**Wednesday, May 25, 2011**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 10:00 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 declares:

“Commit your way to the Lord; trust in him and he will do this: He will make your righteousness shine like the dawn, the justice of your cause like the noonday sun.” (Psalm 32:5-6)

Bow in prayer with me, please:

Almighty God, we pray that these leaders in the South Carolina Senate will always trust You above all else. Allow them through faith to do so, Lord, and, clearly—as the Psalmist reminds us—if their cause is indeed just, then the results of their efforts will truly “shine like the dawn,” “like the noonday sun.” May it be so, Gracious God, to Your glory and for the betterment of all in South Carolina. In Your name we ask this, O Lord.

Amen.

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

**Doctor of the Day**

Senator CAMPSEN introduced Dr. David Garr of Charleston, S.C., Doctor of the Day.

**Leave of Absence**

At 10:30 A.M., Senator CAMPBELL requested a leave of absence beginning at 6:00 P.M. this evening and lasting until 6:00 A.M. Friday morning.

**Leave of Absence**

At 5:10 P.M., Senator HAYES requested a leave of absence from 5:45 - 7:45 P.M. this evening.

**Leave of Absence**

At 5:10 P.M., Senator COURSON requested a leave of absence beginning at 8:00 P.M. this evening and lasting until 10:00 A.M. in the morning.

**Leave of Absence**

At 5:30 P.M., Senator SHOOPMAN requested a leave of absence from 5:45 - 8:00 P.M. this evening.

**Leave of Absence**

At 6:30 P.M., Senator ROSE requested a leave of absence beginning at 7:00 P.M. this evening and lasting until 10:00 A.M. in the morning.

**Leave of Absence**

At 7:15 P.M., Senator BRYANT requested a leave of absence for the balance of the day.

**CO-SPONSOR REMOVED**

The following co-sponsor was removed from the respective Bill:

S. 889 Sen. Shoopman

**Expression of Personal Interest**

Senator ELLIOTT rose for an Expression of Personal Interest.

**RECALLED**

H. 3470 -- Reps. Pitts, Knight, Loftis and Toole: A BILL TO AMEND SECTION 44‑53‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION AGAINST USING, SELLING, OR MANUFACTURING CLEANING AGENTS CONTAINING PHOSPHATES, SO AS TO INCLUDE HOUSEHOLD DISHWASHING DETERGENTS IN THIS PROHIBITION; TO FURTHER SPECIFY CRITERIA FOR AND TYPES OF CLEANING AGENTS EXEMPT FROM THIS PROHIBITION; TO PROVIDE A CRIMINAL OFFENSE FOR SECOND AND SUBSEQUENT VIOLATIONS; TO AUTHORIZE THE SALE OF PROHIBITED CLEANING AGENTS THAT ARE IN A RETAILER’S INVENTORY ON JULY 1, 2011; AND TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO REPORT ON THE AVAILABILITY, EFFECTIVENESS, AND COST OF NONPHOSPHATE COMMERCIAL DISHWASHING DETERGENT.

Senator PEELER asked unanimous consent to make a motion to recall the Bill from the Committee on Medical Affairs.

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 918 -- Senators Nicholson and O'Dell: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE ABBEVILLE HIGH SCHOOL SOFTBALL TEAM FOR AN OUTSTANDING SEASON, AND TO CONGRATULATE THE TEAM AND COACHES FOR GARNERING THE 2011 CLASS A STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 919 -- Senators Scott, Lourie, Courson and Jackson: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERCHANGE LOCATED AT THE INTERSECTION OF INTERSTATE HIGHWAY 20 AND SOUTH CAROLINA HIGHWAY 555 IN RICHLAND COUNTY “ADELL T. ADAMS INTERCHANGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERCHANGE THAT CONTAIN THE WORDS “ADELL T. ADAMS INTERCHANGE”.

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On motion of Senator SCOTT, with unanimous consent, the Concurrent Resolution was adopted and ordered sent to the House.

S. 920 -- Senator McGill: A BILL RELATING TO THE FLORENCE COUNTY SCHOOL DISTRICT NUMBER THREE BOARD OF TRUSTEES, SO AS TO PROVIDE THAT MEMBERS OF THE BOARD MUST BE ELECTED ON THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER EACH YEAR; TO PROVIDE THAT THE TERMS OF THE MEMBERS MUST BE THREE YEARS AND SHALL COMMENCE ON THE FIRST DAY OF JANUARY FOLLOWING THE ELECTION; TO PROVIDE FOR A CHANGE IN THE EXPIRATION OF TERMS OF MEMBERS WHOSE TERMS EXPIRE IN 2012 AND 2013; TO PROVIDE FOR THE CONDUCT OF THE ELECTIONS AND THE SETTING OF FILING DATES; TO MODIFY THE PROCEDURE FOR THE APPROVAL OF THE DISTRICT BUDGET AND PROVIDE FOR GREATER PUBLIC PARTICIPATION; AND TO REPEAL ACT 367 OF 2004.

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

S. 921 -- Senators Reese and Elliott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-28-1397 SO AS TO PROVIDE THAT ANY RETAILER THAT SELLS MOTOR FUEL SUBJECT TO THE USER FEE MUST FILE A REPORT WITH THE DEPARTMENT OF REVENUE THAT STATES THE WHOLESALE COST PER INVOICED GALLON, INCLUDING THE DATE OF THE INVOICE, AND THE RETAIL PRICE PER GALLON OF MOTOR FUEL SOLD ON THE SEVENTH, FOURTEENTH, TWENTY-FIRST, AND TWENTY‑EIGHTH DAY OF EACH MONTH.

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

S. 922 -- Senators Campbell and Grooms: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-1-222 SO AS TO ALLOW CERTAIN PERSONS WHO WEAR BIOPTIC TELESCOPIC LENSES FOR VISION ASSISTANCE TO OBTAIN A DRIVER’S LICENSE.

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

S. 923 -- Senator Elliott: A SENATE RESOLUTION TO CONGRATULATE AND HONOR NORTH MYRTLE BEACH MIDDLE SCHOOL OF HORRY COUNTY ON RECEIVING THE COVETED 2011 PALMETTO SILVER AWARD.

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The Senate Resolution was adopted.

S. 924 -- Senator Elliott: A BILL TO REPEAL SECTION 41-27-525 OF THE 1976 CODE, RELATING TO THE AVAILABILITY OF UNEMPLOYMENT BENEFITS FOR PERSONS SEEKING ONLY PART-TIME WORK.

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Senator ELLIOTT spoke on the Bill.

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

S. 925 -- Senator Matthews: A SENATE RESOLUTION TO HONOR THE REVEREND DR. JOHN H. ELLIOTT OF ORANGEBURG COUNTY, PASTOR OF ST. GEORGE PARISH OF THE WALTERBORO DISTRICT OF THE SOUTH CAROLINA CONFERENCE OF THE UNITED METHODIST CHURCH, FOR HIS FORTY-FOUR YEARS OF GOSPEL MINISTRY, TO THANK HIM FOR HIS MINISTRY AND COMMUNITY SERVICE, AND TO WISH HIM GOD'S RICHEST BLESSINGS AS HE CONTINUES TO SERVE THE LORD.

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The Senate Resolution was adopted.

S. 926 -- Senator Alexander: A SENATE RESOLUTION TO HONOR AND CONGRATULATE FLORA M. RILEY OF SENECA, SOUTH CAROLINA, UPON HER RETIREMENT AS EXECUTIVE DIRECTOR OF THE MICHELIN CAREER CENTER AT CLEMSON UNIVERSITY, AND TO WISH HER WELL IN ALL HER FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

H. 3658 -- Reps. Clemmons, Harrell, Loftis, Herbkersman, Merrill, Corbin, Norman, D. C. Moss, Quinn, Bowen, Forrester, McCoy, Lucas, Bedingfield, Hamilton, Bingham, Hardwick, Owens, Bikas, Parker, Cooper, Erickson, Frye, V. S. Moss, Long, G. R. Smith, Atwater, Huggins, Murphy, Hearn, Whitmire, Brannon, Chumley, Tallon, Taylor, Limehouse, Patrick, Crosby, Thayer, Sottile, Crawford, Allison, Ballentine, Barfield, Cole, Daning, Delleney, Edge, Gambrell, Harrison, Henderson, Hixon, Lowe, Nanney, Pinson, Pitts, Sandifer, Simrill, G. M. Smith, J. R. Smith, Toole, Willis, Horne, White and Viers: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SOUTH CAROLINA EMPLOYER FREE SPEECH ACT” BY ADDING SECTION 41-7-110 SO AS TO PROVIDE THAT AN EMPLOYER IN THIS STATE IS NOT REQUIRED TO POST, PHYSICALLY, ELECTRONICALLY, OR OTHERWISE, NOTICES INFORMING EMPLOYEES OF THEIR RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT, COURT DECISIONS IMPLEMENTING THOSE RIGHTS, OR INFORMATION PERTAINING TO THE ENFORCEMENT OF THOSE RIGHTS, AND TO PROVIDE DEFINITIONS.

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

H. 4267 -- Reps. G. M. Smith, Weeks, J. H. Neal, G. A. Brown and Lowe: A CONCURRENT RESOLUTION TO HONOR WILLIAM T. “BILL” NOONAN, SUMTER COUNTY ADMINISTRATOR, UPON HIS RETIREMENT, TO THANK HIM FOR HIS MANY YEARS OF DEDICATED SERVICE TO THE PALMETTO STATE, AND TO WISH HIM MUCH FULFILLMENT AND SUCCESS IN ALL HIS FUTURE ENDEAVORS.

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

**REPORTS OF STANDING COMMITTEES**

Senator KNOTTS from the Committee on Invitations polled out S. 689 favorable:

S. 689 -- Senator Courson: A CONCURRENT RESOLUTION TO AUTHORIZE PALMETTO GIRLS STATE TO USE THE CHAMBERS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON FRIDAY, JUNE 17, 2011.

