**Wednesday, March 30, 2011**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

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

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

The Psalmist asks:

“How can I repay the Lord for all his goodness to me?”

(Psalm 116:12)

Please bow in prayer with me:

O God, we recognize that the Psalmist’s question posed in our text for today is really a question for all of us. For truly, we are surely a blessed people here in this State. And even in the face of difficulties and challenges, we still recognize how great are the gifts You have bestowed upon us. There is no real way to repay You for Your goodness to us, dear God--except, Lord, by each Senator in this Chamber always being honorable, hard-working, and dedicated to making wise and caring decisions. May it be so, O God. May it be so. This we pray in Your loving name, dear Lord.

Amen.

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

**CO-SPONSORS ADDED**

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

S. 78 Sen. Larry Martin

S. 274 Sens. Bright, Bryant and Shoopman

S. 431 Sen. Scott

S. 586 Sens. Cromer and Alexander

S. 591 Sen. Setzler

**Status Report Regarding the General Appropriations Bill**

Senator LEATHERMAN, Chairman of the Senate Finance Committee, was recognized to present a status report on the General Appropriations Bill, H. 3700.

**Leave of Absence**

On motion of Senator LARRY MARTIN, at 1:45 P.M., Senator THOMAS was granted a leave of absence for the balance of the day.

**Leave of Absence**

At 4:30 P.M., Senator CLEARY requested a leave of absence for Thursday, March 31.

**Expression of Personal Interest**

Senator CLEARY rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator MALLOY rose for an Expression of Personal Interest.

**RECALLED**

S. 692 -- Senators Jackson, Courson, Scott and Lourie: A BILL TO AMEND SECTION 7‑27‑405, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RICHLAND COUNTY ELECTION COMMISSION AND THE RICHLAND COUNTY BOARD OF REGISTRATION, SO AS TO COMBINE THE RICHLAND COUNTY ELECTION COMMISSION AND THE RICHLAND COUNTY BOARD OF REGISTRATION INTO A SINGLE ENTITY.

Senator McCONNELL asked unanimous consent to make a motion to recall the Bill from the Committee on Judiciary.

The Bill was recalled from the Committee on Judiciary and ordered placed on the Calendar for consideration tomorrow.

**RECALLED**

S. 730 -- Senator S. Martin: A BILL TO AMEND SECTION 7‑27‑415 OF THE 1976 CODE, RELATING TO THE SPARTANBURG COUNTY ELECTION COMMISSION AND SPARTANBURG COUNTY BOARD OF REGISTRATION, TO PROVIDE THAT MEMBERS ARE APPOINTED TO FOUR YEAR TERMS.

Senator McCONNELL asked unanimous consent to make a motion to recall the Bill from the Committee on Judiciary.

The Bill was recalled from the Committee on Judiciary and ordered placed on the Calendar for consideration tomorrow.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 743 -- Senator Pinckney: A SENATE RESOLUTION TO COMMEMORATE THE TWO HUNDREDTH BIRTHDAY OF CHARLESTON NATIVE DANIEL ALEXANDER PAYNE, DISTINGUISHED AFRICAN METHODIST EPISCOPAL CHURCH TEACHER, PREACHER, AND BISHOP, AND TO DECLARE APRIL 1, 2011, "BISHOP DANIEL A. PAYNE HOMECOMING OF AN EXTRAORDINARY EDUCATOR DAY."

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The Senate Resolution was adopted.

S. 744 -- Senator L. Martin: A BILL TO AMEND ARTICLE 7, CHAPTER 3, TITLE 16 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-3-605, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO IMPEDE THE NORMAL BREATHING OR BLOOD CIRCULATION OF ANOTHER PERSON WITHOUT CONSENT BY INTENTIONALLY APPLYING PRESSURE TO THE OTHER PERSON'S THROAT OR NECK OR OBSTRUCTING THE OTHER PERSON'S NOSE OR MOUTH; AND TO AMEND SECTION 16-25-65 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO PROVIDE THAT A PERSON WHO VIOLATES SECTION 16-25-20(A) OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, IS GUILTY OF THE OFFENSE OF CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE WHEN THE PERSON COMMITS A VIOLATION OF SECTION 16-3-605.

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

S. 745 -- Senators Knotts, Campbell, Land and Matthews: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-9-42 SO AS TO PROVIDE THE SCOPE OF PRACTICE OF A CERTIFIED ADVANCED PRACTICE CHIROPRACTIC PHYSICIAN; TO AMEND SECTION 40-9-10, RELATING TO DEFINITIONS CONCERNING CHIROPRACTORS AND THE CHIROPRACTIC PROFESSION, SO AS TO DEFINE CERTAIN TERMS; AND TO AMEND SECTION 40-9-20, RELATING TO THE LICENSURE OF CHIROPRACTORS, SO AS TO PROVIDE A CHIROPRACTOR MAY BECOME CERTIFIED AS AN ADVANCED PRACTICE CHIROPRACTIC PHYSICIAN UPON THE SATISFACTION OF CERTAIN REQUIREMENTS.

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

S. 746 -- Senators Lourie, Hutto, Fair, L. Martin and Rose: A BILL TO AMEND SECTION 56-1-286, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUSPENSION OF A DRIVER’S LICENSE TO A PERSON UNDER THE AGE OF TWENTY-ONE FOR HAVING AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO REVISE THE PENALTIES TO INCLUDE REQUIRING AN OFFENDER WHO OPERATES A VEHICLE TO HAVE AN IGNITION INTERLOCK DEVICE INSTALLED ON THE VEHICLE; TO AMEND SECTION 56-1-400, AS AMENDED, RELATING TO THE SUSPENSION OF A LICENSE, A LICENSE RENEWAL OR ITS RETURN, AND ISSUANCE OF A LICENSE THAT RESTRICTS THE DRIVER TO ONLY OPERATING A VEHICLE WITH AN IGNITION INTERLOCK DEVICE INSTALLED, SO AS TO REVISE THE DRIVER’S LICENSE SUSPENSION PERIOD FOR A PERSON WHO CHOOSES TO OR NOT TO HAVE AN INTERLOCK DEVICE INSTALLED ON HIS VEHICLE, TO PROVIDE ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS WHO CHOOSE NOT TO HAVE AN INTERLOCK DEVICE INSTALLED ON THEIR VEHICLES AFTER BEING CONVICTED OF CERTAIN DRIVING OFFENSES, AND TO REVISE THE PROCEDURE FOR A PERSON TO OBTAIN A LICENSE WHO DOES NOT OWN A VEHICLE; TO AMEND SECTION 56-1-1320, RELATING TO THE ISSUANCE OF A PROVISIONAL DRIVER’S LICENSE, SO AS TO PROVIDE THAT THE PROVISIONAL LICENSE MAY BE ISSUED AS LONG AS THE VEHICLE AUTHORIZED TO BE OPERATED HAS HAD AN IGNITION INTERLOCK DEVICE INSTALLED; TO AMEND SECTION 56-5-2941, AS AMENDED, RELATING TO PENALTIES THAT MAY BE IMPOSED FOR DRIVING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, SO AS TO PROVIDE THE LENGTH OF TIME AN INTERLOCK DEVICE MUST BE AFFIXED TO A VEHICLE FOR A FIRST OFFENSE, TO REVISE THE PENALTY FOR AN OFFENDER WHO HAS ACCUMULATED FOUR POINTS UNDER THE INTERLOCK DEVICE POINT SYSTEM, TO PROVIDE FOR THE USE OF FUNDS REMITTED TO THE INTERLOCK DEVICE FUND, TO REVISE THE FEES THAT MUST BE COLLECTED AND REMITTED TO THE INTERLOCK DEVICE FUND, TO REVISE THE FREQUENCY OF TIME IN WHICH AN OFFENDER MUST HAVE AN INTERLOCK DEVICE INSPECTED, AND TO PROVIDE THAT AN INTERLOCK DEVICE MUST CAPTURE A PHOTOGRAPHIC IMAGE OF A DRIVER AS HE OPERATES THE DEVICE; TO AMEND SECTION 56-5-2942, AS AMENDED, RELATING TO THE IMMOBILIZATION OF A PERSON’S VEHICLE UPON HIS CONVICTION OF AN ALCOHOL-RELATED DRIVING OFFENSE, SO AS TO PROVIDE THAT AS LONG AS A PERSON HOLDS A VALID IGNITION INTERLOCK LICENSE, HE IS NOT REQUIRED TO SURRENDER HIS LICENSE PLATES AND VEHICLE REGISTRATIONS; TO AMEND SECTION 56-5-2947, AS AMENDED, RELATING TO THE OFFENSE OF CHILD ENDANGERMENT, SO AS TO REVISE THE DATE WHEN A PERSON MAY ENROLL IN AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM AND BE ISSUED A PROVISIONAL DRIVER’S LICENSE; TO AMEND SECTION 56-5-2950, AS AMENDED, RELATING TO A PERSON WHO OPERATES A MOTOR VEHICLE GIVING IMPLIED CONSENT TO CHEMICAL TESTS TO DETERMINE THE PRESENCE OF ALCOHOL OR DRUGS, SO AS TO REVISE THE PENALTY IMPOSED UPON A PERSON WHO REFUSES TO BE SUBJECTED TO A CHEMICAL TEST; TO AMEND SECTION 56-5-2951, AS AMENDED, RELATING TO THE SUSPENSION OF A PERSON'S DRIVER’S LICENSE WHO REFUSES TO SUBMIT TO BE TESTED TO DETERMINE HIS ALCOHOL CONCENTRATION, SO AS TO LOWER THE ALCOHOL CONCENTRATION LEVEL THAT RESULTS IN A PERSON HAVING HIS LICENSE SUSPENDED, TO REVISE THE PERIOD OF TIME THAT A TEMPORARY ALCOHOL LICENSE REMAINS IN EFFECT, TO REVISE THE PERIOD OF TIME THAT A SUSPENSION OF A PERSON’S PRIVILEGE TO OPERATE A VEHICLE MUST REMAIN IN EFFECT WHEN AN ADMINISTRATIVE JUDGE UPHOLDS A SUSPENSION, TO PROVIDE THAT A HOLDER OF A RESTRICTED DRIVER’S LICENSE MAY OPERATE ONLY A VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, AND TO REVISE THE PENALTY FOR VIOLATIONS OF VARIOUS DRIVING OFFENSES; AND TO AMEND SECTION 56‑5-2990, RELATING TO THE SUSPENSION OF A PERSON’S DRIVER’S LICENSE FOR A VIOLATION OF CERTAIN ALCOHOL AND DRUG RELATED DRIVING OFFENSES, SO AS TO REVISE THE PENALTIES, AND TO PROVIDE THAT THIS PROVISION APPLIES TO CERTAIN PERSONS WHO HAVE BEEN ISSUED AN IGNITION INTERLOCK RESTRICTED LICENSE.

