENFORCE THE LAWS AND RETAIN HIS LAW ENFORCEMENT STATUS.

The veto of the Governor was taken up for immediate consideration.

Senator KNOTTS moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 31; Nays 8**

**AYES**

Alexander Anderson Campbell

Coleman Courson Cromer

Elliott Fair Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* McConnell McGill

Nicholson O’Dell Pinckney

Rankin Reese Rose

Scott Setzler Verdin

Williams

**Total--31**

**NAYS**

Bright Bryant Campsen

Cleary Davis Massey

Mulvaney Ryberg

**Total--8**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator PEELER**

I was out of the Chamber due to an out of town meeting. Had I been present, I would have voted in favor of overriding the veto.

**Message from the House**

Columbia, S.C., June 1, 2010

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R246, H. 4828 by a vote of 2 to 0:

(R246, H4828) -- Rep. Huggins: AN ACT TO AMEND ACT 387 OF 1963, AS AMENDED, RELATING TO THE IRMO FIRE DISTRICT, SO AS TO AUTHORIZE THE BOARD OF FIRE CONTROL TO ADOPT RULES AND REGULATIONS TO ENSURE THAT A BUILDING WITHIN THE DISTRICT IS MAINTAINED PROPERLY AND DOES NOT PRESENT A FIRE OR SAFETY HAZARD; AND TO CONVEY TO A FIRE CHIEF OR HIS DESIGNEE THE SAME AUTHORITY THAT A PEACE OFFICER HAS TO ENFORCE REGULATIONS AND OTHER LAWS PROMULGATED OR ADOPTED BY THE DISTRICT.

Very respectfully,

Speaker of the House

Received as information

**VETO OVERRIDDEN**

(R246, H4828) -- Rep. Huggins: AN ACT TO AMEND ACT 387 OF 1963, AS AMENDED, RELATING TO THE IRMO FIRE DISTRICT, SO AS TO AUTHORIZE THE BOARD OF FIRE CONTROL TO ADOPT RULES AND REGULATIONS TO ENSURE THAT A BUILDING WITHIN THE DISTRICT IS MAINTAINED PROPERLY AND DOES NOT PRESENT A FIRE OR SAFETY HAZARD; AND TO CONVEY TO A FIRE CHIEF OR HIS DESIGNEE THE SAME AUTHORITY THAT A PEACE OFFICER HAS TO ENFORCE REGULATIONS AND OTHER LAWS PROMULGATED OR ADOPTED BY THE DISTRICT.

The veto of the Governor was taken up for immediate consideration.

Senator COURSON moved that the veto of the Governor be overridden.

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 4; Nays 0**

**AYES**

Courson Cromer Knotts

Setzler

**Total--4**

**NAYS**

**Total--0**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Statement by Senator PEELER**

I was out of the Chamber due to an out of town meeting. Had I been present, I would have voted in favor of overriding the veto.

**THE SENATE PROCEEDED TO A CONSIDERATION OF BILLS AND RESOLUTIONS RETURNED FROM THE HOUSE.**

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE**

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

The House returned the Bill with amendments.

The question then was concurrence in the House amendments.

Senator McCONNELL explained the House amendments.

**Amendment No. 1**

Senator McCONNELL proposed the following Amendment No. 1(JUD0783.001), which was adopted:

Amend the bill, as and if amended, page 2, by striking lines 4-11, in Section 51-13-720, as contained in SECTION 1, and inserting therein the following:

/ the remainder of the unexpired term.” /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

The question then was the adoption of the amendment.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Nicholson Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The amendment was adopted.

Senator LEVENTIS proposed the following amendment (783LEVENTIS), which was tabled:

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

/ SECTION 1. Section 51‑13‑720 of the 1976 Code is amended to read:

“Section 51‑13‑720. (A) Members of the authority must be appointed by the Governor as follows: one upon the joint recommendation of the Chairman of the House Ways and Means Committee and the Speaker of the House, one upon the joint recommendation of the Chairman of the Senate Finance Committee and the President Pro Tempore of the Senate, and three to be appointed by the Governor. The Governor shall appoint the chairman. The terms of the members are for four years and until their successors are appointed and qualify. Members may succeed themselves. Vacancies must be filled in the same manner of the original appointment for the remainder of the unexpired term.