**Poll of the Invitations Committee**

**Polled 8; Ayes 7; Nays 0**

**AYES**

Knotts O’Dell McGill

Elliott Verdin Campsen

Malloy

**Total--7**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3122 -- Rep. J.M. Neal: A BILL TO AMEND SECTION 56‑3‑180, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF MOTOR VEHICLES ISSUANCE OF SPECIAL PERMITS TO MOVE VEHICLES DURING AN EMERGENCY, SO AS TO DELETE THE TERM “MOVE” AND REPLACE IT WITH THE TERM “OPERATE”, TO DELETE THE PROVISION THAT RESTRICTS THE ISSUANCE OF THE PERMITS TO EMERGENCY SITUATIONS, TO REMOVE THE RESTRICTION PLACED ON THE NUMBER OF PERMITS THAT MAY BE ISSUED FOR A VEHICLE, AND TO REVISE THE INFORMATION THAT MUST BE SPECIFIED ON THE PERMIT.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3266 -- Reps. Owens, Hiott, Whipper and R.L. Brown: A BILL TO AMEND SECTION 57‑5‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GENERAL COMPOSITION OF THE STATE HIGHWAY SYSTEM, SO AS TO PROVIDE THAT ALL HIGHWAYS IN THE STATE HIGHWAY SYSTEM MUST BE BUILT ACCORDING TO STATE STANDARDS AND TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION MAY USE CERTAIN FUNDS TO MAINTAIN THE STATE HIGHWAY SYSTEM; TO AMEND SECTION 57‑5‑70, RELATING TO ADDITIONS TO THE STATE HIGHWAY SECONDARY SYSTEM, SO AS TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO ADD COUNTY AND MUNICIPAL ROADS TO THE STATE HIGHWAY SYSTEM WHEN NECESSARY FOR THE INTERCONNECTIVITY OF THE STATE HIGHWAY SYSTEM; TO AMEND SECTION 57‑5‑80, RELATING TO THE DELETION AND REMOVAL OF ROADS FROM THE STATE HIGHWAY SECONDARY SYSTEM, SO AS TO REVISE THE PROCEDURE FOR THE REMOVAL OF ROADS FROM THE STATE HIGHWAY SYSTEM WHEN A GOVERNMENTAL AGENCY AGREES TO ACCEPT THE ROAD INTO ITS OWN HIGHWAY SYSTEM; AND TO REPEAL SECTION 57‑5‑90 RELATING TO BELT LINES AND SPURS.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3302 -- Reps. J.E. Smith, Vick, Pinson, Agnew, 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, 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, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Young, Patrick, Umphlett and Alexander: A CONCURRENT RESOLUTION TO REQUEST THE DEPARTMENT OF TRANSPORTATION NAME THAT PORTION OF NATIONAL GUARD ROAD IN RICHLAND COUNTY, SOUTH CAROLINA, BEGINNING AT ITS INTERSECTION WITH BLUFF ROAD AND EXTENDING PAST THE SOUTH CAROLINA NATIONAL GUARD HEADQUARTERS BUILDING (THE TAG BUILDING) TO ITS CONCLUSION AS “STAN SPEARS DRIVE” IN HONOR OF MAJOR GENERAL STANHOPE SIFFORD “STAN” SPEARS, RETIRING ADJUTANT GENERAL OF SOUTH CAROLINA AND A TRULY DISTINGUISHED MILITARY LEADER AND PUBLIC SERVANT OF THIS STATE FOR OVER THIRTY YEARS, AND ERECT APPROPRIATE MARKERS AND SIGNS ALONG THIS ROAD THAT CONTAIN THE WORDS “STAN SPEARS DRIVE”.

**H. 3302--Committee Report Adopted**

Senator GROOMS asked unanimous consent to take the Concurrent Resolution up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Concurrent Resolution, the question being the adoption of the Resolution.

On motion of Senator GROOMS, with unanimous consent, the Resolution reported out of the Committee on Transportation was adopted and ordered returned to the House.

Senator LEATHERMAN from the Committee on Finance polled out H. 3488 favorable:

H. 3488 -- Reps. Bingham, Harrell and Toole: A BILL TO AMEND ACT 99 OF 2007, RELATING TO THE ADDITION OF A SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND THE PHASE IN OF THAT EXEMPTION, SO AS TO DELETE THE PHASE IN REQUIREMENTS; AND TO AMEND SECTIONS 12‑36‑90, 12‑36‑910, 12‑36‑1310, AND 12‑36‑2120, ALL AS AMENDED, RELATING TO THE IMPOSITION OF AND EXEMPTIONS FROM THE SALES AND USE TAX, SO AS TO PROVIDE FURTHER FOR THOSE INSTANCES WHERE SALES AND USE TAX APPLIES IN CONNECTION WITH WARRANTIES AND SERVICE MAINTENANCE CONTRACTS SOLD IN CONNECTION WITH THE SALE OF TANGIBLE PERSONAL PROPERTY.

**Poll of the Finance Committee**

**Polled 23; Ayes 17; Nays 1; Not Voting 5**

**AYES**

Leatherman Land Setzler

Leventis Peeler Matthews

McGill O’Dell Reese

Hayes Alexander Pinckney

Verdin Cromer Anderson

Elliott Jackson

**Total--17**

**NAYS**

Ryberg

**Total--1**

**NOT VOTING**

Courson Thomas Fair

Grooms Bryant

**Total--5**

Ordered for consideration tomorrow.

Senator McCONNELL from the Committee on Judiciary polled out H. 3584 favorable with amendment:

H. 3584 -- Reps. Sandifer and Gambrell: A BILL TO AMEND SECTION 58‑37‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FINANCING AGREEMENTS FOR THE INSTALLATION OF CERTAIN ENERGY‑EFFICIENCY AND CONSERVATION IMPROVEMENTS, SO AS TO CORRECT AN ERRONEOUS CROSS‑REFERENCE, AND TO PROVIDE WHERE AN ELECTRICITY OR NATURAL GAS PROVIDER CONTRACTS WITH A THIRD PARTY TO PERFORM CERTAIN FUNCTIONS, THE LIABILITY OF THE THIRD PARTY IS LIMITED IN A SPECIFIC MANNER.

**Poll of the Judiciary Committee**

**Polled 18; Ayes 16; Nays 1; Not Voting 6**

**AYES**

McConnell Ford *Martin, Larry*

Rankin Hutto Knotts

Lourie Williams Campbell

Massey Bright Coleman

Davis Nicholson Scott

Gregory

**Total--16**

**NAYS**

Sheheen

**Total--1**

**NOT VOTING**

Malloy Campsen Cleary

*Martin, Shane* Rose Shoopman

**Total--6**

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3731 -- Reps. Owens, Brantley, Daning, Brannon, Atwater, Patrick, Erickson, Bowen, R.L. Brown, Crosby, Long, Taylor and Willis: A BILL TO AMEND SECTION 56‑27‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TERM AND COST OF A PROFESSIONAL HOUSEMOVING LICENSE, SO AS TO REVISE THE ANNUAL RENEWAL FEE; AND TO AMEND SECTION 57‑3‑130, AS AMENDED, RELATING TO THE DEPARTMENT OF TRANSPORTATION’S SPECIAL PERMITS THAT AUTHORIZE A PERSON TO OPERATE OR MOVE A VEHICLE THAT EXCEEDS A CERTAIN SIZE, SO AS TO PROVIDE THAT THE DEPARTMENT MAY DETERMINE THE MAXIMUM SPEEDS AT WHICH PERMITTED LOADS MAY OPERATE, TO PROVIDE THAT FOR A LOAD TRAVELING UNDER POLICE ESCORT, THE ESCORT OFFICER MAY EXERCISE DISCRETION WHEN TEMPORARILY MOVING OUT OF THE TRAVELED WAY, AND TO PROVIDE AN ADDITIONAL IMPACT FEE FOR LOADS THAT EXCEED FIVE HUNDRED THOUSAND POUNDS.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3957 -- Reps. Harrison, Bales, McLeod and Funderburk: A BILL TO DESIGNATE SECTION 3 OF ACT 292 OF 1985, RELATING TO THE RICHLAND‑LEXINGTON COUNTY AIRPORT COMMISSION’S AUTHORITY TO MAKE APPLICATION TO THE FOREIGN‑TRADE ZONES BOARD FOR THE PURPOSE OF ESTABLISHING, OPERATING, AND MAINTAINING FOREIGN‑TRADE ZONES AS SECTION 55‑11‑430 OF THE 1976 CODE; AND TO AMEND SECTION 55‑11‑430, RELATING TO THE RICHLAND‑LEXINGTON COUNTY AIRPORT COMMISSION’S AUTHORITY TO MAKE APPLICATION TO THE FOREIGN‑TRADE ZONES BOARD FOR THE PURPOSE OF ESTABLISHING, OPERATING, AND MAINTAINING FOREIGN‑TRADE ZONES, SO AS TO EXPAND THE AREA WITHIN THE STATE IN WHICH THE COMMISSION MAY ESTABLISH FOREIGN‑TRADE ZONES.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 3978 -- Rep. Barfield: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE ALONG VALLEY FORGE ROAD IN HORRY COUNTY LOCATED BETWEEN ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 410 AND LOUISVILLE ROAD “ELISHA TYLER MEMORIAL BRIDGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THE WORDS “ELISHA TYLER MEMORIAL BRIDGE”.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 4111 -- Rep. Barfield: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PROPOSED ANYOR OVERPASS THAT WILL CROSS UNITED STATES HIGHWAY 501 IN THE TOWN OF AYNOR THE “JULIUS H. ‘DUKE’ GOODSON OVERPASS” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS OVERPASS THAT CONTAIN THE WORDS “JULIUS H. ‘DUKE’ GOODSON OVERPASS”.

Ordered for consideration tomorrow.

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

H. 4190 -- Rep. Herbkersman: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION ERECT APPROPRIATE MARKERS OR SIGNS ALONG SOUTH CAROLINA HIGHWAY 46 AT ITS INTERSECTIONS WITH THE TOWN LIMITS OF THE TOWN OF BLUFFTON THAT CONTAIN THE WORDS “BLUFFTON HIGH SCHOOL ‑ HOME OF THE BOBCATS STATE CHAMPIONS 2005, 2006 BOYS CROSS COUNTRY, 2007 GIRLS VOLLEYBALL, 2009 GIRLS GOLF”.

Ordered for consideration tomorrow.

**Appointments Reported**

Senator GROOMS from the Committee on Transportation submitted a favorable report on:

**Statewide Appointments**

Initial Appointment, South Carolina State Ports Authority, with the term to commence February 13, 2010, and to expire February 13, 2015

At-Large:

Pamela P. Lackey, 1672 Tanglewood Road, Columbia, SC 29204 *VICE* Mr. S. Richard Hagins

Received as information.

Initial Appointment, South Carolina State Ports Authority, with the term to commence February 13, 2011, and to expire February 13, 2016

At-Large:

Patrick W. McKinney, 37 Legare Street, Charleston, SC 29401 *VICE* Colden Battey

Received as information.