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

S. 747 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, RELATING TO UNEMPLOYMENT INSURANCE REFORM (ARTICLE 1), DESIGNATED AS REGULATION DOCUMENT NUMBER 4169, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

S. 748 -- Judiciary Committee: A CONCURRENT RESOLUTION TO APPROVE THE AMENDMENTS TO THE RULES OF PROCEDURE OF THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT, AS PROMULGATED BY THE ADMINISTRATIVE LAW COURT AND SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 1-23-650 OF THE 1976 CODE AND SECTION 4A, ARTICLE V OF THE CONSTITUTION OF THIS STATE.

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The Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 749 -- Judiciary Committee: A CONCURRENT RESOLUTION TO APPROVE THE AMENDMENTS TO RULE 219 OF THE SOUTH CAROLINA APPELLATE COURT RULES, AS PROMULGATED BY THE SOUTH CAROLINA SUPREME COURT AND SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 4A, ARTICLE V OF THE CONSTITUTION OF THIS STATE.

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The Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 750 -- Judiciary Committee: A CONCURRENT RESOLUTION TO APPROVE THE AMENDMENTS TO RULE 29 OF THE SOUTH CAROLINA RULES OF CRIMINAL PROCEDURE, AS PROMULGATED BY THE SOUTH CAROLINA SUPREME COURT AND SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 4A, ARTICLE V OF THE CONSTITUTION OF THIS STATE.

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The Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 751 -- Judiciary Committee: A CONCURRENT RESOLUTION TO APPROVE THE AMENDMENTS TO RULES 16, 26, 28, 33, 34, 37, AND 45 OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE, AS PROMULGATED BY THE SOUTH CAROLINA SUPREME COURT AND SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 4A, ARTICLE V OF THE CONSTITUTION OF THIS STATE.

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The Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 752 -- Judiciary Committee: A CONCURRENT RESOLUTION TO APPROVE THE AMENDMENTS TO RULE 3 OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE, AS PROMULGATED BY THE SOUTH CAROLINA SUPREME COURT AND SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 4A, ARTICLE V OF THE CONSTITUTION OF THIS STATE.

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The Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 753 -- Judiciary Committee: A CONCURRENT RESOLUTION TO APPROVE THE AMENDMENTS TO RULE 4 AND RULE 10 OF THE OFFICE OF MOTOR VEHICLE HEARINGS OF THE ADMINISTRATIVE LAW COURT, AS PROMULGATED BY THE CHIEF JUDGE OF THE ADMINISTRATIVE LAW COURT AND SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 1-23-660 OF THE 1976 CODE AND SECTION 4A, ARTICLE V OF THE CONSTITUTION OF THIS STATE.

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The Concurrent Resolution was introduced and ordered placed on the Calendar without reference.

S. 754 -- Senators Scott, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR MAJOR GENERAL OSBORNE EUGENE POWELL, JR. AND TO COMMEND HIM FOR HIS OUTSTANDING SERVICE, HIS TIRELESS EFFORTS, AND HIS SELFLESS COMMITMENT OF TIME AND RESOURCES FOR THE GREAT BENEFIT OF THE SOUTH CAROLINA MILITARY DEPARTMENT.

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

S. 755 -- Senators Scott, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR JOHN A. SHULER, DEPUTY ADJUTANT GENERAL FOR STATE OPERATIONS OF THE OFFICE OF THE ADJUTANT GENERAL, AND TO CONGRATULATE HIM, UPON THE OCCASION OF HIS RETIREMENT FROM THE MILITARY DEPARTMENT OF SOUTH CAROLINA.

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

S. 756 -- Senators Knotts, Coleman, Cromer, Elliott, Ford, McConnell, Land, Rose and Campsen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-1-180 SO AS TO REQUIRE LOCAL GOVERNING BODIES TO ASSESS AND COLLECT BUSINESS LICENSE FEES ANNUALLY ON A CALENDAR YEAR BASIS.

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

H. 3496 -- Reps. Brady, Butler Garrick, Spires, Erickson and Long: A BILL TO AMEND SECTION 44-29-135, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CONFIDENTIALITY OF SEXUALLY TRANSMITTED DISEASE RECORDS, SO AS TO DELETE THE PROVISION REQUIRING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO NOTIFY THE SCHOOL DISTRICT SUPERINTENDENT AND SCHOOL NURSE IF A MINOR IS ATTENDING A SCHOOL IN THE DISTRICT AND HAS ACQUIRED IMMUNODEFICIENCY SYNDROME OR IS INFECTED WITH THE HUMAN IMMUNODEFICIENCY VIRUS; AND BY ADDING SECTION 59-10-220 SO AS TO REQUIRE EACH SCHOOL DISTRICT TO ADOPT THE CENTERS FOR DISEASE CONTROL AND PREVENTION RECOMMENDATIONS ON UNIVERSAL PRECAUTIONS FOR BLOODBORNE DISEASE EXPOSURE.

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

H. 3985 -- Reps. Rutherford, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrell, Harrison, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pinson, Pitts, Pope, Quinn, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis and Young: A CONCURRENT RESOLUTION TO CONGRATULATE AUTHOR ASHLYE V. RUMPH-GEDDIS OF RICHLAND COUNTY ON THE PUBLICATION OF HER NEW CHILDREN’S BOOK, TORI EXPLORES SOUTH CAROLINA, AND ON ITS SELECTION AS THE CITY OF COLUMBIA’S TOGETHER WE CAN READ BOOK OF THE YEAR.

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

**REPORTS OF STANDING COMMITTEES**

**Invitations Accepted**

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

**Poll of the Invitations Committee**

**Polled 10; Ayes 10; Nays 0; Not Voting 0**

**AYES**

Alexander Campsen Cromer

Elliott Ford Knotts

Malloy O’Dell Reese

Verdin

**Total-- 11**

**NAYS**

**Total-- 0**

Tuesday, April 5, 2011 - 6:30p.m. - 10:00 p.m.

Members of the Senate, Reception, Americraft, Cantey Building, SC Fairgrounds, by THE Citadel Alumni Association

Wednesday, April 6, 2011 - 8:00 a.m. - 10:00 a.m.

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

Wednesday, April 6, 2011 - 12:00 - 2:00 p.m.

Members of the Senate and Staff, Luncheon, Room 112 of the Blatt Building, by the SC APARTMENT ASSOCIATION

Thursday, April 7, 2011- 8:00 a.m. - 10:00 a.m.

Members of the Senate, Breakfast, Room 112 of the Blatt Building, by the SC GOVERNOR’S SCHOOL FOR SCIENCE AND MATHEMATICS FOUNDATION

Tuesday, April 12, 2011 - 6:00 p.m. - 8:00 p.m.