(B) The General Assembly shall appoint a six member study committee to study the structure, governance, and fiscal operations and status of Patriots Point. The committee must make a report of its findings to the General Assembly within twelve months of the effective date of this act . The study committee is composed of one member appointed by each of the following:

(1) the Speaker of the House;

(2) the Chairman of the House Ways and Means Committee;

(3) the Minority Leader of the House;

(4) the Chairman of the Senate Finance Committee;

(5) the President Pro Tempore of the Senate; and

(6) the Minority Leader of the Senate.

The study committee must convene for its initial meeting and for a chairman to be elected from among the members of the committee within one month of the appointment of all members. Members of the committee shall serve without mileage, per diem, and subsistence.”

SECTION 2. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

Senator HUTTO moved to lay the amendment on the table.

The amendment by Senator LEVENTIS was laid on the table.

Senator LEVENTIS proposed the following amendment (783LEVENTISRESOLUTION), which was tabled:

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

/ SECTION . Article 11, Chapter 13, Title 51 of the 1976 Code is amended by adding:

“Section 51-13-715. Notwithstanding all other provisions of law, no new monument may be construced, erected, purchased, or displayed at Patriots Point unless first approved by a concurrent resolution of the South Carolina General Assembly.” /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO moved to lay the amendment on the table.

The amendment was laid on the table.

There being no further amendments, Bill was ordered returned to the House of Representatives with amendments.

**Statement by Senator CAMPSEN**

Under the provisions of Section 8-13-700, S. C. Code of Laws, I abstained from consideration of and voting on matters pertaining to S. 783.

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE**

S. 912 -- Senator Land: A BILL TO AMEND SECTION 17‑22‑950 OF THE 1976 CODE, AS ADDED BY ACT 36 OF 2009, RELATING TO PROCEDURES FOR EXPUNGEMENT OF CRIMINAL CHARGES WHICH HAVE BEEN BROUGHT IN SUMMARY COURT, TO REMOVE THE REQUIREMENT THAT THE COMPLETED EXPUNGEMENT ORDER BE FILED WITH THE CLERK OF COURT.

The House returned the Bill with amendments.

The question then was concurrence in the House amendments.

Senator HUTTO explained the House amendments.

Senator HUTTO proposed the following Amendment 2 (JUD0912.004), which was adopted:

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

/ SECTION 1. Section 17-1-40 of the 1976 Code is amended to read:

“Section 17‑1‑40. (A) A person who, after being charged with a criminal offense and the charge is discharged, proceedings against the person are dismissed, or the person is found not guilty of the charge, the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency. Provided, however, that local and state detention and correctional facilities may retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years from the date of the expungement order to manage their statistical and professional information needs and, where necessary, to defend such facilities during litigation proceedings except when an action, complaint, or inquiry has been initiated. Information retained by a local or state detention or correctional facility as permitted under this section after an expungement order has been issued is not a public document and is exempt from disclosure. Such information only may be disclosed by judicial order, pursuant to a subpoena filed in a civil action, or as needed during litigation proceedings. A person who otherwise intentionally retains the arrest and booking record, files, mug shots, fingerprints, or any evidence of the record pertaining to a charge discharged or dismissed pursuant to this section is guilty of contempt of court.

(B) A municipal, county, or state agency may not collect a fee for the destruction of records pursuant to the provisions of this section.

(C) This section does not apply to a person who is charged with a violation of Title 50, Title 56, an enactment pursuant to the authority of counties and municipalities as provided by Titles 4 and 5, or any other state criminal offense, if the person is not fingerprinted for the violation.

(D) Any record of a charge disposed of pursuant to this section for which the person was not fingerprinted, which remains on any public record held by a court, must be administratively removed by the court holding the public record.

(E) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section.”