Initial Appointment, South Carolina State Ports Authority, with the term to commence June 4, 2008, and to expire June 4, 2013

At-Large:

Henry D. McMaster, 1731 Senate Street, Columbia, SC 29201 *VICE* Mr. Harry Butler, Jr.

Received as information.

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

**Statewide Appointment**

Initial Appointment, South Carolina Commission on Disabilities and Special Needs, with the term to commence June 30, 2010, and to expire June 30, 2014

6th Congressional District:

Harvey Shiver, 1482 Poultry Lane, Eastover, SC 29044 *VICE* William R. Harrell

**HOUSE CONCURRENCES**

S. 907 -- Senators Lourie, Alexander, Anderson, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Courson, Cromer, Davis, Elliott, Fair, Ford, Grooms, Hayes, Hutto, Jackson, Knotts, Land, Leatherman, Leventis, Malloy, L. Martin, S. Martin, Massey, Matthews, McConnell, McGill, Nicholson, O’Dell, Peeler, Pinckney, Rankin, Reese, Rose, Ryberg, Scott, Setzler, Sheheen, Shoopman, Thomas, Verdin and Williams: A CONCURRENT RESOLUTION TO COMMEND AND RECOGNIZE VIVIAN BYERLY UPON HER RETIREMENT AS LEGISLATIVE NURSE FOR THE GENERAL ASSEMBLY FOR HER YEARS OF EXEMPLARY SERVICE TO THE GENERAL ASSEMBLY, TO HER STATE, AND TO HER COMMUNITY, AND TO WISH HER WELL IN ALL HER FUTURE ENDEAVORS.

Returned with concurrence.

Received as information.

S. 908 -- Senator Courson: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND THE MEMBERS AND PASTORS OF KENNERLY ROAD BAPTIST CHURCH, UPON THE OCCASION OF THEIR TWENTIETH ANNIVERSARY, FOR THEIR SIGNIFICANT MINISTRY IN THE COMMUNITY, AND TO WISH THEM MANY MORE YEARS OF SPIRITUAL PROSPERITY.

Returned with concurrence.

Received as information.

S. 916 -- Senators Thomas, Verdin, Anderson and Fair: A CONCURRENT RESOLUTION TO RECOGNIZE THE OUTSTANDING ATHLETIC ACHIEVEMENTS OF CHRIST CHURCH EPISCOPAL SCHOOL OF GREENVILLE COUNTY IN GARNERING FOUR STATE CHAMPIONSHIP TITLES IN ONE YEAR IN GIRLS TENNIS, BOYS GOLF, BOYS TENNIS, AND BOYS SOCCER; AND TO CONGRATULATE THE TEAMS, COACHES, AND SCHOOL OFFICIALS FOR AN UNMATCHED YEAR OF ATHLETIC PERFORMANCE.

Returned with concurrence.

Received as information.

**Message from the House**

Columbia, S.C., May 24, 2011

Mr. President and Senators:

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

S. 445 -- Senators Hutto, Fair, Jackson and Ford: 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.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 23, 2011

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sent the following veto to the Senate:

(R47, S232) -- Senators Cleary and Ford: AN ACT TO AMEND SECTION 44‑7‑130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF THE STATE CERTIFICATION OF NEED AND HEALTH CARE FACILITY ACT, SO AS TO REVISE THE DEFINITION OF HEALTH CARE FACILITY.

Respectfully submitted,

Speaker of the House

Received as information.

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

**Message from the House**

Columbia, S.C., May 24, 2011

Mr. President and Senators:

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

S. 211 -- Senators Matthews, Land, Leatherman, Leventis, Hutto, Williams, Ford and McGill: 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.

Respectfully submitted,

Speaker of the House

Received as information.

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

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

**THIRD READING BILL**

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

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.

**READ THE SECOND TIME**

S. 913 -- Senator Sheheen: A JOINT RESOLUTION TO ESTABLISH THE KERSHAW COUNTY HOUSING AUTHORITY; TO PROVIDE THAT POWERS AND DUTIES OF THE AUTHORITY ARE VESTED IN THE KERSHAW COUNTY HOUSING AUTHORITY COMMISSION AND TO ESTABLISH TERMS FOR THE COMMISSIONERS; TO PROVIDE FOR THE HOUSING AUTHORITY’S FUNCTIONS, RIGHTS, POWERS, DUTIES, AND LIABILITIES; AND TO PROVIDE THAT THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY SHALL REMAIN THE LOCAL HOUSING AGENCY IN KERSHAW COUNTY FOR THE PURPOSE OF ADMINISTERING THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOUSING CHOICE VOUCHER PROGRAM.

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

There was no objection.

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

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

**Ayes 2; Nays 0**

**AYES**

Lourie Sheheen

**Total--2**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

S. 878 -- Agriculture and Natural Resources Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, RELATING TO WATER CLASSIFICATIONS AND STANDARDS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4161, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

Senator VERDIN explained the Joint Resolution.

The question then was second reading of the Resolution.

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

**Ayes 40; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman Courson Cromer

Davis Elliott Fair

Ford Gregory Grooms

Hayes Hutto Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

O'Dell Peeler Rankin

Rose Ryberg Scott

Setzler Sheheen Verdin

Williams

**Total--40**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

S. 580 -- Senator Setzler: A BILL TO AMEND SECTION 40‑18‑140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM CHAPTER 18 OF TITLE 40 PROVIDING FOR THE LICENSURE AND REGULATION OF PRIVATE SECURITY AND INVESTIGATION AGENCIES, SO AS TO PROVIDE THAT THE CHAPTER MUST NOT APPLY TO A PERSON BASED SOLELY ON HIS BEING ENGAGED IN COMPUTER OR DIGITAL FORENSIC SERVICES, THE ACQUISITION, REVIEW, OR ANALYSIS OF DIGITAL OR COMPUTER‑BASED INFORMATION, OR SYSTEM VULNERABILITY TESTING.

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 40; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman Courson Cromer

Davis Elliott Fair

Ford Gregory Grooms

Hayes Hutto Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Massey Matthews McConnell

McGill Nicholson O'Dell

Peeler Rankin Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin

**Total--40**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

H. 4097 -- Education and Public Works Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO REQUIREMENTS FOR ADDITIONAL AREAS OF CERTIFICATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4157, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

Senator HAYES explained the Joint Resolution.

The question then was second reading of the Joint Resolution.

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

**Ayes 40; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman Courson Cromer

Davis Elliott Fair

Ford Gregory Grooms

Hayes Hutto Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Massey McConnell McGill

Nicholson O'Dell Peeler

Rankin Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--40**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

H. 3183 -- Reps. Young, Daning, Harrison, Simrill, G.R. Smith, Stringer, Hamilton, Hixon, Long, D.C. Moss and Weeks: A BILL TO AMEND SECTION 2‑17‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REGISTRATION AND REREGISTRATION OF LOBBYISTS, SO AS TO REQUIRE THE PAYMENT OF ALL OUTSTANDING PENALTIES BEFORE A LOBBYIST MAY RESUME LOBBYING ACTIVITIES; TO AMEND SECTION 2‑17‑25, RELATING TO THE REGISTRATION AND REREGISTRATION OF LOBBYISTS’ PRINCIPALS, SO AS TO REQUIRE THE PAYMENT OF ALL OUTSTANDING PENALTIES BEFORE A LOBBYIST’S PRINCIPAL MAY RESUME LOBBYING ACTIVITIES; TO AMEND SECTION 2‑17‑50, RELATING TO THE AUTHORITY OF THE STATE ETHICS COMMISSION TO ENFORCE FILING REQUIREMENTS AND ASSESS PENALTIES FOR FAILURE TO FILE, SO AS TO CAP CERTAIN FINES AT FIVE THOUSAND DOLLARS, AND TO PROVIDE THAT FIRST AND SECOND OFFENSES MAY BE TRIED IN MAGISTRATES COURT; TO AMEND SECTION 8‑13‑100, RELATING TO THE DEFINITION OF “FAMILY MEMBER” FOR THE PURPOSES OF THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT OF 1991, SO AS TO INCLUDE BROTHERS‑IN‑LAW AND SISTERS‑IN‑LAW; TO AMEND SECTION 8‑13‑700, RELATING TO USE OF ONE’S OFFICIAL POSITION FOR OFFICIAL GAIN, SO AS TO REPLACE CERTAIN REFERENCES TO “IMMEDIATE FAMILY” WITH THE BROADER TERM “FAMILY MEMBER”; AND TO AMEND SECTION 8‑13‑1510, AS AMENDED, RELATING TO PENALTIES FOR EITHER LATE FILING OF OR FAILURE TO FILE A REPORT OR STATEMENT REQUIRED BY CHAPTER 13, TITLE 8, SO AS TO CAP CERTAIN FINES AT FIVE THOUSAND DOLLARS, AND TO PROVIDE THAT FIRST AND SECOND OFFENSES MAY BE TRIED IN MAGISTRATES COURT.

Senator RANKIN 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 second reading of the Bill.

Senator RANKIN explained the Bill.

The question then was second reading of the Bill.

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

**Ayes 43; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman Courson Cromer

Davis Elliott Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McConnell McGill

Nicholson O'Dell Peeler

Rankin Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--43**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

S. 914 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE ENVIRONMENTAL CERTIFICATION BOARD, RELATING TO APPLICATIONS FOR CERTIFICATION; RENEWAL OF LICENSE AND PERMIT, CONTINUING EDUCATION; AND OPERATOR‑IN‑TRAINING LICENSES, DESIGNATED AS REGULATION DOCUMENT NUMBER 4162, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

Senator BRYANT explained the Joint Resolution.

The question then was second reading of the Resolution.

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

**Ayes 40; Nays 3**

**AYES**

Alexander Anderson Bryant

Campbell Campsen Coleman

Courson Cromer Davis

Elliott Fair Ford

Gregory Grooms Hayes

Hutto Jackson Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McGill

Nicholson Peeler Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--40**

**NAYS**

Bright Knotts McConnell

**Total--3**

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

**Statement by Senators McCONNELL, KNOTTS and BRYANT**

We voted against approval of these regulations simply because there was no summary or information concerning what was included in the regulations. We voted “no” because an affirmative vote without information is not good policy.

**AMENDED, READ THE SECOND TIME**

H. 3748 -- Reps. Owens, Bowen, Erickson, Daning, Whitmire, Spires, McCoy, Loftis, Gambrell, Lucas, Skelton, Bingham, Thayer, Hardwick, Harrell, Crosby, Battle, Sottile, Patrick, Clemmons, Cole, Forrester, Hamilton, Henderson, Hixon, Huggins, Murphy, J.M. Neal, Pinson, Pope, G.R. Smith, Stringer, Tallon, White, Willis and Taylor: A BILL TO AMEND SECTION 59‑59‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE IMPLEMENTATION OF THE EDUCATION AND ECONOMIC DEVELOPMENT ACT, SO AS TO EXTEND THE DATE BY WHICH THE ACT MUST BE IMPLEMENTED FULLY.