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

Tuesday, April 12, 2011 - 6:00 p.m. - 7:00 p.m.

Members of the Senate, Reception, Capital City Club, by the NATIONWIDE MUTUAL INSURANCE COMPANY

Wednesday, April 13, 2011 - 8:00 a.m. - 10:00 a.m.

Members of the Senate, Breakfast, Room 112, Blatt Building, by the AMERICAN INSTITUTE OF ARCHITECTS - SC CHAPTER

Wednesday, April 13, 2011 - 11:30 a.m. - 2:00 p.m.

Members of the Senate and Staff, “Taste of South Carolina”, State House Grounds, by the SC HOSPITALITY ASSOCIATION

Wednesday, April 13, 2011 - 6:30 p.m. - 8:30 p.m.

Members of the Senate, Reception, Clarion Town House Hotel, by the SC JUNIOR GOLF FOUNDATION

Thursday, April 14, 2011 - 8:00 a.m. - 10:00 a.m.

Members of the Senate, Breakfast, Room 112 of the Blatt Building, by the PALMETTO AGRIBUSINESS COUNCIL

Tuesday, April 19, 2011 - 6:00 p.m. - 8:00 p.m.

Members of the Senate, Reception, Columbia Metropolitan Convention Center, by the SC CHAMBER OF COMMERCE

Tuesday, April 26, 2011 - 6:00 p.m. - 8:00 p.m.

Members of the Senate and Staff, Reception, Columbia Museum of Art, by the FLORENCE COUNTY ECONOMIC DEVELOPMENT PARTNERSHIP, FLORENCE COUNTY PROGRESS, GREATER FLORENCE CHAMBER OF COMMERCE, FLORENCE COUNTY AND THE CITY OF FLORENCE

Wednesday, April 27, 2011 - 8:00 a.m. - 10:00 a.m.

Members of the Senate and Staff, Breakfast, Room 112, Blatt Building, by the FOUNDATION FOR THE SC COMMISSION FOR THE BLIND

Wednesday, April 27, 2011 - 11:00 a.m. - 2:00 p.m.

Members of the Senate and Staff, “Jasper County on the Move” Luncheon, State House Grounds, by the JASPER COUNTY CHAMBER OF COMMERCE

Wednesday, April 27, 2011 - 6:00 p.m. - 9:00 p.m.

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

Thursday, April 28, 2011 - 8:00 a.m. - 10:00 a.m.

Members of the Senate and Staff, Breakfast, Room 112, Blatt Building, by the SC STATE CHAPTERS OF ZETA PHI BETA SORORITY, INC.

Senator HUTTO from the Committee on Judiciary submitted a favorable with amendment report on:

S. 30 -- Senators McConnell, Leventis and Ford: A BILL TO AMEND SECTION 22‑5‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATED TO MAGISTRATES’ POWERS AND DUTIES REGARDING THE ISSUANCE OF ARREST WARRANTS AND COURTESY SUMMONS, SO AS TO PROVIDE THAT NO ARREST WARRANT SHALL BE ISSUED FOR THE ARREST OF A PERSON UNLESS SOUGHT BY A MEMBER OF A LAW ENFORCEMENT AGENCY ACTING IN THEIR OFFICIAL CAPACITY; AND TO PROVIDE THAT IF AN ARREST WARRANT IS SOUGHT BY SOMEONE OTHER THAN A LAW ENFORCEMENT OFFICER, THE COURT MUST ISSUE A COURTESY SUMMONS, EXCEPT WHEN A BUSINESS IS SEEKING AN ARREST WARRANT FOR ANY OFFENSE AGAINST THE BUSINESS OR A PERSON IS SEEKING AN ARREST WARRANT FOR A FRAUDULENT CHECK, IF THE FRAUDULENT CHECK IS PRESENTED TO THE MAGISTRATE AT THE TIME THE WARRANT IS SOUGHT.

Ordered for consideration tomorrow.

Senator HUTTO from the Committee on Judiciary submitted a favorable report on:

S. 53 -- Senators L. Martin, Leventis and Ford: A BILL TO AMEND CHAPTER 3, TITLE 16 OF THE 1976 CODE, BY ADDING ARTICLE 19 TO ESTABLISH A PROCEDURE FOR THE ISSUANCE OF PERMANENT AND EMERGENCY CIVIL NO‑CONTACT ORDERS UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE DURATION OF CIVIL NO‑CONTACT ORDERS, TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE A PENALTY FOR THE VIOLATION OF CIVIL NO‑CONTACT ORDERS.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

S. 211 -- Senators Matthews, Land, Leatherman, Leventis, Hutto and Williams: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 54 TO TITLE 11 SO AS TO ESTABLISH THE “I‑95 CORRIDOR AUTHORITY ACT” AND TO PROVIDE FOR THE COMPOSITION, DUTIES, AND POWERS OF THE AUTHORITY.

Ordered for consideration tomorrow.

Senator FAIR from the Committee on Corrections and Penology polled out S. 385 favorable with amendment:

S. 385 -- Senators Fair, Rose, Campsen and Peeler: A BILL TO AMEND CHAPTER 1, TITLE 24, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF CORRECTIONS, SO AS TO DEVOLVE ITS DUTIES, FUNCTIONS, AND RESPONSIBILITIES UPON THE DEPARTMENT OF INSTITUTIONAL AND COMMUNITY CORRECTIONS; AND TO AMEND CHAPTER 21, TITLE 24, RELATING TO THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO DEVOLVE ITS DUTIES, FUNCTIONS, AND RESPONSIBILITIES UPON THE DEPARTMENT OF INSTITUTIONAL AND COMMUNITY CORRECTIONS.

**Poll of the Corrections and Penology Committee**

**Polled 14; Ayes 14; Nays 0; Not Voting 2**

**AYES**

Fair Thomas Ford

Ryberg Anderson Williams

Campbell Massey Campsen

Coleman *Martin, Shane* Rose

Scott Shoopman

**Total--14**

**NAYS**

**Total--0**

**NOT VOTING**

Pinckney Nicholson

**Total--2**

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable with amendment report on:

S. 435 -- Senator Elliott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6‑1‑180 SO AS TO REQUIRE LOCAL GOVERNMENTAL ENTITIES, AGENCIES, ORGANIZATIONS, OR INDIVIDUALS THAT RECEIVE, COLLECT, OR SPEND PUBLIC FUNDS DERIVED FROM STATE OR LOCAL TAX REVENUE TO FILE PERIODIC EXPENDITURE REPORTS WITH THE STATE OR LOCAL GOVERNMENTAL ENTITY OR AGENCY THAT PROVIDED, COLLECTED, OR SPENT THE PUBLIC FUNDS.

Ordered for consideration tomorrow.

Senator from the Committee on Finance submitted a favorable report on:

S. 591 -- Senators Peeler, Ryberg, Bryant, Massey, Rose and Setzler: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑3765, SO AS TO ALLOW A STATE TAX CREDIT FOR EMPLOYERS HIRING AN UNEMPLOYED INDIVIDUAL RECEIVING UNEMPLOYMENT COMPENSATION BENEFITS, TO PROVIDE THE AMOUNT OF THE CREDIT, THOSE TAXES AGAINST WHICH THE CREDIT IS ALLOWED, AND THE ELIGIBILITY REQUIREMENTS FOR CREDITABLE EMPLOYEES, TO PROVIDE FOR THE ADMINISTRATION OF THE CREDIT, AND TO PROVIDE THAT THE CREDIT IS ALLOWED FOR ELIGIBLE INDIVIDUALS HIRED AFTER JUNE 30, 2011, AND BEFORE JULY 1, 2013, AND EXTENDS FOR TWENTY‑FOUR MONTHS FOR EACH CREDITABLE EMPLOYEE.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a majority favorable with amendment and Senator LEVENTIS a minority unfavorable report on:

S. 647 -- Senators Campbell, Peeler, Bryant, Elliott, Grooms, Davis, Campsen, Rose, Hayes, Coleman and Knotts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑37‑3135 SO AS TO PROVIDE THAT WHEN A PARCEL OF REAL PROPERTY AND IMPROVEMENTS THEREON PREVIOUSLY SUBJECT TO PROPERTY TAX UNDERGOES AN ASSESSABLE TRANSFER OF INTEREST AND THE VALUE OF THE PARCEL AS DETERMINED AT THE TIME OF THE ASSESSABLE TRANSFER OF INTEREST IS GREATER THAN THE VALUE OF THE PARCEL USED IN THE PROPERTY TAX ASSESSMENT ON THE PARCEL FOR THE MOST RECENTLY COMPLETED PROPERTY TAX YEAR, THERE IS ALLOWED AN EXEMPTION OF AN AMOUNT OF THE FAIR MARKET VALUE OF THE PARCEL SUFFICIENT TO ELIMINATE ANY INCREASE IN THE VALUE OF THE PARCEL; TO AMEND SECTION 12‑37‑3140, AS AMENDED, RELATING TO DETERMINING FAIR MARKET VALUE, SO AS TO MAKE A CONFORMING CHANGE; AND TO AMEND SECTION 12‑60‑30, AS AMENDED, RELATING TO DEFINITIONS IN THE REVENUE PROCEDURES ACT, SO AS TO CLARIFY THE DEFINITION OF PROPERTY TAX ASSESSMENT.

Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance submitted a favorable report on:

S. 690 -- Senator Leatherman: A BILL TO REENACT SECTION 12‑6‑60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DETERMINATIONS FOR INCOME TAX AND CORPORATE LICENSE FEE PURPOSES.

Ordered for consideration tomorrow.

Senator RYBERG from the Committee on Labor, Commerce and Industry submitted a favorable with amendment report on:

S. 693 -- Senator Bryant: A BILL TO AMEND SECTION 23‑9‑70 OF THE 1976 CODE, RELATING TO ORDER AND APPEALS FROM A STATE FIRE MARSHAL, TO INCREASE THE AMOUNT OF TIME THAT AN OCCUPANT OR OWNER MAY APPEAL THE DECISION OF A DEPUTY OR RESIDENT FIRE MARSHAL FROM TWENTY‑FOUR HOURS TO FOURTEEN DAYS, AND TO PROVIDE THAT THE STATE FIRE MARSHAL’S DECISION MUST BE FILED WITHIN TEN DAYS OF RECEIVING THE NOTICE OF APPEAL.

Ordered for consideration tomorrow.

Senator RYBERG from the Committee on Labor, Commerce and Industry submitted a favorable report on:

S. 694 -- Senator Bryant: A BILL TO AMEND SECTION 41‑15‑520 OF THE 1976 CODE, RELATING TO REMEDIES FOR EMPLOYEES CHARGING DISCRIMINATION, TO PROVIDE FOR REFERRAL TO THE UNITED STATES DEPARTMENT OF LABOR ALLEGATIONS MADE BY A PRIVATE SECTOR EMPLOYEE OF A VIOLATION OF SECTION 41‑15‑510 AND TO PROVIDE FOR CIVIL REMEDIES.

Ordered for consideration tomorrow.

**Appointments Reported**

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

**Statewide Appointments**

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

At-Large:

Cary L. Chastain, 180 Mary Ellen Drive, Charleston, SC 29403 *VICE* Michael G. McShane

Received as information.

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

2nd Congressional District:

Michael E. Hutchins, 617 Two Notch Road, Lexington, SC 29073 *VICE* Michael Campbell

Received as information.

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

5th Congressional District:

Randy Lowe, 1111 W. Carolina Ave., Hartsville, SC 29550 *VICE* Frank Murray, Jr.

Received as information.

Reappointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

1st Congressional District:

Caroline Rhodes, 7 Guerard Road, Charleston, SC 29407

Received as information.

Initial Appointment, Governing Board of Department of Natural Resources, with the term to commence July 1, 2010, and to expire July 1, 2014

3rd Congressional District:

Larry L. Yonce, 1302 Calhoun Street, Johnston, SC 29832 *VICE* Stephen Davis

Received as information.

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

**ORDERED ENROLLED FOR RATIFICATION**

The following Joint Resolution was read the third time and, having received three readings in both Houses, it was ordered that the title be changed to that of an Act and enrolled for Ratification:

H. 3303 -- Reps. J.E. Smith, Harrison, Pinson, Vick, Agnew, Williams, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G.A. Brown, H.B. Brown, R.L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb‑Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrell, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D.C. Moss, V.S. Moss, Munnerlyn, Murphy, Nanney, J.H. Neal, J.M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pitts, Pope, Quinn, Rutherford, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G.M. Smith, G.R. Smith, J.R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Viers, Weeks, Whipper, White, Whitmire, Willis and Young: A JOINT RESOLUTION TO PROMOTE MAJOR GENERAL STANHOPE S. SPEARS TO THE RANK OF LIEUTENANT GENERAL OF THE SOUTH CAROLINA ARMY NATIONAL GUARD EFFECTIVE JANUARY 11, 2011.

**HOUSE BILLS RETURNED**

The following House Bills were read the third time and ordered returned to the House with amendments:

H. 3374 -- Reps. Hixon, D.C. Moss, Frye, Ott, J.R. Smith, Atwater, Tallon, Brannon, Thayer, McCoy, Corbin, Crosby, Murphy, V.S. Moss, Pinson, G.R. Smith, Chumley, Butler Garrick, Clemmons, Clyburn, Govan, Hardwick, Munnerlyn, Pitts, Pope, Ryan, Taylor, Young, Vick and Hodges: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 12 TO TITLE 50 SO AS TO ENACT THE “INTERSTATE WILDLIFE VIOLATOR COMPACT”, TO PROVIDE THAT THE GOVERNOR SHALL EXECUTE THE COMPACT WITH OTHER COMPACT STATES, AND TO PROVIDE THAT THE CHAIRMAN OF THE BOARD OF THE DEPARTMENT OF NATURAL RESOURCES SHALL APPOINT THE COMPACT ADMINISTRATOR FOR THIS STATE.

**H. 3374--Recorded Vote**

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

H. 3625 -- Reps. J.R. Smith, Hixon and Taylor: A BILL TO AMEND SECTION 8‑13‑735, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROHIBITION AGAINST A PERSON, WHO AT THE SAME TIME SERVES ON THE GOVERNING BODY OF A STATE OR LOCAL POLITICAL SUBDIVISION BOARD OR COMMISSION AND AS AN EMPLOYEE OF THE SAME BOARD OR COMMISSION OR IN A POSITION WHICH IS SUBJECT TO THE CONTROL OF THE BOARD OR COMMISSION, MAKING OR PARTICIPATING IN A DECISION AFFECTING HIS ECONOMIC INTERESTS, SO AS TO PROHIBIT A PERSON FROM SERVING IN BOTH POSITIONS AT THE SAME TIME.

**THIRD READING BILLS**

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

S. 36 -- Senators McConnell, McGill, Setzler and Ford: A BILL TO AMEND ACT 99 OF 2007, RELATING TO THE SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES, BY REPEALING SECTIONS 1B AND 1C, WHICH STATE THAT THE SALES TAX RATE ON DURABLE MEDICAL EQUIPMENT IS FIVE AND ONE-HALF PERCENT SUBJECT TO FURTHER REDUCTION BASED ON GENERAL FUND REVENUE GROWTH.

**Recorded Vote**

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

**S. 36--Statement by Senators BRYANT and CROMER**

Pursuant to Section 8-13-700(B), which prohibits us from participating in a decision in which we have an economic interest, we abstained from voting on this matter because we are Durable Medical Equipment providers.

S. 336 -- Senator Grooms: A BILL TO AMEND SECTION 56‑7‑30 OF THE 1976 CODE, RELATING TO GENERATING UNIFORM TRAFFIC CITATIONS WITH AN ELECTRONIC DEVICE, TO REQUIRE THAT A COPY OF THE CITATION IS HANDED DIRECTLY TO THE OFFENDER BY THE LAW ENFORCEMENT OFFICER ISSUING THE TICKET; TO AMEND CHAPTER 7, TITLE 56, RELATING TO MOTOR VEHICLE TRAFFIC TICKETS, BY ADDING SECTION 56‑7‑35 TO PROVIDE THAT A LAW ENFORCEMENT OFFICER MUST STOP AN OWNER OR OPERATOR OF A VEHICLE TO ISSUE A TRAFFIC TICKET, TO PROVIDE THAT THE TRAFFIC TICKET MUST BE HANDED DIRECTLY TO THE OWNER OR OPERATOR OF THE VEHICLE, TO PROVIDE THAT A LAW ENFORCEMENT AGENCY MAY NOT MAIL OR OTHERWISE SEND A TRAFFIC TICKET TO AN OFFENDER, TO PROVIDE THAT A TRAFFIC TICKET CANNOT BE ISSUED BASED IN WHOLE OR IN PART UPON PHOTOGRAPHIC EVIDENCE REGARDLESS OF WHETHER THE CAMERA OR OTHER DEVICE CAPTURING THE IMAGE WAS ATTENDED OR UNATTENDED, AND TO PROVIDE THAT THE PROVISIONS OF THE SECTION DO NOT APPLY TO TOLL COLLECTION; TO AMEND SECTION 56‑5‑710, RELATING TO THE POWER OF LOCAL AUTHORITIES CONCERNING TRAFFIC LAWS, TO PROVIDE THAT A TRAFFIC TICKET CANNOT BE ISSUED BASED IN WHOLE OR IN PART UPON PHOTOGRAPHIC EVIDENCE REGARDLESS OF WHETHER THE CAMERA OR OTHER DEVICE CAPTURING THE IMAGE WAS ATTENDED OR UNATTENDED; TO AMEND SECTION 56‑5‑70, AS AMENDED, RELATING TO CERTAIN VEHICLE REQUIREMENTS BEING SUSPENDED DURING A STATE OF EMERGENCY, TO CLARIFY THAT UNIFORM TRAFFIC CITATIONS MAY NOT BE ISSUED IN WHOLE OR IN PART ON PHOTOGRAPHIC EVIDENCE REGARDLESS OF WHETHER THE CAMERA OR OTHER ELECTRONIC DEVICE CAPTURING THE PHOTOGRAPHIC EVIDENCE WAS ATTENDED OR UNATTENDED AT THE TIME IT CAPTURED THE PHOTOGRAPHIC EVIDENCE; AND TO DISGORGE ANY FINES COLLECTED IN VIOLATION OF SECTION 56‑5‑70.