SECTION 2. Section 17-22-320(A) of the 1976 Code is amended to read:

“(A) A person may be considered for a traffic education program if ~~he~~ the person has no ~~points on his driving record~~ significant history of traffic violations. A person may not participate in a traffic education program more than once.”

SECTION 3. This act takes effect upon approval by the Governor and applies retroactively. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

The question then was the adoption of the amendment.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Nicholson Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The amendment was adopted.

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

**CONCURRENCE**

S. 104 -- Senators Verdin and Campsen: A BILL TO AMEND TITLE 46 OF THE 1976 CODE, RELATING TO AGRICULTURE, BY ADDING CHAPTER 53, TO LIMIT THE LIABILITY THAT AN AGRITOURISM PROFESSIONAL MAY INCUR DUE TO AN INJURY OR DEATH SUFFERED BY A PARTICIPANT IN AN AGRITOURISM ACTIVITY, TO PROVIDE THAT AN AGRITOURISM PROFESSIONAL MUST POST A WARNING NOTICE AT THE AGRITOURISM FACILITY, TO PROVIDE THAT WARNING NOTICES MUST BE INCLUDED IN CONTRACTS THE AGRITOURISM PROFESSIONAL ENTERS INTO WITH PARTICIPANTS, AND TO PROVIDE THAT THE AGRITOURISM

PROFESSIONAL’S LIABILITY IS NOT LIMITED IF THE PROPER WARNING NOTICES ARE NOT PROVIDED TO PARTICIPANTS.

The House returned the Bill with amendments.

The question then was concurrence with the House amendments.

Senator VERDIN explained the amendments.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Nicholson Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Senate concurred in the House amendments and a message was sent to the House accordingly. Ordered that the title be changed to that of an Act and the Act enrolled for Ratification.

**CARRIED OVER**

S. 594 -- Senator Leatherman: A BILL TO AMEND SECTION 59‑147‑30 OF THE 1976 CODE, RELATING TO THE ISSUANCE OF REVENUE BONDS UNDER THE PROVISIONS OF THE HIGHER EDUCATION REVENUE BOND ACT, TO CLARIFY THOSE ELIGIBLE FACILITIES WHICH MAY BE FINANCED UNDER THE ACT; AND TO REPEAL SECTION 59‑147‑120 RELATING TO LIMITATIONS ON THE ISSUANCE OF CERTAIN REVENUE BONDS.

The House returned the Bill with amendments.

The question then was concurrence with the House amendments.

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

**CARRIED OVER**

S. 2 -- Senators McConnell, Peeler, Leatherman, Sheheen, Rose, Courson, Elliott, Massey, Hayes, Davis, Bright, L. Martin and Rankin: 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 House returned the Bill with amendments.

The question then was concurrence with the House amendments.

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

**CONCURRENCE**

S. 288 -- Senator L. Martin: A BILL TO AMEND CHAPTER 1, TITLE 56 OF THE 1976 CODE, BY ADDING SECTION 56‑1‑146 TO PROVIDE THAT A PERSON WHO IS CONVICTED OF A VIOLENT CRIME MUST SURRENDER HIS DRIVER’S LICENSE OR SPECIAL IDENTIFICATION CARD TO THE COURT WHICH MUST TRANSMIT IT TO THE DEPARTMENT OF MOTOR VEHICLES TOGETHER WITH NOTICE OF THE CRIME AND TO PROVIDE THAT THE DRIVER’S LICENSE OR SPECIAL IDENTIFICATION CARD IS CONSIDERED REVOKED AND MUST NOT BE RETURNED TO THE PERSON UNDER CERTAIN CIRCUMSTANCES; BY ADDING 56‑1‑148 TO PROVIDE THAT A PERSON CONVICTED OF A VIOLENT CRIME MUST HAVE A SPECIAL CODE AFFIXED TO THE REVERSE SIDE OF HIS DRIVER’S LICENSE OR SPECIAL IDENTIFICATION CARD THAT IDENTIFIES THE PERSON AS HAVING BEEN CONVICTED OF A VIOLENT CRIME, TO PROVIDE A FEE TO BE CHARGED FOR AFFIXING THE CODE AND FOR ITS DISTRIBUTION, AND TO PROVIDE A PROCESS FOR REMOVING THE CODE; TO AMEND SECTION 56‑1‑80, RELATING TO THE CONTENTS OF A DRIVER’S LICENSE APPLICATION, TO PROVIDE THAT THE APPLICATION MUST CONTAIN A STATEMENT TO DETERMINE WHETHER THE APPLICANT HAS BEEN CONVICTED OF A VIOLENT CRIME; AND TO AMEND SECTION 56‑1‑3350, RELATING TO THE ISSUANCE OF A SPECIAL IDENTIFICATION CARD BY THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE THAT THE APPLICATION FOR A SPECIAL IDENTIFICATION CARD MUST CONTAIN A STATEMENT TO DETERMINE WHETHER THE APPLICANT HAS BEEN CONVICTED OF A VIOLENT CRIME.