Senator DAVIS 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 second reading of the Bill.

Senator DAVIS proposed the following amendment (NBD\11735AC11), which was adopted:

Amend the bill, as and if amended, Section 59-59-30 on page 2, line 30 by deleting /2016/ and inserting /2012/

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 39; Nays 1**

**AYES**

Alexander Anderson Bryant

Campbell Campsen Courson

Cromer Davis Elliott

Fair Gregory Grooms

Hayes Hutto Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Massey Matthews McConnell

McGill Nicholson O'Dell

Peeler Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Verdin Williams

**Total--39**

**NAYS**

Bright

**Total--1**

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

**AMENDED, READ THE SECOND TIME**

H. 4119 -- Rep. G.A. Brown: A BILL TO AMEND SECTION 39‑5‑38, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DECEPTIVE OR MISLEADING ADVERTISEMENT OF A LIVE MUSICAL PERFORMANCE, SO AS TO DEFINE A SOUND RECORDING, AND TO PROVIDE CERTAIN EXEMPTIONS, REMEDIES, AND A FINE.

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

Senator FORD proposed the following amendment (JUD4119.001), which was adopted:

Amend the bill, as and if amended, by striking lines 22 and 23 on page 2, and inserting the following:

/ enjoined party to restore to its legal owner money or property acquired by the enjoined party through a violation of this section. /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the amendment.

The amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 41; Nays 2; Present 1**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman Courson Cromer

Davis Elliott Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Matthews McConnell

McGill Nicholson O'Dell

Peeler Rankin Reese

Rose Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--41**

**NAYS**

Massey Ryberg

**Total--2**

**PRESENT**

*Martin, Shane*

**Total--1**

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

**ADOPTED**

H. 3871 -- Rep. Mitchell: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF WEST HENRY STREET IN THE CITY OF SPARTANBURG FROM ITS INTERSECTION WITH SOUTH CHURCH STREET TO ITS INTERSECTION WITH JOHN B. WHITE BOULEVARD “J. C. STROBLE BOULEVARD” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS “J. C. STROBLE BOULEVARD”.

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

**OBJECTION**

H. 3864 -- Reps. Hardwick, Quinn, Barfield, Hearn, Tallon, Herbkersman, Hiott, Hodges, G.M. Smith, Pinson, Ballentine, D.C. Moss, Mitchell, J.H. Neal, R.L. Brown, Whipper, Toole, Forrester, Butler Garrick, Hayes, Chumley, J.E. Smith, Atwater, Owens, Bikas, Crosby, Hixon, Murphy, Stringer, Clemmons, Pitts, Edge, Viers, Dillard, Ryan, Vick, J.R. Smith, Knight, Long, Huggins, Ott and Weeks: A BILL TO AMEND ARTICLE 1, CHAPTER 13, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RESTRICTIONS ON FISHING GENERALLY, SO AS TO REVISE THE PROVISIONS OF THE ARTICLE TO GOVERN CERTAIN FISHING ACTIVITIES IN THE FRESHWATERS OF THIS STATE AND TO PROVIDE PENALTIES FOR SPECIFIC VIOLATIONS; BY ADDING ARTICLE 2 TO CHAPTER 13, TITLE 50 SO AS TO PROVIDE FOR CERTAIN REGULATION OF AND THE PROTECTION FOR FRESHWATER GAME FISH; TO AMEND ARTICLE 13, CHAPTER 13, TITLE 50, RELATING TO FISH HATCHERIES AND SANCTUARIES, BY ADDING SECTION 50‑13‑1995 SO AS TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY PERMIT THE FEDERAL GOVERNMENT TO CONDUCT FISH AND SCIENTIFIC INVESTIGATIONS IN THE WATERS OF THIS STATE IN CONNECTION WITH HATCHERY OPERATIONS OR MANAGEMENT OF THOSE SPECIES UNDER FEDERAL JURISDICTION; AND TO REPEAL SECTIONS 50‑13‑610 RELATING TO LAWFUL TAKING OF FISH IN GAME ZONE NO. 1; 50‑13‑620 RELATING TO PENALTIES APPLICABLE TO FISHING VIOLATIONS IN GAME ZONE NO. 1; 50‑13‑680 RELATING TO PERMITS REQUIRED FOR TAKING FISH IN CERTAIN PONDS IN MARLBORO COUNTY; 50‑13‑690 RELATING TO THE USE OF NETS OR OTHER DEVICES TO TAKE NONGAME FISH FROM PRIVATE PONDS IN CHESTERFIELD COUNTY; 50‑13‑730 RELATING TO THE USE OF NETS TO TAKE NONGAME FISH IN THE FRESHWATERS OF THIS STATE; AND 50‑13‑2010 RELATING TO THE SHELLEY LAKE FISH SANCTUARY IN MARION COUNTY.

Senator McGILL explained the Bill.

Senator McCONNELL objected to further consideration of the Bill.

**OBJECTION**

S. 510 -- Senator Sheheen: A BILL TO AMEND SECTION 40‑47‑760 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE ACUPUNCTURE ACT OF SOUTH CAROLINA, TO ADD PHYSICIANS TRAINED TO PERFORM ACUPUNCTURE TO THE LIST OF EXEMPTIONS.

Senator FAIR objected.

**OBJECTION**

H. 3701 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2010‑2011.

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

Senator LEATHERMAN explained the committee amendment and asked that the amendment be adopted.

Senator RYBERG objected.

**CARRIED OVER**

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.

On motion of Senator LARRY MARTIN, the Bill was carried over.

**CARRIED OVER**

H. 3865 -- Reps. Hardwick, Quinn, Barfield, Hearn, Tallon, Ballentine, D.C. Moss, Mitchell, J.H. Neal, Hodges, G.M. Smith, Pinson, Herbkersman, Hiott, R.L. Brown, Whipper, Forrester, Toole, Hayes, Butler Garrick, Chumley, J.E. Smith, Atwater, Huggins, Clemmons, Pitts, Edge, Dillard, Ryan, Vick, J.R. Smith, Knight, Long, Crosby, Hixon, Murphy, Stringer, Owens, Bikas, Viers, Ott and Weeks: A BILL TO AMEND ARTICLE 1, CHAPTER 1, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GENERAL FISH AND GAME PROVISIONS, BY ADDING SECTION 50‑1‑160 SO AS TO PERMIT THE DEPARTMENT TO RELEASE A SEIZED VEHICLE, BOAT, MOTOR, OR FISHING DEVICE UNDER CERTAIN CONDITIONS; TO AMEND ARTICLE 3, CHAPTER 13, TITLE 50, RELATING TO USE OF SEINES, TRAPS, AND LIKE DEVICES, SO AS TO REVISE AND FURTHER PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH THESE DEVICES MAY BE USED AND TO PROVIDE PENALTIES FOR VIOLATIONS; BY ADDING ARTICLE 5 TO CHAPTER 13, TITLE 50 SO AS TO PROVIDE FOR CERTAIN UNLAWFUL FRESHWATER ACTIONS AND TO PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND ARTICLE 6, CHAPTER 13, TITLE 50, RELATING TO THE PROTECTION OF NONGAME FISH, SO AS TO FURTHER PROVIDE FOR THE USE OF NONGAME FISHING DEVICES AND THE TAKING OF NONGAME FISH IN THE FRESHWATERS OF THIS STATE, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS AND FOR SPECIFIED EXCEPTIONS TO THESE PROVISIONS; TO AMEND ARTICLE 11, CHAPTER 13, TITLE 50, RELATING TO THE SALE AND TRAFFIC IN FISH, SO AS TO REVISE CERTAIN PROVISIONS IN THE ARTICLE PERTAINING TO PROHIBITED PRACTICES IN REGARD TO THE SALE OR TRAFFICKING IN FISH AND ADD OTHER PROVISIONS WITH PENALTIES FOR VIOLATIONS; TO AMEND ARTICLE 13, CHAPTER 13, TITLE 50, RELATING TO FISH HATCHERIES AND SANCTUARIES AND PROPAGATION, SO AS TO REVISE AND FURTHER PROVIDE FOR ACTIONS THE DEPARTMENT MAY TAKE IN REGARD TO FISH HATCHERIES, SANCTUARIES, AND THE PROPAGATION OF FISH AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS; TO AMEND ARTICLE 13, CHAPTER 19, TITLE 50, RELATING TO THE HORRY COUNTY FISH AND GAME COMMISSION, SO AS TO DELETE THE PROVISIONS OF THE ARTICLE AND INSTEAD PROVIDE FOR THE PERMITTED USE OF NONGAME DEVICES ON THE LITTLE PEE DEE RIVER FOR A PERIOD OF THREE YEARS; AND TO REPEAL SECTIONS 50‑13‑1450 RELATING TO PRIMA FACIE EVIDENCE OF USING EXPLOSIVES TO TAKE FISH; 50‑13‑385 RELATING TO MINIMUM SIZE FOR LARGE MOUTH BASS IN LAKE WYLIE; 50‑13‑390 RELATING TO DAILY LIMIT ON ARKANSAS BLUE CATFISH; AND 50‑13‑400 RELATING TO LAKE MURRAY CRAPPIE CREEL AND SIZE LIMITS.

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

**POINT OF ORDER**

H. 3617 -- Reps. Pitts, R.L. Brown, Allen, Bales, Brady, Knight, Ballentine, McLeod, Willis, Toole, Sellers and Whipper: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48‑1‑95 SO AS TO PROVIDE THAT A SEWAGE SYSTEM, OR ITS TREATMENT WORKS, THAT HAS HAD THREE OR MORE SEWAGE SPILLS IN A TWELVE‑MONTH PERIOD MUST COMPLETE A COMPREHENSIVE REVIEW OF THEIR OPERATIONS; TO PROVIDE FOR THE COMPREHENSIVE REVIEW; TO PROVIDE FOR THE DEVELOPMENT AND IMPLEMENTATION OF AN ACTION PLAN TO ADDRESS ISSUES RAISED IN THE COMPREHENSIVE REVIEW; TO PROVIDE SPENDING PRIORITIES FOR WASTEWATER UTILITIES THAT LACK FUNDS FOR IMPLEMENTING AN ACTION PLAN; TO PROVIDE THAT WASTEWATER UTILITIES THAT DEVELOP AN ACTION PLAN HAVE PRIORITY FOR STATE FUNDS OR STATE‑DIRECTED FEDERAL FUNDS; AND TO PROVIDE THAT REPETITIVE SPILLS MUST BE FORWARDED TO AND RECORDED BY THE SOUTH CAROLINA ENVIRONMENTAL CERTIFICATION BOARD.