Senator SHEHEEN spoke on the Bill.

**READ THE SECOND TIME**

H. 3399 -- Reps. Rutherford and Owens: A BILL TO AMEND JOINT RESOLUTION 263 OF 1998 RELATING TO THE GRANTING OF CONCURRENT FEDERAL LAW ENFORCEMENT JURISDICTION OVER THE NATIONAL ADVOCACY CENTER LOCATED ON THE COLUMBIA CAMPUS OF THE UNIVERSITY OF SOUTH CAROLINA IN RICHLAND COUNTY, SO AS TO EXTEND THAT CONCURRENT FEDERAL JURISDICTION TO ADJACENT FEDERALLY OCCUPIED PROPERTY AND TO THE INN AT USC AND THE KIRKLAND APARTMENT BUILDING LOCATED RESPECTIVELY AT 1619 PENDLETON STREET AND 1611 PENDLETON STREET IN THE CITY OF COLUMBIA, SOUTH CAROLINA AND TO DESIGNATE THE TEXT OF JOINT RESOLUTION 263 OF 1998, AS AMENDED BY THIS ACT, AS SECTION 3‑3‑350 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976.

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 29; Nays 1**

**AYES**

Alexander Bryant Campsen

Cleary Coleman Cromer

Fair Grooms Hayes

Hutto Jackson Knotts

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey McConnell

McGill O'Dell Peeler

Rankin Rose Ryberg

Scott Setzler Sheheen

Shoopman Williams

**Total--29**

**NAYS**

Bright

**Total--1**

**H. 3399--Statement by Senator COURSON**

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

The Bill was read the second time and ordered placed on the Third Reading Calendar.

**READ THE SECOND TIME**

S. 568 -- Senator L. Martin: A BILL TO AMEND SECTION 16‑3‑740, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TESTING OF CERTAIN OFFENDERS FOR HEPATITIS B AND HUMAN IMMUNODEFICIENCY VIRUS (HIV), SO AS TO FURTHER CLARIFY OFFENDERS WHO MUST BE TESTED AND THE TIME FRAME THAT TESTING MUST BE CONDUCTED AND PROVIDE FOR FOLLOW‑UP TESTING FOR HIV WHEN MEDICALLY APPROPRIATE.

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 39; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Fair

Ford Grooms Hayes

Hutto Knotts Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

O'Dell Peeler Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Verdin Williams

**Total--39**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

S. 721 -- Senator Massey: A BILL TO AMEND ACT 955 OF 1974, AS AMENDED, RELATING TO THE COMPENSATION OF THE EDGEFIELD COUNTY DISTRICT SCHOOL BOARD OF TRUSTEES, TO PROVIDE THAT THE TRUSTEES SHALL RECEIVE COMPENSATION AGREED UPON BY THE BOARD.

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 1; Nays 0**

**AYES**

Massey

**Total--1**

**NAYS**

**Total--0**

The Bill was read the second time and ordered placed on the Third Reading Calendar.

**SECOND READING FAILED**

**REMOVED FROM THE CALENDAR**

H. 3287 -- Reps. Hardwick and Hodges: A BILL TO AMEND SECTION 50‑21‑190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ABANDONMENT OF WATERCRAFT AND OUTBOARD MOTORS, SO AS TO PROVIDE THAT AN ABANDONED WATERCRAFT MAY BE REMOVED AND DISPOSED OF BY ANY GOVERNMENT AGENCY THAT HAS JURISDICTION OVER THE AREA WHERE THE ABANDONED WATERCRAFT IS LOCATED, AND TO PROVIDE THAT A WATERCRAFT ABANDONED FOR AT LEAST NINETY DAYS MAY BE CLAIMED BY ANY PERSON OR ENTITY AS ABANDONED PROPERTY.

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

Senator KNOTTS explained the Bill.

The question then was second reading of the Bill.

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

**Ayes 3; Nays 31**

**AYES**

Grooms Massey Sheheen

**Total--3**

**NAYS**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Cromer

Davis Fair Hayes

Hutto Knotts Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* McConnell McGill

Nicholson O'Dell Peeler

Rankin Rose Ryberg

Scott Setzler Shoopman

Williams

**Total--31**

Second reading of the Bill failed. The Bill was subsequently removed from the Calendar and proper notation was made on the cover of the Bill.

**COMMITTED**

S. 722 -- Fish, Game and Forestry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES, RELATING TO SEASONS, LIMITS, METHODS OF TAKE, AND SPECIAL USE RESTRICTIONS ON WILDLIFE MANAGEMENT AREAS; AND TURKEY HUNTING RULES AND SEASONS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4141, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Senator CROMER asked unanimous consent to commit the Joint Resolution to the Committee on Fish, Game and Forestry.

There was no objection and the Joint Resolution was sent to the appropriate committee.

**AMENDMENT PROPOSED, OBJECTION**

S. 225 -- Senators Knotts, Ford and Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑3890 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR CERTAIN PERSONS WHO ARE OPERATING A MOTOR VEHICLE TO USE A WIRELESS ELECTRONIC COMMUNICATION DEVICE TO COMPOSE, SEND, OR READ A TEXT‑BASED COMMUNICATION AND TO PROVIDE PENALTIES FOR VIOLATING THIS PROVISION; AND TO AMEND SECTION 56‑1‑720, RELATING TO THE ASSESSMENT OF POINTS AGAINST A PERSON’S DRIVING RECORD FOR CERTAIN MOTOR VEHICLE VIOLATIONS, SO AS TO PROVIDE THAT ONE POINT MUST BE ASSESSED AGAINST THE DRIVING RECORD OF A PERSON CONVICTED OF USING A WIRELESS ELECTRONIC COMMUNICATION DEVICE TO COMPOSE, SEND, OR READ A TEXT‑BASED COMMUNICATION WHILE OPERATING A MOTOR VEHICLE.

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

Senator GROOMS proposed the following amendment (225R002.LKG):

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

/ SECTION 1. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Section 56‑5‑3890. (A) For purposes of this section, ‘drive carelessly’ means operating a vehicle without care and caution and without full regard for the safety of persons or property.

(B) It is unlawful for a motor vehicle driver, while driving on a road, street, or highway of the State to drive carelessly as a result of reading, writing, personal grooming, interacting with passengers, pets or unsecured cargo, using a computer, using a wireless device or telephone to send text based communications, or engaging in any other activity which causes the driver to be distracted.

(C) This section does not apply to a person who is:

(1) lawfully parked or stopped;

(2) using a hands‑free wireless electronic communication device or a voice‑activated feature or function of the device;

(3) activating or deactivating a wireless electronic communication device or an internal feature or function of the device;

(4) reading, selecting, or entering a telephone number or contact in a wireless electronic communication device for the purpose of making or receiving a telephone call;

(5) summoning medical or other emergency assistance;

(6) transmitting or receiving data as part of a digital dispatch system;

(7) a law enforcement officer, firefighter, emergency medical technician, or other public safety official while in the performance of the person’s official duties; or

(8) using a global positioning system device or an internal global positioning system feature or function of a wireless electronic communication device for the purpose of navigation or obtaining related traffic and road condition information.