The House returned the Bill with amendments.

The question then was concurrence with the House amendments.

Senator HUTTO explained the amendments.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Nicholson Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Senate concurred in the House amendments and a message was sent to the House accordingly. Ordered that the title be changed to that of an Act and the Act enrolled for Ratification.

**CONCURRENCE**

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

The House returned the Bill with amendments.

The question then was concurrence with the House amendments.

Senator LOURIE explained the amendments.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Cleary

Coleman Courson Cromer

Davis Elliott Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McConnell McGill

Nicholson Peeler Pinckney

Rankin Reese Rose

Ryberg Scott Setzler

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The Senate concurred in the House amendments and a message was sent to the House accordingly. Ordered that the title be changed to that of an Act and the Act enrolled for Ratification.

**HOUSE AMENDMENTS AMENDED**

**RETURNED TO THE HOUSE**

S. 1298 -- Senator McGill: A BILL TO AMEND SECTION 56‑5‑70 OF THE 1976 CODE, RELATING TO THE REGULATION OF TRAFFIC ON HIGHWAYS, TO PROVIDE GUIDELINES FOR RELIEF FROM REGULATIONS DURING TIMES OF EMERGENCY.

The House returned the Bill with amendments.

The question then was concurrence in the House amendments.

**Amendment No. 2**

Senator GROOMS proposed the following Amendment No. 2 (1298GROOMS3), which was adopted:

Amend the bill, as and if amended, by striking line 17, page 2 through line 28, page 3 and inserting:

/ (E) Citations for violating traffic laws relating to speeding or disregarding traffic control devices based solely on photographic evidence may only be issued for violations that occur while relief from regulations pursuant to 49 CFR 390.23 has been granted due to an emergency. A person who receives a citation for violating traffic laws relating to speeding or disregarding traffic control devices based solely on photographic evidence must be served in person with notice of the violation within one hour of the occurrence of the violation. The provisions of this subsection do not apply to toll collection enforcement.”/

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

The question then was the adoption of the amendment.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Elliott Fair

Grooms Hayes Hutto

Jackson Knotts Land

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey McConnell

McGill Mulvaney Nicholson

Peeler Pinckney Rankin

Reese Rose Ryberg

Scott Setzler Shoopman

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

The amendment was adopted.

Senators DAVIS and PINCKNEY proposed the following amendment (MS\7874AHB10), which was ruled out of order:

Amend the bill, as and if amended, by deleting SECTIONS 2 and 3 in their entirety.