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

There was no objection.

**Point of Order**

Senator SHOOPMAN raised a Point of Order under Rule 39 that the Bill had not been on the desks of the members at least one day prior to second reading.

The PRESIDENT sustained the Point of Order.

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

**MOTION ADOPTED**

Senator McCONNELL moved that, at the conclusion of the Joint Assembly, the Senate would stand in recess until 1:30 P.M.

The motion was adopted.

**MOTION ADOPTED**

H. 4195 -- Rep. Harrell: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO SECTION 9, ARTICLE III, OF THE CONSTITUTION OF THIS STATE, 1895, AND SECTION 2‑1‑180 OF THE 1976 CODE, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, JUNE 2, 2011, 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 14, 2011, AND CONTINUE IN STATEWIDE SESSION, IF NECESSARY, UNTIL NOT LATER THAN 5:00 P.M. ON FRIDAY, JULY 1, 2011, FOR THE CONSIDERATION OF CERTAIN MATTERS, AND TO PROVIDE THAT WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN NOT LATER THAN 5:00 P.M. ON FRIDAY, JULY 1, 2011, THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE.

Senator McCONNELL moved to recall the Concurrent Resolution from the Committee on Judiciary.

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

**MADE SPECIAL ORDER**

H. 3066 -- Reps. G.R. Smith, Daning, Ballentine, Harrison, Allison, Hamilton, G.M. Smith, Bingham, Long, Henderson, Erickson, Horne, Willis, Weeks, McLeod, Pope, Simrill, Lucas, Norman, D.C. Moss, Clemmons, Harrell, Atwater, Bedingfield, Funderburk and Edge: A BILL TO ENACT THE “SOUTH CAROLINA RESTRUCTURING ACT OF 2011” INCLUDING PROVISIONS TO AMEND SECTION 1‑30‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AGENCIES OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT BY ADDING THE DEPARTMENT OF ADMINISTRATION; BY ADDING SECTION 1‑30‑125 SO AS TO ESTABLISH THE DEPARTMENT OF ADMINISTRATION AS AN AGENCY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT TO BE HEADED BY A DIRECTOR APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY, AND TO TRANSFER TO THIS NEWLY CREATED DEPARTMENT CERTAIN OFFICES AND DIVISIONS OF THE STATE BUDGET AND CONTROL BOARD, OFFICE OF THE GOVERNOR, AND OTHER AGENCIES, AND TO PROVIDE FOR TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO ACCOMPLISH THE ABOVE; BY ADDING CHAPTER 2 TO TITLE 2 SO AS TO PROVIDE FOR LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS AND THE PROCESSES AND PROCEDURES TO BE FOLLOWED IN CONNECTION WITH THIS OVERSIGHT; TO AMEND SECTIONS 1‑11‑20, AS AMENDED, 1‑11‑22, 1‑11‑55, 1‑11‑56, 1‑11‑58, 1‑11‑65, 1‑11‑67, 1‑11‑70, 1‑11‑80, 1‑11‑90, 1‑11‑100, 1‑11‑110, 1‑11‑180, 1‑11‑220, 1‑11‑225, 1‑11‑250, 1‑11‑260, 1‑11‑270, 1‑11‑280, 1‑11‑290, 1‑11‑300, 1‑11‑310, AS AMENDED, 1‑11‑315, 1‑11‑320, 1‑11‑335, 1‑11‑340, 1‑11‑435, 2‑13‑240, CHAPTER 9, TITLE 3; 10‑1‑10, 10‑1‑30, AS AMENDED, 10‑1‑40, 10‑1‑130, 10‑1‑190, CHAPTER 9, TITLE 10, 10‑11‑50, AS AMENDED, 10‑11‑90, 10‑11‑110, 10‑11‑140, 10‑11‑330; 11‑9‑610, 11‑9‑620, 11‑9‑630, 11‑35‑3810, AS AMENDED, 11‑35‑3820, AS AMENDED, 11‑35‑3830, AS AMENDED, 11‑35‑3840, AS AMENDED, 13‑7‑30, AS AMENDED, 13‑7‑830, AS AMENDED, 44‑53‑530, AS AMENDED, AND 44‑96‑140; 48‑46‑30, 48‑46‑40, 48‑46‑50, 48‑46‑60, 48‑46‑90, 48‑52‑410, 48‑52‑440, AND 48‑52‑460; AND BY ADDING SECTION 1‑11‑185 RELATING TO VARIOUS AGENCY OR DEPARTMENT PROVISIONS SO AS TO CONFORM THEM TO THE ABOVE PROVISIONS PERTAINING TO THE NEW DEPARTMENT OF ADMINISTRATION OR TO SUPPLEMENT SUCH PROVISIONS.

Senator LARRY MARTIN moved to make the Bill a Special Order.

The Bill was made a Special Order.

**MOTION ADOPTED**

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

**RECESS**

At 11:55 A.M., on motion of Senator LARRY MARTIN, the Senate receded from business for the purpose of attending the Joint Assembly.

**JOINT ASSEMBLY**

**Elections**

At 12:00 Noon, the Senate appeared in the Hall of the House.

The PRESIDENT of the Senate called the Joint Assembly to order and announced that it had convened under the terms of a Concurrent Resolution adopted by both Houses.

**Election to the Position of Family Court**

**4th Judicial Circuit, Seat #2**

The PRESIDENT announced that nominations were in order to elect a successor to the position of Judge, Family Court, 4th Judicial Circuit, Seat #2.

Senator McCONNELL, Chairman of the Judicial Merit Selection Commission, indicated that the Honorable Cely Anne Baker Brigman, the Honorable Salley Huggins McIntyre and Mr. James Alexander “Alex” Stanton IV had been screened and found qualified to serve.

On motion of Senator McCONNELL, the names of the Honorable Cely Anne Baker Brigman and Mr. James Alexander “Alex” Stanton IV were withdrawn from consideration.

Senator McCONNELL placed the name of the Honorable Salley Huggins McIntyre in nomination, moved that nominations be closed and, with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that the Honorable Salley Huggins McIntyre was elected to the position of Judge, Family Court, 4th Judicial Circuit, Seat #2 for the term prescribed by law.

**Election to the Position of Family Court**

**13th Judicial Circuit, Seat #3**

The PRESIDENT announced that nominations were in order to elect a successor to the position of Judge, Family Court, 13th Judicial Circuit, Seat #3.

Senator McCONNELL, Chairman of the Judicial Merit Selection Commission, indicated that Ms. Catherine Carr Christophillis, Mr. Harry L. “Don” Phillips, Jr. and Mr. Thomas J. Quinn had been screened and found qualified to serve.

On motion of Senator McCONNELL, the names of Ms. Catherine Carr Christophillis and Thomas J. Quinn were withdrawn from consideration.

Senator McCONNELL placed the name of Mr. Harry L. “Don” Phillips, Jr. in nomination, moved that nominations be closed and, with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that the Honorable Harry L. “Don” Phillips, Jr. was elected to the position of Judge, Family Court, 13th Judicial Circuit, Seat #3 for the term prescribed by law.

**Election to the Position of Judge, Family Court**

**14th Judicial Circuit, Seat #3**

The PRESIDENT announced that nominations were in order to elect a successor to the position of Judge, Family Court, 14th Judicial Circuit, Seat #3.

Senator McCONNELL indicated that Ms. Diane P. DeWitt and Ms. Deborah Ann Malphrus had been screened and found qualified to serve.

On motion of Senator McCONNELL, the name of Ms. Diane P. Dewitt was withdrawn from consideration.

Senator McCONNELL placed the name of Ms. Deborah Ann Malphrus in nomination, moved that nominations be closed and, with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that the Honorable Deborah Ann Malphrus was elected to the to the position of Judge, Family Court, 14th Judicial Circuit, Seat #3 for the term prescribed by law.

Immediately following the judicial elections, the PRESIDENT announced that the Joint Assembly would proceed to the election to the Legislative Audit Council.

**Election to the Legislative Audit Council**

The PRESIDENT announced that nominations were in order to elect a successor to the position on the Legislative Audit Council.

Representative Harrison indicated that Mr. Mallory Factor, Mr. Thomas F. Hartnett and Ms. Jane Pike Miller had been screened and found qualified to serve.

On motion of Representative Harrison, the names of Mr. Mallory Factor, Mr. Thomas F. Hartnett and Ms. Jane Pike Miller were placed in nomination.

Representative Harrison moved that nominations be closed and, with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominees.

Whereupon, the PRESIDENT announced that Mr. Mallory Factor was elected to the Legislative Audit Council to fill the remaining portion of a term to expire on June 30, 2011, and a full term to expire on June 30, 2017; Mr. Thomas F. Hartnett was elected to the Legislative Audit Council for a term to expire June 30, 2015; and Ms. Jane Pike Miller was elected to the Legislative Audit Council for a term to expire June 30, 2013.

The purposes of the Joint Assembly having been accomplished, the PRESIDENT declared it adjourned, whereupon the Senate returned to its Chamber and was called to order by the PRESIDENT.

**RECESS**

At 12:10 P.M., on motion of Senator McCONNELL, the Senate receded from business until 1:30 P.M.

**AFTERNOON SESSION**

The Senate reassembled at 1:53 P.M. and was called to order by the PRESIDENT.

**THE SENATE PROCEEDED TO A CONSIDERATION OF THE VETOES.**

**MESSAGE FROM THE GOVERNOR**

State of South Carolina

Office of the Governor

P. O. Box 11369

Columbia, SC 29211

May 23, 2011

The Honorable Ken Ard

President of the Senate

State House, First Floor, East Wing

Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate,

I am vetoing and returning without my signature S.586, R-50, a Bill which expands participation in the state’s health and dental plan to include non-state agencies, including joint electric and power agencies and sanitation special purpose districts.

**I am vetoing S.586 because I believe the continuous expansion of the State Health Plan to non-state, quasi public-private entities will lead to unintended fiscal consequences.** Since the 1980s, the General Assembly has passed legislation to open the State Health Plan to dozens of optional special groups, many of which have very little nexus to state government, including public-private entities, non-profits, and associations that receive no state funds. During a time when public pensions and healthcare trust funds are facing massive liabilities, both state and local governments cannot risk further liabilities to these funds.