(D)(1) A person who violates this section is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined twenty dollars and pay a twenty‑five dollar Trauma Care Fund surcharge. The twenty dollar fine is subject to all applicable court costs, assessments, and surcharges, except as provided in item (2);

(b) for a second offense within five years of a prior offense, must be fined twenty‑five dollars, pay a twenty‑five dollar Trauma Care Fund surcharge, and have two points assessed against the person’s motor vehicle operating record, no part of which may be waived, reduced, or suspended. The twenty‑five dollar fine is subject to all applicable court costs, assessments, and surcharges; and

(c) for a third offense or subsequent offense within five years of a prior offense, must be fined seventy‑five dollars, pay a twenty‑five dollar Trauma Care Fund surcharge, and have four points assessed against the person’s motor vehicle operating record, no part of which may be waived, reduced, or suspended. The seventy‑five dollar fine is subject to all applicable court costs, assessments, and surcharges.

(2)(a) For a first offense, instead of the penalty provided in subsection (D)(1)(a), the person may successfully complete a driver’s education program within sixty days of the person’s conviction date, which specifically contains, in whole or in part, education regarding distracted or inattentive driving.

(b) The person shall select a program approved by the Department of Public Safety’s Office of Highway Safety. The Office of Highway Safety may approve more than one program, and such programs may be conducted by classroom, computer, or Internet. The Office of Highway Safety shall post information regarding the approved programs on its website.

(c) The person shall indicate to the judge at the time of conviction that the person intends to successfully complete a program instead of the penalty. The judge shall instruct the person as to how the person is to comply with the requirements of this item. Notwithstanding Section 56-7-30, the court shall retain the records and audit copy of the traffic ticket for the violation until the judge has made a determination as to whether the person has successfully completed the program.

(d) The person shall return to the court within sixty days of the conviction date. At that time, the person shall present an original certificate from the program indicating that the person has successfully completed the program. Also, the person shall sign an affidavit provided by the court swearing or affirming that the person has successfully completed the program.

(e) If the judge determines that the person has successfully completed the program, the judge shall waive the fine, the Trauma Care Fund surcharge, and all applicable court costs, assessments, and surcharges, except ten dollars that shall be used exclusively by the court to offset the costs associated with administering the person’s compliance with this item. The court shall remit the records and audit copy of the traffic ticket to the Department of Motor Vehicles within ten days indicating a violation of this section without any points assessed against the person’s motor vehicle operating record. The Department of Motor Vehicles shall indicate a violation of this section on the person’s motor vehicle operating record without any points assessed.

(f) If the judge determines that the person has failed to successfully complete the program, the judge shall impose the fine, the Trauma Care Fund surcharge, and all other applicable court costs, assessments, and surcharges. The court shall remit the records and audit copy of the traffic ticket to the Department of Motor Vehicles within ten days indicating a violation of this section. The Department of Motor Vehicles shall indicate a violation of this section on the person’s motor vehicle operating record.

(g) A person is not permitted to complete a program instead of the penalty if the person has been convicted of a prior violation of this section. Only those violations that occurred within a period of five years, including and immediately preceding the date of the last violation, constitute prior violations within the meaning of this subsection.

(3) If the person does not subsequently violate this section within one year from the date of conviction, the Department of Motor Vehicles shall remove the points assessed against the person’s motor vehicle operating record. However, the Department of Motor Vehicles shall not remove an indication of the violation of this section from the person’s motor vehicle operating record. For purposes of this section, if the Department of Motor Vehicles has not received a ticket or some other notice from a court one year from the date of conviction indicating that the person has subsequently violated this section, the Department of Motor Vehicles shall remove the points assessed.

(4) The Trauma Care Fund surcharge must be deposited with the city or county treasurer, as applicable, for remittance to the State Treasurer. The State Treasurer shall deposit the Trauma Care Fund surcharge in the South Carolina State Trauma Care Fund. The Trauma Care Fund surcharge must not be used by the Department of Health and Environmental Control for the payment of the department’s administrative or operating expenses or for any purpose other than providing financial aid to participating trauma care providers and grants related to trauma care in this State. The Trauma Care Fund surcharge is not subject to the provisions of Section 44‑61‑520(G).

(5) During the first one hundred eighty days after this section’s effective date, law enforcement officers shall issue only warnings for violations of this section.

(E) A law enforcement officer must not:

(1) stop a person for a violation of this section except when the officer has probable cause that a violation has occurred based on the officer’s clear and unobstructed view of the person;

(2) seize or require the forfeiture of a wireless electronic communication device because of a violation of this section;

(3) search or request to search a motor vehicle, driver, or passenger in a motor vehicle, solely because of a violation of this section;

(4) make a custodial arrest for a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine; or

(5) issue a citation to a person for a violation of this section when the stop is made in conjunction with a driver’s license check, safety check, or registration check conducted at a checkpoint established to stop all drivers on a certain road for a period of time, except when the person is cited for violating another motor vehicle law.

(F) A person charged with a violation of this section may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person was using a wireless electronic communication device to compose, send, or read a text‑based communication while operating a motor vehicle on the public streets and highways of this State at the time of the incident, the penalty is a fine, surcharge, and points assessment pursuant to subsection (D). If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person was using a wireless electronic communication device to compose, send, or read a text‑based communication while operating a motor vehicle on the public streets and highways of this State, no penalty shall be assessed. A person found to be in violation of this section may bring an appeal to the court of common pleas, pursuant to Section 18‑3‑10 or Section 14‑25‑95.

(G) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local government entities regarding persons using wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State.

(H) Nothing in this section is intended to conflict with enforcement of applicable restrictions or requirements imposed on commercial motor vehicle operators pursuant to the federal Motor Carrier Safety Regulations.

(I) A violation of this section is negligence per se.”

SECTION 2. Section 56‑1‑720 of the 1976 Code is amended to read:

“Section 56‑1‑720. There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION POINTS

Reckless driving 6

Passing stopped school bus 6

Hit‑and‑run, property damages only 6

Driving too fast for conditions, or speeding:

(1) No more than 10 m.p.h. above the

posted limits…… 2

(2) More than 10 m.p.h. but less than 25

m.p.h. above the posted limits 4

(3) 25 m.p.h. or above the posted limits 6

Disobedience of any official traffic control

device……………….. 4

Disobedience to officer directing traffic 4

Failing to yield right of way 4

Driving on wrong side of road 4

Passing unlawfully 4

Turning unlawfully 4

Driving through or within safety zone 4

Failing to give signal or giving improper

signal for stopping, turning, or suddenly

decreased speed 4

Shifting lanes without safety precaution 2

Improper dangerous parking 2

Following too closely 4

Failing to dim lights 2

Operating with improper lights 2

Operating with improper brakes 4

Operating a vehicle in unsafe condition 2

Driving in improper lane 2

Improper backing…. 2

Distracted driving

second offense…. 2

Distracted driving

third or subsequent offense……………………………….. 4.”

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

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

**RECESS**

At 12:18 P.M., with Senator GROOMS retaining the floor, on motion of Senator McCONNELL, with unanimous consent, the Senate receded from business until 1:15 P.M.

**AFTERNOON SESSION**

The Senate reassembled at 1:15 P.M. and was called to order by the PRESIDENT.

**Point of Quorum**

At 1:28 P.M., Senator LARRY MARTIN made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

Senator PEELER moved that a Call of the Senate be made. The following Senators answered the Call:

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Cromer

Fair Grooms Hayes

Hutto Jackson Knotts

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McConnell McGill Nicholson

O'Dell Peeler Rankin

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

A quorum being present, the Senate resumed.

**Recorded Presence**

Senators COURSON, DAVIS, FORD, MATTHEWS, REESE, LAND, ELLIOTT, PINCKNEY and LEVENTIS recorded their presence subsequent to the Call of the Senate.

The Senate resumed consideration of Amendment No. 3A to S. 225.

**S. 225--Objection**

S. 225 -- Senators Knotts, Ford and Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑3890 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR CERTAIN PERSONS WHO ARE OPERATING A MOTOR VEHICLE TO USE A WIRELESS ELECTRONIC COMMUNICATION DEVICE TO COMPOSE, SEND, OR READ A TEXT‑BASED COMMUNICATION AND TO PROVIDE PENALTIES FOR VIOLATING THIS PROVISION; AND TO AMEND SECTION 56‑1‑720, RELATING TO THE ASSESSMENT OF POINTS AGAINST A PERSON’S DRIVING RECORD FOR CERTAIN MOTOR VEHICLE VIOLATIONS, SO AS TO PROVIDE THAT ONE POINT MUST BE ASSESSED AGAINST THE DRIVING RECORD OF A PERSON CONVICTED OF USING A WIRELESS ELECTRONIC COMMUNICATION DEVICE TO COMPOSE, SEND, OR READ A TEXT‑BASED COMMUNICATION WHILE OPERATING A MOTOR VEHICLE.

Senator GROOMS resumed speaking on the amendment.

Senator LARRY MARTIN objected to further consideration of the Bill.