Amend the bill further, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_\_. Section 56‑3‑115 of the 1976 Code is amended to read:

“Section 56‑3‑115. Except when an emergency is declared which triggers the provisions of this section, the owner of a vehicle commonly known as a golf cart, if he has a valid driver’s license, may obtain a permit from the Department of Motor Vehicles upon the payment of a fee of five dollars and proof of financial responsibility which permits his agent, employees, or him to:

(1) operate the golf cart on a secondary highway or street within two miles of his residence or place of business during daylight hours only. When the owner’s residence is located within a gated community the two‑mile limit must be measured from the community’s primary entrance; ~~and~~

(2) cross a primary highway or street while traveling along a secondary highway or street within two miles of his residence or place of business during daylight hours only; and

(3) operate a golf cart along a secondary highway or street on a sea island whose total area is greater than seven square miles, but less than ten square miles. As contained in this section, ‘gated community’ means any homeowners’ community with at least one controlled access ingress and egress which includes the presence of a guard house, a mechanical barrier, or another method of controlled conveyance. A golf cart may cross a secondary highway whose maximum speed limit is at least forty‑five miles an hour only at the location of a traffic control device.” /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

**Point of Order**

Senator CLEARY raised a Point of Order that the amendment was out of order inasmuch as it was violative of Rule 24A.

Senator DAVIS spoke on the Point of Order.

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

The amendment was ruled out of order.

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

**CARRIED OVER**

S. 202 -- Senators Thomas and Ford: A BILL TO AMEND SECTION 38‑1‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO AMEND THE DEFINITION OF “ADMITTED ASSETS” TO INCLUDE THOSE ON THE INSURER’S MOST RECENT STATUTORY FINANCIAL STATEMENT FILED WITH THE DEPARTMENT OF INSURANCE PURSUANT TO THE PROVISIONS OF SECTION 38‑13‑80 INSTEAD OF THOSE ADMITTED UNDER THE PROVISIONS OF SECTION 38‑11‑100; TO AMEND SECTION 38‑9‑10, RELATING TO CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES THAT MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38‑9‑20, RELATING TO THE SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES WHICH MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38‑9‑210, RELATING TO THE REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER, SO AS TO CHANGE THE SECURITIES LISTED THAT QUALIFY AS SECURITY; TO AMEND SECTION 38‑10‑40, RELATING TO THE PROTECTED CELL ASSETS OF A PROTECTED CELL, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38‑33‑130, RELATING TO THE SECURITY DEPOSIT OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE THE REQUIREMENT THAT A HEALTH MAINTENANCE ORGANIZATION SHALL ISSUE A CONVERSION POLICY TO AN ENROLLEE UPON THE TERMINATION OF THE ORGANIZATION; AND TO AMEND SECTION 38‑55‑80, RELATING TO LOANS TO DIRECTORS OR OFFICERS BY AN INSURER, SO AS TO CHANGE A CODE REFERENCE.

The House returned the Bill with amendments.

The question then was concurrence with the House amendments.