Currently, the state’s unfunded liability for the future health benefits of state and school district retirees over the course of 30 years is $9.145 billion, according to the state’s Retiree Health Care Plan Actuarial Valuation Report issued this month.  To close this gap, the State would need to put approximately $417 million into the trust fund each year, over and above each year’s current retiree health costs. It is only reasonable that all optional participants – including Palmetto Pride, federally qualified health centers, legislative caucus committees, South Carolina Student Loan Corporation, special purpose districts, counties, local boards, and South Carolina Education Association, among many others – have similar unfunded liabilities. Taxpayers and current participants in the system are facing enough financial burdens and should not have to worry about further risks to already unsustainable systems.

For these reasons, I am vetoing S.586, R-50.

My very best,

Nikki R. Haley

**VETO OVERRIDDEN**

(R50, S586) -- Senators Hayes, O’Dell, Verdin, Shoopman, Nicholson, Elliott, L. Martin, Coleman, Ford, Cromer, Alexander and Knotts: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1‑11‑715 SO AS TO PROVIDE THAT THE EMPLOYEE INSURANCE PROGRAM OF THE BUDGET AND CONTROL BOARD IS DIRECTED TO DEVELOP AND IMPLEMENT, FOR EMPLOYEES AND THEIR SPOUSES WHO PARTICIPATE IN THE HEALTH PLANS OFFERED BY THE EMPLOYEE INSURANCE PROGRAM, AN INCENTIVE PLAN TO ENCOURAGE PARTICIPATION IN PROGRAMS OFFERED BY THE EMPLOYEE INSURANCE PROGRAM THAT PROMOTE HEALTH AND THE PREVENTION OF DISEASE, AND TO PROVIDE THAT THE EMPLOYEE INSURANCE PROGRAM IS FURTHER DIRECTED TO IMPLEMENT A PREMIUM REDUCTION OR OTHER FINANCIAL INCENTIVE, BEGINNING ON JANUARY 1, 2012, FOR THOSE EMPLOYEES AND THEIR SPOUSES WHO PARTICIPATE IN THESE PROGRAMS; AND TO AMEND SECTION 1‑11‑720, AS AMENDED, RELATING TO ENTITIES WHOSE EMPLOYEES, RETIREES, AND THEIR DEPENDENTS ARE ELIGIBLE TO PARTICIPATE IN THE STATE HEALTH AND DENTAL INSURANCE PLANS, SO AS TO REVISE THE ELIGIBILITY PROVISIONS APPLICABLE TO SPECIAL PURPOSE DISTRICTS BY INCLUDING DISTRICTS WHICH PROVIDE SANITATION SERVICES AND TO EXTEND THIS ELIGIBILITY TO JOINT AGENCIES ESTABLISHED PURSUANT TO CHAPTER 23, TITLE 6.

The veto of the Governor was taken up for immediate consideration.

Senator HAYES moved that the veto of the Governor be overridden.

Senator RYBERG argued contra to the motion to override.

**Motion Adopted**

On motion of Senator RYBERG, with unanimous consent, Senators BRYANT, MASSEY and REESE were granted leave to attend a committee meeting and were granted leave to vote from the balcony.

Senator RYBERG resumed arguing contra to the motion to override.

Senator HAYES spoke in favor of overriding the veto.

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 32; Nays 7**

**AYES**

Alexander Anderson Bryant

Campbell Coleman Cromer

Fair Ford Gregory

Hayes Hutto Land

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O'Dell Peeler Pinckney

Reese Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--32**

**NAYS**

Bright Campsen Davis

Grooms McConnell Rose

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 KNOTTS**

I was out of the Chamber meeting with representatives from Amazon when the vote was being taken. 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.**

**CONCURRENCE**

S. 211 -- Senators Matthews, Land, Leatherman, Leventis, Hutto, Williams, Ford and McGill: 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.

Senator MATTHEWS 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 concurrence in the House amendments.

Senator MATTHEWS explained the amendments.

The question then was concurrence in the House amendments.

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

**Ayes 40; Nays 1**

**AYES**

Alexander Anderson Bryant

Campbell Campsen Coleman

Courson Cromer Davis

Elliott Fair Gregory

Grooms Hayes Hutto

Jackson Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Massey Matthews

McConnell McGill Nicholson

O'Dell Peeler Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--40**

**NAYS**

Bright

**Total--1**

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. 785 -- Senator Land: A BILL TO AUTHORIZE THE BOARD OF TRUSTEES OF FLORENCE COUNTY SCHOOL DISTRICT FOUR TO ISSUE GENERAL OBLIGATION BONDS OF THE SCHOOL DISTRICT WITHIN ITS CONSTITUTIONAL DEBT LIMIT, IN ONE OR MORE SERIES, IN A TOTAL AMOUNT NOT TO EXCEED TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, TO DEFRAY THE LOSS OF EDUCATION FINANCE ACT FUNDS TO THE SCHOOL 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 House returned the Bill with amendments.

The question then was concurrence in the House amendments.

Senator LAND proposed the following amendment (NBD\11731AB11), which was adopted:

Amend the bill, as and if amended, by deleting in its entirety SECTION 16, as contained on page 4, lines 28‑43 and by deleting in its entirety SECTION 17, as contained on page 5, lines 2-16.

Renumber sections to conform.

Amend title to conform.

Senator LAND explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was ordered returned to the House of Representatives with amendments.

**AMENDED, AMENDMENT PROPOSED**

**CONSIDERATION INTERRUPTED**

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.

The House returned the Bill with amendments.

Senator SETZLER was recognized.

**Amendment No. 1A**

Senators SETZLER and KNOTTS proposed the following amendment (36R011.NGS), which was substituted with Amendment No. 1B:

Amend the bill, as and if amended, page 4, by striking SECTION 3 in its entirety.

Amend the bill further, as and if amended, by striking SECTION 4 in its entirety and inserting:

/ SECTION 4. Article 25, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12‑36‑2691. (A) Notwithstanding another provision of this chapter, owning, leasing, or utilizing a distribution facility, including a distribution facility of a third party or an affiliate, within South Carolina is not considered in determining whether the person has a physical presence in South Carolina sufficient to establish nexus with South Carolina for sales and use tax purposes.

(B) For purposes of this section:

(1) ‘distribution facility’ means an establishment where shipments of tangible personal property are stored and processed for delivery to customers and no retail sales of the property are made. The definition of ‘distribution facility’ provided in Section 12‑6‑3360(M)(8) allowing limited retail sales at such a facility specifically do not apply with respect to a ‘distribution facility’ as defined for purposes of this section;

(2) ‘affiliate’ means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(3) a person controls another person if that person holds a fifty percent ownership interest in the other person.

(C) This section only applies to either a person who, or a person who has an affiliate who:

(1) places a distribution facility in service after December 31, 2010, and before January 1, 2013;

(2) makes, or causes to be made through a third party, a capital investment of at least one hundred twenty‑five million dollars after December 31, 2010, and before December 31, 2013;

(3) creates at least two thousand full‑time jobs and with a comprehensive health plan for those employees, after December 31, 2010, and before December 31, 2013. For purposes of this item, ‘full‑time’ and ‘new job’ have the same meaning as provided in Section 12‑6‑3360; and

(4) after meeting the requirements of item (3), maintains at least one thousand five hundred jobs and with a comprehensive health plan for those employees until January 1, 2016.

(D) This section no longer applies on the earlier of:

(1) January 1, 2016;

(2) when the person fails to meet the requirements provided in subsection (C) of this section; or

(3) the effective date of a law enacted by the United States Congress that allows a state to require that its sales tax be collected and remitted even if the taxpayer does not have substantial nexus with that state.” /

Amend the bill further, as and if amended, page 5, after line 15, by adding appropriately numbered new SECTIONS to read:

/ SECTION \_\_\_. Article 25, Chapter 36 of Title 12 of the 1976 Code is amended by adding:

“Section 12-36-2692. (A) Each person to whom Section 12-36-2691 applies shall provide to its customers readily visible notification on invoices or other similar documentation that use tax is imposed on its sales and must be paid by the purchaser, unless otherwise exempt, on the storage, use, or consumption of the tangible personal property in this State.

(B) A person complies with the notice requirement contained in subsection (A) if he provides a prominent linking notice on invoices or other similar documentation that directs its customers to information regarding the customer’s use tax payment responsibilities. A linking notice complies with the provisions contained in this subsection if the notice reads as follows: ‘See important sales tax information regarding the tax that you may owe directly to your state of residence.’

(C) A person that is required to provide a linking notice pursuant to subsection (B) must also provide this notification on its internet website and catalog.”

SECTION \_\_\_. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of the payment, collection, and administration of the sales and use tax as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION \_\_\_. 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. / Amend the bill further, as and if amended, by striking the title and inserting:

/ RELATING TO THE PAYMENT, COLLECTION, AND ADMINISTRATION OF THE SALES AND USE TAX, BY AMENDING ACT 99 OF 2007, RELATING TO THE SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES, BY AMENDING SECTION 1B, TO PHASE OUT THE SALES AND USE TAX IMPOSED ON DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES; BY AMENDING ACT 99 OF 2007, RELATING TO THE SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES TO REPEAL SECTION 1C, RELATING TO FURTHER REDUCTIONS IN THE SALES AND USE TAX ON DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES BASED ON GENERAL FUND REVENUE GROWTH; TO AMEND SECTIONS 12‑36‑90(1)(C)(III), 12-36-90(2)(l), 12‑36‑910(B)(6), 12‑36‑910(B)(7), 12‑36‑1310(B)(6), AND 12‑36‑2120(69), ALL AS AMENDED, TO PROVIDE FURTHER FOR THOSE INSTANCES WHERE SALES AND USE TAX APPLIES IN CONNECTION WITH WARRANTIES AND SERVICE MAINTENANCE CONTRACTS SOLD IN CONNECTION WITH THE SALE OF TANGIBLE PERSONAL PROPERTY; BY AMENDING ARTICLE 25, CHAPTER 36, TITLE 12, RELATING TO GENERAL PROVISIONS CONCERNING THE PAYMENT, COLLECTION, AND ADMINISTRATION OF THE SALES AND USE TAX, TO PROVIDE THE APPLICABLE REQUIREMENTS AND DURATION FOR WHICH OWNING OR UTILIZING A DISTRIBUTION FACILITY WITHIN SOUTH CAROLINA IS NOT CONSIDERED IN DETERMINING WHETHER THE PERSON HAS A PHYSICAL PRESENCE IN SOUTH CAROLINA SUFFICIENT TO ESTABLISH A NEXUS WITH SOUTH CAROLINA FOR SALES AND USE TAX PURPOSES. /

Renumber sections to conform.