**CARRIED OVER**

S. 473 -- Senators Lourie, Setzler and Ford: A BILL TO AMEND CHAPTER 102, TITLE 59, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ATHLETE AGENTS AND STUDENT AGENTS, SO AS TO REVISE DEFINITIONS, TO INCLUDE DEFINITIONS FOR “ADMINISTRATOR”, “DEPARTMENT”, AND “FINANCIAL SERVICES CONTRACT”, TO REVISE THE POWERS OF THE DEPARTMENT OF CONSUMER AFFAIRS WITH RESPECT TO ATHLETE AGENTS AND STUDENT ATHLETES, TO PROVIDE FOR INSPECTION OF OUT‑OF‑STATE RECORDS, TO REQUIRE AN APPLICANT TO UNDERGO A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK AND TO PROVIDE FINGERPRINTS, TO PROVIDE FOR REPORTING AND MAINTENANCE OF CRIMINAL HISTORY RECORDS CHECK RESULTS, TO REVISE CONSIDERATIONS THE DEPARTMENT MAY MAKE WHEN ISSUING A CERTIFICATE OF REGISTRATION, TO REVISE THE TIME IN WHICH A CERTIFICATE OF REGISTRATION IS VALID AND TO PROVIDE THAT THE CERTIFICATE IS NONTRANSFERABLE AND NONASSIGNABLE, TO PROVIDE THAT IF A PERSON AGGRIEVED BY DEPARTMENT ACTION FAILS TO REQUEST A CONTESTED CASE THE ADMINISTRATIVE ACTION IS FINAL, TO PROVIDE THAT FUNDS COLLECTED BY THE DEPARTMENT MUST BE USED TO IMPLEMENT THE PROVISIONS OF THIS CHAPTER, TO REQUIRE THAT THE ADDRESS OF THE ATHLETE AGENT BE INCLUDED IN AN AGENCY CONTRACT, TO REVISE WHAT THE CONTRACT MUST CONTAIN, TO PROVIDE ADDITIONAL PROHIBITED ACTS OF ATHLETE AGENTS, TO ALLOW THE DEPARTMENT TO ISSUE A CEASE AND DESIST ORDER AND IMPOSE A PENALTY UPON FINDING OF MISCONDUCT, TO PROVIDE REPORTING REQUIREMENTS FOR EDUCATIONAL INSTITUTIONS, AND TO PROVIDE THAT THE DEPARTMENT MAY PROMULGATE REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS CHAPTER.

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

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

**MOTION ADOPTED**

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

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

**COMMITTEE AMENDMENT ADOPTED, AMENDED**

**READ THE SECOND TIME**

**RETURNED TO THE STATUS OF SPECIAL ORDER**

S. 431 -- Senators McConnell, Rankin, Setzler, Campbell, Shoopman, Reese, Bright, Alexander, S. Martin, Fair, Cromer, Bryant, Elliott, O’Dell, Campsen, Ford, Rose, Lourie, Cleary, Verdin, McGill, Williams, Nicholson, Knotts, Land and Scott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑61‑70 SO AS TO PROVIDE THAT A LIABILITY INSURANCE POLICY ISSUED BY AN INSURER AND COVERING A CONSTRUCTION PROFESSIONAL IN THIS STATE MUST BE BROADLY CONSTRUED IN FAVOR OF COVERAGE, AND TO PROVIDE THAT WORK OF A CONSTRUCTION PROFESSIONAL RESULTING IN PROPERTY DAMAGE IN CERTAIN CIRCUMSTANCES CONSTITUTES AN OCCURRENCE AS COMMONLY DEFINED IN LIABILITY INSURANCE AND IS NOT THE INTENDED OR EXPECTED CONSEQUENCE OF THE WORK OF THE CONSTRUCTION PROFESSIONAL.

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

Senator RANKIN spoke on the Bill.

The Committee on Banking and Insurance proposed the following amendment (AGM\18637AB11), which was adopted:

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

/ SECTION 1. Chapter 61, Title 38 of the 1976 Code is amended by adding:

“Section 38‑61‑70. (A)(1) The General Assembly finds:

(a) the interpretation of insurance policies issued to construction professionals is of vital importance to the economic and social welfare of the citizens of South Carolina and in furthering the purposes of this section;

(b) insurance policies issued to construction professionals have become increasingly complex, often containing multiple, lengthy endorsements and exclusions conflicting with the reasonable expectations of the insured; and

(c) the correct interpretation of coverage for damages arising out of construction defects is in the best interest of insurers, construction professionals, and property owners.

(2) The General Assembly declares:

(a) the policy of South Carolina favors the interpretation of insurance coverage broadly for the insured;

(b) the long‑standing and continuing policy of South Carolina favors a broad interpretation of the duty of an insurer to defend the insured under liability insurance policies and that this duty is a first‑party benefit to and claim on behalf of the insured; and

(c) for purposes of guiding pending and future actions interpreting a liability insurance policy issued to a construction professional at any time, past, present, or future, the General Assembly clarifies and confirms what has been and continues to be the policy of South Carolina for the interpretation of a past, existing, and future liability insurance policy issued to a construction professional.

(B) For the purposes of this section:

(1) ‘Insurance’ has the same meaning as set forth in Section 38‑1‑20(25);

(2) ‘Insurer’ has the same meaning as set forth in Section 38‑1‑20(33);

(3) ‘Insurance policy’ has the same meaning as set forth in Section 38‑1‑20(45);

(4) ‘Liability insurance policy’ means a contract of insurance that covers occurrences of damage or injury during the policy period and insures a construction professional for liability arising from construction‑related work; and

(5) ‘Construction professional’ means a person, sole proprietorship, partnership, corporation, limited liability company, or other recognized legal entity that engages in an activity intended to assist in the design, construction, or repair of an improvement to real property regardless of whether this person or entity maintains a professional license under Title 40.

(C)(1) In interpreting a liability insurance policy issued to a construction professional, continuous or repeated exposure to substantially the same general harmful condition must constitute an ‘occurrence’ and in these cases no additional or accompanying requirement of an accident or fortuitous event is needed to constitute an ‘occurrence’.

(2) Nothing in this subsection:

(a) requires coverage for damage to an insured’s own work unless otherwise provided in the insurance policy; or

(b) creates insurance coverage that is not included in the insurance policy.

(D)(1) Upon a finding of ambiguity in an insurance policy issued to a construction professional, a court may consider the objective and reasonable expectations of a construction professional in interpreting the policy.

(2) In construing an insurance policy to meet the objective and reasonable expectations of a construction professional:

(a) a court may consider:

(i) the object sought to be obtained by the construction professional in the purchase of the insurance policy; and

(ii) whether a construction defect has directly or indirectly resulted in bodily injury, property damage, or loss of the use of property; and

(b) a court may consider and give weight to any writing concerning the insurance policy provision in dispute:

(i) that is not protected from disclosure by the attorney‑client privilege or work‑product privilege; and

(ii) that is generated, approved, adopted, or relied on by the insurer or a parent company or subsidiary company of the insurer or an insurance rating or policy drafting organization, such as the Insurance Services Office, Inc., or its predecessor or successor organization. A writing described in subitem (b) may not be used to restrict, limit, exclude, or condition coverage or the obligation of the insurer beyond what may be reasonably inferred from the words used in the insurance policy.

(E) If an insurance policy provision that appears to grant or restore coverage conflicts with an insurance policy provision that appears to exclude or limit coverage, the court shall construe the insurance policy to favor coverage if reasonably and objectively possible.

(F) If an insurer disclaims or limits coverage under a liability insurance policy issued to a construction professional, the insurer shall bear the burden of proving by a preponderance of the evidence that:

(1) a policy limitation, exclusion, or condition bars or limits coverage for the legal liability of the insured in an action or notice of claim made pursuant to this section concerning a construction defect; and

(2) an exception to the limitation, exclusion, or condition in the insurance policy does not restore coverage under the policy.

(G)(1) The duty of an insurer to defend a construction professional or other insured under a liability insurance policy issued to a construction professional is triggered by a potentially covered liability described in a:

(a) notice of claim made pursuant to this section; or

(b) complaint, cross‑claim, counterclaim, or third‑party claim filed in an action against the construction professional concerning a construction defect.

(2)(a) An insurer shall defend a construction professional who receives a notice of claim made pursuant to this section regardless of whether another insurer also may owe the insured a duty to defend the notice of claim unless authorized by law. In defending this claim, the insurer shall reasonably:

(i) investigate the claim; and

(ii) cooperate with the insured in the notice of claims process.

(b) This item does not require the insurer to retain legal counsel for the insured or to pay any sums toward settlement of the notice of claim that are not covered by the insurance policy.

(c) An insurer may not withdraw its defense of an insured construction professional or commence an action seeking reimbursement from an insured for expended defense cost unless authorized by law and unless the insurer has reserved this right in writing when accepting or assuming the defense obligation.”