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

**CARRIED OVER**

S. 484 -- Senators Sheheen and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑68‑95 SO AS TO PROVIDE DE MINIMIS OPERATIONS LICENSURE REQUIREMENTS FOR NONRESIDENT PROFESSIONAL EMPLOYER ORGANIZATIONS AND GROUPS; TO AMEND SECTION 40‑68‑30, AS AMENDED, RELATING TO LICENSURE REQUIREMENTS FOR PROFESSIONAL EMPLOYER ORGANIZATIONS, SO AS TO INCREASE APPLICATION FEES AND TO REQUIRE AN APPLICATION FEE FOR EACH COMPANY IN A PROFESSIONAL EMPLOYER ORGANIZATION GROUP; TO AMEND SECTION 40‑68‑40, AS AMENDED, RELATING TO QUALIFICATIONS TO BE LICENSED AS A PROFESSIONAL EMPLOYER ORGANIZATION AND QUALIFICATIONS TO SERVE AS A CONTROLLING PERSON OF A LICENSEE, SO AS TO DELETE A PROVISION AUTHORIZING ISSUANCE OF A NONRESIDENT RESTRICTED LICENSE WITHOUT THE REQUISITE TWO YEARS’ EXPERIENCE, TO MAKE TECHNICAL CORRECTIONS, AND TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 40‑68‑45, RELATING TO CONTINUING EDUCATION, SO AS TO PROVIDE THAT THE HOLDER OF A DE MINIMIS OPERATIONS LICENSE IS NOT REQUIRED TO TAKE CONTINUING EDUCATION, TO REVISE THE DEFINITION OF “KEY PERSONNEL” FOR CERTAIN PURPOSES, AND TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 40‑68‑50, AS AMENDED, RELATING TO LICENSURE AND RENEWAL FEES, SO AS TO REVISE INITIAL AND RENEWAL LICENSE FEES, TO DELETE NONRESIDINT PROFESSIONAL EMPLOYER ORGANIZATION LICENSE AND RENEWAL LICENSE FEES, AND TO DELETE PROVISIONS STATING MAXIMUM LICENSURE FEES; TO AMEND SECTION 40‑68‑90, AS AMENDED, RELATING TO RESTRICTED LICENSURE OF NONRESIDENT COMPANIES AND GROUPS, SO AS TO REVISE THE REQUIREMENTS FOR A RESTRICTED LICENSE AND TO AUTHORIZE THE DEPARTMENT OF CONSUMER AFFAIRS TO WAIVE THE AUDITED FINANCIAL STATEMENT REQUIREMENT FOR SUCH APPLICANTS; TO AMEND SECTION 40‑68‑100, AS AMENDED, RELATING TO ISSUANCE AND VALIDITY OF LICENSES, SO AS TO CLARIFY THE INITIAL LICENSURE PERIOD; TO AMEND SECTION 40‑68‑120, AS AMENDED, RELATING TO REQUIREMENTS FOR VARIOUS BENEFIT PROGRAMS FOR LICENSEES, INCLUDING WORKERS’ COMPENSATION PLANS AND HEALTH BENEFIT PLANS, SO AS TO REQUIRE BOTH PLANS TO BE LICENSED WITH THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 40‑68‑140, AS AMENDED, RELATING TO REQUIREMENTS FOR LICENSEE NAME AND LOCATION CHANGES, SO AS TO ALSO REQUIRE A LICENSEE TO PROVIDE THE DEPARTMENT WITH OTHER CHANGES IN STATUS AS MAY BE REQUIRED; TO AMEND SECTION 40‑68‑160, AS AMENDED, RELATING TO GROUNDS FOR DISCIPLINARY ACTION AND DISCIPLINARY PROCEDURES, SO AS TO FURTHER SPECIFY PROCEDURES FOR PURSUING A CONTESTED CASE; TO AMEND SECTION 40‑68‑165, AS AMENDED, RELATING TO THE DEPARTMENT OF CONSUMER AFFAIRS OR THE ATTORNEY GENERAL ENFORCING THIS CHAPTER BY FILING AN ACTION IN THE CIRCUIT COURT, SO AS TO ALSO AUTHORIZE FILING AN ACTION IN THE ADMINISTRATIVE LAW COURT; AND TO AMEND SECTION 12‑54‑240, AS AMENDED, RELATING TO THE PROHIBITION AGAINST DISCLOSING RECORDS OF AND RETURNS FILED WITH THE DEPARTMENT OF REVENUE AND EXCEPTIONS TO THIS PROHIBITION, SO AS TO INCLUDE IN THIS EXCEPTION THE DISCLOSURE OF INFORMATION RELATED TO PAYROLL WITHHOLDING TAXES TO THE DEPARTMENT OF CONSUMER AFFAIRS IN CONJUNCTION WITH THE DEPARTMENT LICENSING AND REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

The House returned the Bill with amendments.

The question then was concurrence with the House amendments.

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

**CARRIED OVER**

S. 981 -- Senators Rose and Knotts: A BILL TO AMEND SECTION 63‑3‑530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF THE FAMILY COURT, INCLUDING JURISDICTION TO ORDER VISITATION FOR GRANDPARENTS, SO AS TO PROVIDE THAT THE COURT MAY ORDER GRANDPARENT VISITATION IF THE COURT FINDS THAT THE CHILD’S PARENTS ARE DEPRIVING THE GRANDPARENT VISITATION WITH THE CHILD AND THAT THE PARENTS ARE UNFIT OR THAT THERE ARE COMPELLING CIRCUMSTANCES TO OVERCOME THE PRESUMPTION THAT THE PARENTAL DECISION IS IN THE CHILD’S BEST INTEREST.