Amend title to conform.

Senator SETZLER explained the amendment.

**ACTING PRESIDENT PRESIDES**

At 3:25 P.M., Senator LARRY MARTIN assumed the Chair.

Senator SETZLER resumed explaining the amendment.

**PRESIDENT PRESIDES**

At 3:32 P.M., the PRESIDENT assumed the Chair.

Senator SETZLER resumed explaining the amendment.

**Motion Adopted**

On motion of Senator MASSEY, with unanimous consent, the Senate agreed to perfect the amendment and substitute Amendment No. 1B for Amendment No. 1A.

**Amendment No. 1B**

Senators SETZLER, KNOTTS and LEVENTIS proposed the following amendment (36R016.NGS), which was adopted (#1):

Amend the bill, as and if amended, page 4, by striking SECTION 3 in its entirety.

Amend the bill further, as and if amended, by striking SECTION 4 in its entirety and inserting:

/ SECTION 4. Article 25, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12‑36‑2691. (A) Notwithstanding another provision of this chapter, owning, leasing, or utilizing a distribution facility, including a distribution facility of a third party or an affiliate, within South Carolina is not considered in determining whether the person has a physical presence in South Carolina sufficient to establish nexus with South Carolina for sales and use tax purposes.

(B) For purposes of this section:

(1) ‘distribution facility’ means an establishment where shipments of tangible personal property are stored and processed for delivery to customers and no retail sales of the property are made. The definition of ‘distribution facility’ provided in Section 12‑6‑3360(M)(8) allowing limited retail sales at such a facility specifically do not apply with respect to a ‘distribution facility’ as defined for purposes of this section;

(2) ‘affiliate’ means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(3) a person controls another person if that person holds a fifty percent ownership interest in the other person.

(C) This section only applies to either a person who, or a person who has an affiliate who:

(1) places a distribution facility in service after December 31, 2010, and before January 1, 2013;

(2) makes, or causes to be made through a third party, a capital investment of at least one hundred twenty‑five million dollars after December 31, 2010, and before December 31, 2013;

(3) creates at least two thousand full‑time jobs and with a comprehensive health plan for those employees, after December 31, 2010, and before December 31, 2013. For purposes of this item, ‘full‑time’ and ‘new job’ have the same meaning as provided in Section 12‑6‑3360; and

(4) after meeting the requirements of item (3), maintains at least one thousand five hundred full‑time jobs and with a comprehensive health plan for those employees until January 1, 2016.

(D) This section no longer applies on the earlier of:

(1) January 1, 2016;

(2) when the person fails to meet the requirements provided in subsection (C) of this section; or

(3) the effective date of a law enacted by the United States Congress that allows a state to require that its sales tax be collected and remitted even if the taxpayer does not have substantial nexus with that state.” /

Amend the bill further, as and if amended, page 5, after line 15, by adding appropriately numbered new SECTIONS to read:

/ SECTION \_\_\_. Article 25, Chapter 36 of Title 12 of the 1976 Code is amended by adding:

“Section 12‑36‑2692. (A) Each person to whom Section 12‑36‑2691 applies shall provide to its customers readily visible notification on invoices or other similar documentation that use tax is imposed on its sales and must be paid by the purchaser, unless otherwise exempt, on the storage, use, or consumption of the tangible personal property in this State.

(B) A person complies with the notice requirement contained in subsection (A) if he provides a prominent linking notice on invoices or other similar documentation that directs its customers to information regarding the customer’s use tax payment responsibilities. A linking notice complies with the provisions contained in this subsection if the notice reads as follows: ‘See important sales tax information regarding the tax that you may owe directly to your state of residence.’

(C) A person that is required to provide a linking notice pursuant to subsection (B) must also provide this notification on its internet website and catalog.”

SECTION \_\_\_. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of the payment, collection, and administration of the sales and use tax as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION \_\_\_. 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. / Amend the bill further, as and if amended, by striking the title and inserting:

/ RELATING TO THE PAYMENT, COLLECTION, AND ADMINISTRATION OF THE SALES AND USE TAX, BY AMENDING ACT 99 OF 2007, RELATING TO THE SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES, BY AMENDING SECTION 1B, TO PHASE OUT THE SALES AND USE TAX IMPOSED ON DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES; BY AMENDING ACT 99 OF 2007, RELATING TO THE SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES TO REPEAL SECTION 1C, RELATING TO FURTHER REDUCTIONS IN THE SALES AND USE TAX ON DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES BASED ON GENERAL FUND REVENUE GROWTH; TO AMEND SECTIONS 12‑36‑90(1)(C)(III), 12‑36‑90(2)(l), 12‑36‑910(B)(6), 12‑36‑910(B)(7), 12‑36‑1310(B)(6), AND 12‑36‑2120(69), ALL AS AMENDED, TO PROVIDE FURTHER FOR THOSE INSTANCES WHERE SALES AND USE TAX APPLIES IN CONNECTION WITH WARRANTIES AND SERVICE MAINTENANCE CONTRACTS SOLD IN CONNECTION WITH THE SALE OF TANGIBLE PERSONAL PROPERTY; BY AMENDING ARTICLE 25, CHAPTER 36, TITLE 12, RELATING TO GENERAL PROVISIONS CONCERNING THE PAYMENT, COLLECTION, AND ADMINISTRATION OF THE SALES AND USE TAX, TO PROVIDE THE APPLICABLE REQUIREMENTS AND DURATION FOR WHICH OWNING OR UTILIZING A DISTRIBUTION FACILITY WITHIN SOUTH CAROLINA IS NOT CONSIDERED IN DETERMINING WHETHER THE PERSON HAS A PHYSICAL PRESENCE IN SOUTH CAROLINA SUFFICIENT TO ESTABLISH A NEXUS WITH SOUTH CAROLINA FOR SALES AND USE TAX PURPOSES. /

Renumber sections to conform.

Amend title to conform.

Senator SETZLER resumed explaining Amendment No. 1B.

Senator SETZLER moved that the amendment be adopted.

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

**Ayes 43; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman Courson Cromer

Davis Elliott Fair

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

O'Dell Peeler Rankin

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Thomas Verdin

Williams

**Total--43**

**NAYS**

**Total--0**

The amendment was adopted.

**Amendment No. 4**

Senators DAVIS and ROSE proposed the following amendment (NBD\11681AC11), which was ruled out of order:

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

/SECTION \_\_. A. The General Assembly finds as follows:

(1) the government of South Carolina has increased the total annual amount of economic incentive tax credits from $35 million in 1998 to $525 million in 2008;

(2) the state government has also created special exemptions to the state sales tax which totaled $2.75 billion in 2010;

(3) the government of South Carolina has not released comprehensive information, including cost‑benefit analyses, regarding the details of these incentives;

(4) increasing tax credits and sales tax exemptions to targeted individuals, entities, and industries makes it more difficult for the government of South Carolina to reduce taxes across‑the‑board for all taxpayers; and

(5) the public has a right to know the actual economic effect of these incentives.

B. Title 12 of the 1976 Code is amended by adding:

“CHAPTER 66

Economic Incentive Transparency Act

Section 12‑66‑100. This chapter is known and may be cited as the ‘South Carolina Economic Incentive Transparency Act of 2011’.

Section 12‑66‑110. The provisions of this chapter apply to all incentives, as defined in this chapter, provided for by law after the effective date of this chapter, and on the effective date of this chapter, all incentives provided for by law must thereafter be conformed by the General Assembly to the provisions, requirements, and procedures of this chapter to the extent possible within two years of the effective date of this chapter or they shall be deemed to have no further force and effect.

Section 12‑66‑120. For the purposes of this chapter:

(1) ‘Applicant’ means any corporation, partnership, limited liability company, sole proprietorship, individual, or other entity who applies to the department for an incentive.

(2) ‘Beneficiary’ means any corporation, sole proprietorship, or individual who receives an incentive.

(3) ‘Department’ means the South Carolina Department of Commerce.

(4) ‘Incentive’ means any tax credit, subsidy, tax exemption, loan, workforce training, or other service, grant, or property, as well as anything else that has a fair market value to a single recipient that, when combined with proposed or existing tax incentives, exceeds one hundred thousand dollars over a five‑year period, and is offered by state government to a beneficiary or sought from state government by an applicant as an inducement to locate, expand, or improve a business enterprise in South Carolina.

(5) ‘Independent economist’ means an economist not currently employed by a state or local governmental entity, excepting a public four‑year university.

Section 12‑66‑130. (A) Any legislation implementing or providing an incentive must be introduced as a separate bill separate and apart from any other matter.

(B) Any legislation implementing or providing an incentive automatically expires after five years from its effective date.

(C) All incentives must be structured as loans in which the beneficiary is entitled to have up to one hundred percent of the loan plus interest canceled if the beneficiary meets the job creation estimates in the application submitted pursuant to Section 12‑66‑150. The interest rate on these loans must be set at no less than the implicit price deflator for government prepared consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysis of the United States Department of Commerce for the twelve‑month period ending March thirty‑first of the previous year.

(D) A beneficiary who fails to come within ten percent of the wage and job creation estimates may be eligible in the discretion of the department for a prorated forgiveness of the loan in proportion to the wage and job estimates met, with the addition of a ten percent penalty, calculated according to the total value of the incentive, for failing to meet the wage and job estimates specified in the beneficiary’s application submitted pursuant to Section 12‑66‑150. A beneficiary who fails to meet the wage and job creation estimates is ineligible for any future incentive.

(E)(1) The Board of Economic Advisors shall conduct an economic analysis on the impact of any proposed incentive to a beneficiary. This analysis must be posted on the board’s website for public viewing at the same time public notice is given in accordance with Section 12‑66‑140.

(2) The Department of Commerce shall have a separate review of any proposed incentive conducted by an independent economist not employed by any state agency. This review must be posted on the department’s website for public viewing at the same time public notice is given in accordance with Section 12‑66‑140.

(3) The costs of the analyses and reviews must be assessed to and paid by the applicant.

(4) The analyses and reviews must include the:

(a) estimated number of full‑time, part‑time, and temporary jobs created for existing South Carolina residents, and the salary ranges for those jobs;

(b) estimated number of new non‑South Carolina residents that will be employed in a full‑time, part‑time, or temporary capacity, and the salary ranges for those jobs;

(c) number of jobs lost for existing employees due to relocation or expansion of the recipient business, if the recipient is already located in South Carolina;

(d) estimated impact on existing South Carolina businesses including, but not limited to, competitors in the same industry;

(e) estimated impact on the local job market and wages;

(f) estimated impact on state and local tax revenue, including unemployment and other public assistance programs;

(g) estimated per capita benefit for state and local taxpayers;

(h) estimated impact on private investment displaced by public investment; and

(i) ratio of public spending to each job created.