SECTION 2. Article 5, Chapter 3, Title 15 of the 1976 Code is amended by adding:

“Section 15‑3‑645. (A) For purposes of this section ‘construction professional’ means a person, sole proprietorship, partnership, corporation, limited liability company, or other recognized legal entity that engages in an activity intended to assist in the design, construction, or repair of an improvement to real property regardless of whether this person or entity maintains a professional license under Title 40.

(B) Notwithstanding any other provision of law, a provision in an insurance contract issued to a construction professional excluding or limiting coverage for one or more claims for personal injury, death, or damage to property based upon or arising out of the defective or unsafe condition of an improvement to real property that occurs prior to a policy’s inception date and continues, worsens, or progresses while the policy is in effect is void and unenforceable unless the exclusion or limitation applies only if the insured had actual knowledge of the injury or damage prior to the policy’s inception date.

(C) Any provision contained in a policy in violation of this section is void and unenforceable and a court shall construe any policy containing such a provision as if the provision was not a part of the policy when issued.

(D) This section only applies to an insurance policy that covers occurrences of damage or injury during the policy period and that insures a construction professional for liability arising from construction related activities.

(E) In order to deny or refuse to defend a claim against an insured construction professional based upon or arising out of the defective or unsafe condition of an improvement to real property, the insurer must prove by a preponderance of the evidence that:

(1) the policy is not subject to the provisions of subsection (B) because the injury did not occur and did not continue, worsen, or progress during the period of coverage; or

(2) the insured had actual knowledge of the injury or damage prior to the policy’s inception date.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor and applies to all contracts of insurance in existence on or issued after the effective date and applies to any dispute over coverage that would otherwise be affected by this section ongoing as of the effective date. /

Renumber sections to conform.

Amend title to conform.

Senator RANKIN spoke on the committee amendment.

The committee amendment was adopted.

**Amendment No. 2B**

Senators RANKIN, SHEHEEN, SETZLER, MASSEY, COLEMAN and KNOTTS proposed the following amendment (JUD0431.003), which was adopted:

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

/ SECTION 1. Chapter 61, Title 38 of the 1976 Code is amended by adding:

“Section 38-61-70. (A) For purposes of this section:

(1) ‘Insurance’ has the same meaning as set forth in Section 38‑1-20(25);

(2) ‘Insurer’ has the same meaning as set forth in Section 38-1-20(33);

(3) ‘Insurance policy’ has the same meaning as set forth in Section 38-1-20(45);

(4) ‘Liability insurance policy’ means a contract of insurance that covers occurrences of damages or injury during the policy period and insures a construction professional for liability arising from construction-related work; and

(5) ‘Construction professional’ means a person, sole proprietorship, partnership, corporation, limited liability company, or other recognized legal entity that engages in an activity intended to assist in the design, development, construction, installation, or repair of an improvement to real property regardless of whether this person or entity maintains a professional license pursuant to Title 40.

(B) For a liability insurance policy issued to a construction professional, an ‘occurrence’ means, at a minimum:

(1) an accident; or

(2) continuous or repeated exposure to substantially the same general harmful condition or substance.

No additional requirement of a fortuitous event is needed to constitute an ‘occurrence’.

(C) If an insurance policy provision that appears to grant or restore coverage conflicts with an insurance policy provision that appears to exclude or limit coverage, the court shall construe the insurance policy to favor coverage if reasonably and objectively possible.

(D) This section applies only to an insurance policy that insures a construction professional for liability arising from construction related activities.

(E) This section applies to any pending or future dispute over coverage that would otherwise be affected by this section as to all contracts of insurance issued in the past, currently in existence, or issued in the future.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor and applies to any pending or future dispute over coverage that would otherwise be affected by this section as to all contracts of insurance issued in the past, currently in existence, or issued in the future. /

Renumber sections to conform.

Amend title to conform.

Senator SHEHEEN explained the amendment.

The amendment was adopted.

**Amendment No. 3**

Senators MASSEY and LARRY MARTIN proposed the following amendment (JUD0431.004), which was tabled:

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

/ SECTION 1. Chapter 61, Title 38 of the 1976 Code is amended by adding:

“Section 38-61-70. (A) For purposes of this section:

(1) ‘Insurance’ has the same meaning as set forth in Section 38‑1-20(25);

(2) ‘Insurer’ has the same meaning as set forth in Section 38-1-20(33);

(3) ‘Insurance policy’ has the same meaning as set forth in Section 38-1-20(45);

(4) ‘Liability insurance policy’ means a contract of insurance that covers occurrences of damages or injury during the policy period and insures a construction professional for liability arising from construction-related work; and

(5) ‘Construction professional’ means a person, sole proprietorship, partnership, corporation, limited liability company, or other recognized legal entity that engages in an activity intended to assist in the design, development, construction, installation, or repair of an improvement to real property regardless of whether this person or entity maintains a professional license pursuant to Title 40.

(B) For a liability insurance policy issued to a construction professional, an ‘occurrence’ means:

(1) an accident; or

(2) continuous or repeated exposure to substantially the same general harmful condition or substance.

No additional requirement of a fortuitous event is needed to constitute an ‘occurrence’.

(C) This section applies only to an insurance policy that insures a construction professional for liability arising from construction related activities.

(D) This section applies to any pending or future dispute over coverage that would otherwise be affected by this section as to all contracts of insurance issued in the past, currently in existence, or issued in the future.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor and applies to any pending or future dispute over coverage that would otherwise be affected by this section as to all contracts of insurance issued in the past, currently in existence, or issued in the future. /

Renumber sections to conform.

Amend title to conform.

Senator MASSEY explained the amendment.

Senator RANKIN moved to lay the amendment on the table.

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

**Ayes 27; Nays 14**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Elliott Ford

Grooms Hayes Hutto

Knotts Land Leatherman

Lourie Malloy Matthews

McConnell McGill O’Dell

Pinckney Rankin Rose

Scott Setzler Williams

**Total--27**

**NAYS**

Bright Bryant Cromer

Davis Fair *Martin, Larry*

*Martin, Shane* Massey Peeler

Reese Ryberg Sheheen

Shoopman Verdin

**Total--14**

The amendment was laid on the table.

The question then was the second reading of the Bill.

Senator PEELER spoke on the Bill.

Senator McCONNELL spoke on the Bill.

Senator LARRY MARTIN spoke on the Bill.

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

**Ayes 41; Nays 2**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Ford Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

O’Dell Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--41**

**NAYS**

*Martin, Larry* Peeler

**Total--2**

**S. 431--Statement by Senator PINCKNEY**

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

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

The Bill was returned to the status of Special Order.

**Statement by Senator LARRY MARTIN**

This Bill presents a unique difficulty for me. I have always supported the groups that are behind this Bill as they represent the essential underpinnings of our State’s economy, i.e. homebuilders and contractors. When I was approached by these groups in mid-January, I readily signed on as a co-sponsor to the legislation. As time permitted, I later read Justice Kittredge’s January 7th opinion for the unanimous Supreme Court in *Crossman v. Harleysville*. Whether one agrees with the decision or not, it was a conservative and extremely well-reasoned opinion on a very complex issue.

In reading the opinion I became aware of the tremendous policy issues at stake in this Bill. The obvious ones are: the prerogative of the Supreme Court to decide the merits of a private contract dispute; the Bill poses a clear Separation of Powers question in this regard; the authority of the legislature to apply a statute retroactively on a decision of the court; and, a question on the impairment of contracts.

Additionally, the Supreme Court announced recently that it had granted a motion to rehear its decision in *Crossman* and set a hearing schedule for May 23rd. In light of this development, I believe the Senate should adjourn debate on the Bill pending a decision by the court. That is the venue where this issue is most properly addressed and not in the halls of the legislature. If the Senate moves the Bill forward and it is signed into law, there will likely be further litigation, not less. We run the risk the new law could disrupt the market for this type of coverage and make it more expensive to purchase. It is for these reasons that I voted “no” on this Bill.

On motion of Senator McCONNELL, the Senate stood adjourned.

**MOTION ADOPTED**

On motion of Senator McGILL, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. G. Curtis Kennedy, Jr. of Kingstree, S.C., beloved husband of Susan Castles Kennedy, devoted father and brother and loyal companion to Jessie.

and

**MOTION ADOPTED**

On motion of Senator GROOMS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Darlene H. Fertig of Bonneau Beach, S.C., who passed away March 23, 2011. Mrs. Fertig was a beloved wife to Ken C. Fertig and devoted mother. A wonderful homemaker, she will be missed by family and friends and her dog, Cocoa Moe.

**ADJOURNMENT**

At 4:35 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M.

**Recorded Vote**

Senator BRIGHT desired to be recorded as voting against adjournment.

\* \* \*