The House returned the Bill with amendments.

The question then was concurrence with the House amendments.

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

**PRESIDENT *Pro Tempore* PRESIDES**

At 5:03 P.M., Senator McCONNELL assumed the Chair.

**READ THE SECOND TIME**

**RETURNED TO THE STATUS OF SPECIAL ORDER**

H. 3489 -- Reps. Harrell, Cato, Sandifer, Cooper, Duncan, Owens, White, Bingham, A.D. Young, Huggins, E.H. Pitts, Edge, Toole, Kirsh, J.R. Smith, G.R. Smith, Brady, Crawford, Barfield, Bedingfield, Erickson, Loftis, Pinson, Rice, Hiott, Littlejohn, Allison, Chalk, Daning, Bowen, Gambrell, Hamilton, Wylie, Sottile, Nanney, Parker, Forrester, Haley, Millwood, Battle, Frye, Simrill, Spires, Thompson, Whitmire, Horne, Clemmons, Skelton and Scott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SOUTH CAROLINA FAIRNESS IN CIVIL JUSTICE ACT OF 2009” BY AMENDING ARTICLE 1, CHAPTER 32, TITLE 15, PREVIOUSLY RESERVED, SO AS TO PROVIDE DEFINITIONS FOR PURPOSES OF THE CHAPTER; TO AMEND SECTION 15‑32‑220, AS AMENDED, RELATING TO LIMITS ON NONECONOMIC DAMAGES, AND ARTICLE 5, CHAPTER 32, TITLE 15, RELATING TO PUNITIVE DAMAGES, BOTH SO AS TO PROVIDE LIMITS ON THE AWARD OF NONECONOMIC AND PUNITIVE DAMAGES IN ALL PERSONAL INJURY ACTIONS AND TO PROVIDE FOR CERTAIN PROCEDURES AND REQUIREMENTS RELATING TO THE AWARD OF THESE DAMAGES; BY ADDING SECTION 1‑7‑750 SO AS TO ENACT THE “PRIVATE ATTORNEY RETENTION SUNSHINE ACT” TO GOVERN THE RETENTION OF PRIVATE ATTORNEYS BY THE ATTORNEY GENERAL OR A SOLICITOR AND TO PROVIDE TERMS AND CONDITIONS GOVERNING THE RETAINER AGREEMENT INCLUDING LIMITS ON THE COMPENSATION OF OUTSIDE COUNSEL IN CONTINGENCY FEE CASES; TO AMEND SECTION 15‑3‑670, RELATING TO LIMITATIONS ON ACTIONS BASED ON UNSAFE OR DEFECTIVE IMPROVEMENTS TO REAL PROPERTY, SO AS TO PROVIDE THAT THE VIOLATION OF A BUILDING CODE DOES NOT CONSTITUTE PER SE FRAUD, GROSS NEGLIGENCE, OR RECKLESSNESS; BY ADDING SECTION 15‑3‑160 SO AS TO PROVIDE A REBUTTABLE PRESUMPTION THAT A MANUFACTURER OR SELLER IS NOT LIABLE FOR A PRODUCT IF IT IS MANUFACTURED OR SOLD IN A MANNER APPROVED BY A GOVERNMENT AGENCY; BY ADDING SECTION 15‑5‑10 SO AS TO PROVIDE REQUIREMENTS AND PROCEDURES TO BRING, MAINTAIN, AND CERTIFY CLASS ACTIONS; TO AMEND SECTION 15‑73‑10, RELATING TO LIABILITY OF THE SELLER FOR A DEFECTIVE PRODUCT, SO AS TO PROVIDE THAT THE SELLER IS NOT LIABLE FOR DAMAGE CAUSED ONLY TO THE PRODUCT ITSELF; TO AMEND SECTION 18‑9‑130, AS AMENDED, RELATING TO THE EFFECT OF A NOTICE OF APPEAL ON THE EXECUTION OF JUDGMENT, SO AS TO PROVIDE LIMITS FOR APPEAL BONDS; TO AMEND SECTIONS 33‑6‑220 AND 33‑44‑303, RELATING TO CORPORATIONS AND LIMITED LIABILITY COMPANIES, SO AS TO PROVIDE THAT A JUDGMENT AGAINST A CORPORATION OR LIMITED LIABILITY COMPANY IS A PREREQUISITE TO AN ALTER EGO CLAIM TO PIERCE THE CORPORATE VEIL; TO AMEND SECTION 39‑5‑20, RELATING TO UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES, SO AS TO PROVIDE ACTIONS OR TRANSACTIONS OTHERWISE PERMITTED OR REGULATED BY THE FEDERAL TRADE COMMISSION OR ANOTHER REGULATORY BODY OR OFFICE ACTING UNDER STATUTORY AUTHORITY OF THIS STATE OR THE UNITED STATES ARE NOT COVERED BY THE ACT; TO AMEND SECTION 39‑5‑140, RELATING TO AN ACTION FOR DAMAGES ARISING OUT OF AN UNFAIR OR DECEPTIVE TRADE PRACTICE, SO AS TO PROVIDE THAT A PERSON SEEKING DAMAGES SHALL PAY “OUT‑OF‑POCKET EXPENSES” AND TO DEFINE THIS TERM; TO AMEND SECTION 56‑5‑6540, AS AMENDED, RELATING TO THE PENALTIES FOR THE MANDATORY USE OF SEATBELTS, SO AS TO PROVIDE THAT A VIOLATION MAY BE CONSIDERED IN A CIVIL ACTION AS EVIDENCE OF COMPARATIVE NEGLIGENCE OR AS EVIDENCE OF FAILURE TO MITIGATE DAMAGES; AND TO REPEAL SECTIONS 15‑32‑200, 15‑32‑210, AND 15‑32‑240 ALL RELATING TO NONECONOMIC DAMAGES AND PROCEDURES REGARDING THE LIMITATION AND COLLECTION OF NONECONOMIC DAMAGES.

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

Senator LARRY MARTIN asked unanimous consent to make a motion to give the Bill a second reading, carrying over all amendments to third reading and waiving the provisions of Rule 26B to be able to offer amendments on third reading.

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

**MOTION ADOPTED**

On motion of Senator LARRY MARTIN, with unanimous consent, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet tomorrow, June 3, 2010, at 10:00 A.M.

**STATEWIDE APPOINTMENT**

**Confirmation**

Having received a favorable report from the Corrections and Penology Committee, the following appointment was confirmed in open session:

Initial Appointment, South Carolina Board of Probation, Parole & Pardon Services, with the term to commence March 15, 2005, and to expire March 15, 2011

6th Congressional District:

Marvin Stevenson, P. O. Box 121, Marion, SC 29571 *VICE* Dwayne Green

**MOTION ADOPTED**

On motion of Senator LARRY MARTIN, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Lowell Southerland of Easley, retired Plant Manager with Alice Manufacturing Company, Inc., who passed away on Sunday, May 30, 2010.  Mr. Southerland was the father-in-law of Representative Phil Owens.

and

**MOTION ADOPTED**

On motion of Senators PEELER and HAYES, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. William Mitchell III of York, S.C., beloved husband of Denise Wilkerson Mitchell, devoted father and doting grandfather. Mr. Mitchell was the owner and broker-in-charge of Boney Insurance Company.

and

**MOTION ADOPTED**

On motion of Senator ALEXANDER, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Billy Raymond Owens, who began his career as an attorney, was Chief Officer of Administration for the Oconee Sheriff’s Department, Senior Agent with SLED and former Chief Magistrate in Oconee County, S.C. He was a beloved husband, devoted father and doting grandfather.

**ADJOURNMENT**

At 6:06 P.M., on motion of Senator LARRY MARTIN, the Senate adjourned to meet tomorrow at 10:00A.M.

\* \* \*