(F) An incentive must not be awarded if the cost for each job exceeds the average per capita income in South Carolina. The cost of each job must be determined by dividing the amount of the incentive by the number of full‑time and pro‑rated part‑time jobs created or maintained.

(G) The grantor of an incentive is deemed to be the Department of Commerce, which must approve the granting of an incentive provided by law to a particular applicant before the incentive shall be applicable to that applicant.

Section 12‑66‑140. Before approving an agreement for an incentive, the grantor of the incentive shall provide public notice and a hearing. The public notice must be posted on the Department of Commerce website and provided to the general media through email. The notice must identify the date, time and location of the hearing, and location at which information about the incentive is available. The grantor must provide at least a five‑day notice for the public hearing.

Section 12‑66‑150. (A) An applicant seeking an incentive must submit a written application that must be made available through the Department of Commerce website. Once the application is received and made publicly available by the State, there must be a waiting period of thirty days, during which time a public hearing on the incentive must occur. No bill or other legislation in regard to an incentive may be introduced in the General Assembly until this application process has been completed and, if so, is deemed out of order, and state agencies and public officials are expressly prohibited from making any representations to an applicant in regard to the likelihood of an incentive not then authorized by state law being approved by the General Assembly.

(B) The application must include:

(1) the name, address, phone number and website of the applicant;

(2) the street address of the project site;

(3) the three digit North American Industry Classification System number of the project site;

(4) the number of full‑time, part‑time, and temporary positions, and the salary ranges for these positions;

(5) the total number of individuals employed in South Carolina by the applicant in the prior fiscal year, categorized by full‑time, part‑time, and temporary positions, and the salary range for these positions;

(6) the value of each incentive;

(7) a statement of the public purpose of the incentive that includes measurable, specific, and tangible job creation and investment goals;

(8) a statement of why the incentive is needed;

(9) the number of new jobs to be created by the applicant at the project site, categorized by full‑time, part‑time, and temporary positions, and the salary range for these positions;

(10) the average hourly wage to all current and future employees at the site, categorized by full‑time, part‑time, temporary positions, and hourly wage;

(11) the specific time frames during which job creation and wage targets will be reached;

(12) a list of each incentive applied for, and the name of any other granting body from which the incentive is sought; and

(13) an impact statement regarding the potential impact the incentive will have on employment in the State, including, but not limited to, potential sources of labor, impact on employment, and wage levels in surrounding localities.

Section 12‑66‑160. A beneficiary receiving an incentive shall submit an annual report to the Department of Revenue that includes a summary of jobs required, created, and lost, categorized by full‑time, part‑time, temporary positions, and hourly wage. The summary report must include a statement of how the incentive was used and whether it was effective for the beneficiary. The report must be made available to the public via the department’s website.

The Department of Revenue shall review the report and determine if the provisions of the incentive have been adequately met and take steps to enforce any contracts that are in default.

Section 12‑66‑170. (A) The Department of Revenue, with assistance from the Department of Commerce, shall submit an annual unified economic development budget report containing:

(1) all state appropriated expenditures for economic development;

(2) all uncollected state and local tax revenues resulting from incentives provided by the state government including, but not limited to, gross receipts, income, sales, use, raw materials, excise, property, utility, and inventory taxes; and

(3) the name of each entity that received any incentive, along with the total amount received.

(B) The report must be sent to the General Assembly and the Governor, and must be maintained by the Department of Revenue in a conspicuous location on its website.” /

Renumber sections to conform.

Amend title to conform.

**Point of Order**

Senator SETZLER 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 sustained the Point of Order.

The amendment was ruled out of order.

**Appeal of the Ruling by the PRESIDENT Failed**

Senator DAVIS appealed the Ruling by the PRESIDENT.

**PRESIDENT *Pro Tempore* PRESIDES**

At 4:10 P.M., Senator McCONNELL assumed the Chair.

The question then was “Shall the Ruling of the PRESIDENT be overridden?”

The PRESIDENT *Pro Tempore* stated that Rule 7 provided for debate of fifteen minutes each for proponents and opponents.

Senator DAVIS argued in favor of the motion to override the Ruling by the PRESIDENT.

Senator LEATHERMAN argued contra to the motion to override the Ruling by the PRESIDENT.

Senator LARRY MARTIN argued contra to the motion to override the Ruling by the PRESIDENT.

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

**Ayes 9; Nays 33**

**AYES**

Bright Bryant Davis

*Martin, Shane* O'Dell Ryberg

Shoopman Thomas Verdin

**Total--9**

**NAYS**

Alexander Anderson Campbell

Campsen Coleman Courson

Cromer Elliott Fair

Gregory Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Massey

Matthews McConnell McGill

Nicholson Peeler Rankin

Reese Rose Scott

Setzler Sheheen Williams

**Total--33**

The Senate refused to override the Ruling of the PRESIDENT.

**PRESIDENT PRESIDES**

At 4:45 P.M., the PRESIDENT assumed the Chair.

**Amendment No. 5**

Senators FAIR and THOMAS proposed the following amendment (BBM\10337HTC11), which was carried over:

Amend the bill, as and if amended, in Section 12‑36‑2691, as contained in SECTION 4, page 5, by striking subsection (D) beginning on line 8, and inserting:

/ (D) Before a business may avail itself of the ‘safe harbor’ provisions of this section, it shall enter into a written agreement with the Attorney General of this State agreeing to exercise due diligence to prohibit the use of the distribution center for the sale, distribution, or transshipment of material harmful to minors as prohibited pursuant to Section 16‑15‑385 and as defined pursuant to Section 16‑15‑375. The agreement must contain those methods by which the company must conduct the required due diligence. The Attorney General shall review compliance annually and report any failure of compliance to the General Assembly, Governor, the Secretary of Commerce, and the Director of the Department of Revenue.

(E) This section no longer applies on the earlier of:

(1) January 1, 2016;

(2) when the company fails to meet the requirements provided in subsection (C) of this section;

(3) the effective date of a law enacted by the United States Congress that allows a state to require that its sales tax be collected and remitted even if the taxpayer does not have substantial nexus with that state; or

(4) the date of the Attorney General’s report of failure of compliance with the provisions of subsection (D) of this section. /

Renumber sections to conform.

Amend title to conform.

Senator FAIR explained the amendment.

**Point of Order**

Senator SCOTT raised a Point of Order that the amendment was out of order inasmuch as it was violative of Rule 24A.

Senator THOMAS spoke on the Point of Order.

Senator LOURIE spoke on the Point of Order.

Senator FAIR spoke on the Point of Order.

The PRESIDENT overruled the Point of Order.

Senator THOMAS spoke on the amendment.

On motion of Senator FAIR, the amendment was carried over.

**Motion Adopted**

Senator McCONNELL moved that when the Senate adjourns today, it stand adjourned to meet on Thursday, May 26, 2011, at 10:00 A.M.

There was no objection and the motion adopted.

On motion of Senator RYBERG, with unanimous consent, Amendment No. 26 was taken up for immediate consideration.

**Amendment No. 26**

Senator RYBERG proposed the following amendment (36R015.WGR), which was tabled:

Amend the bill, as and if amended, page 4, by striking line 15 and inserting:

/ with that state.

(E)(1) A taxpayer to whom this section applies shall, at the time of purchase, notify purchasers from South Carolina that sales or use tax is due on all purchases made from the taxpayer and that the Department of Revenue requires the purchaser to pay the sales and use tax due.

(2)(a) Annually, no later than January thirty-first, a taxpayer to whom this section applies must send to each purchaser from South Carolina a form that contains the amount paid by the purchaser for products purchased from the taxpayer during the previous calendar year.

(b) The form shall state that the Department of Revenue requires the purchaser to pay sales and use tax on the purchases made by the purchaser from the taxpayer during the previous calendar year.

(c)(i) The form shall be sent separately to all South Carolina purchasers by first class mail and may not be included with any other shipments.

(ii) The envelope in which the form is sent must include the words: ‘Important Tax Document Enclosed’.

(iii) The form shall contain the name of the taxpayer.

(3) Annually, no later than March first, a taxpayer to whom this section applies must file an annual statement with the Department of Revenue for each South Carolina resident that made purchases from the taxpayer. The statement must summarize the total purchases made by the South Carolina resident during the preceding calendar year. The statement filed with the department must be on a form and in such a manner as prescribed by the department. The department may allow for electronic filing.

(4) A taxpayer to whom this section applies who does not:

(a) provide the notice required in item (1) must be fined five dollars for each instance where the notice is not provided, unless the taxpayer shows reasonable cause for failing to timely provide the notice;

(b) timely provide the notice required in item (2) must be fined five dollars for each instance where the notice is not provided, unless the taxpayer shows reasonable cause for failing to timely provide the notice; and

(c) timely file the annual statement required in item (3) must be fined ten dollars for each purchaser that was omitted from the filing, unless the taxpayer shows reasonable cause for failing to timely file the annual statement.” /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator SETZLER moved to lay the amendment on the table.

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

**Ayes 29; Nays 14**

**AYES**

Alexander Campbell Campsen

Coleman Courson Cromer

Elliott Fair Hayes

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Matthews

McConnell McGill Nicholson

Peeler Pinckney Rankin

Reese Scott Setzler

Sheheen Williams

**Total--29**

**NAYS**

Bright Bryant Davis

Gregory Grooms Hutto

*Martin, Shane* Massey O'Dell

Rose Ryberg Shoopman

Thomas Verdin

**Total--14**

The amendment was laid on the table.

**Amendment No. 13**

Senator GROOMS proposed the following amendment (DKA\  
3672SD11), which was tabled:

Amend the bill, as and if amended, Section 12-36-2691, as contained in SECTION 4, by adding an appropriately lettered subsection to read:

/ (\_\_\_) Notwithstanding another provision of law, if the owner or operator of the distribution facility fails to meet any of the requirements of Section 12‑36‑2691, the owner or operator of the distribution facility must reimburse the state for all costs associated with the distribution facility and must pay the State treble the amount of taxes that would have been required to be collected if the distribution center had not received the sales and use tax exemption provided in Section 12‑36‑2691. /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

At 6:27 P.M., Senator GROOMS moved that the Senate stand adjourned.

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

**Ayes 13; Nays 26**

**AYES**

Alexander Bryant Fair

Grooms Malloy *Martin, Larry*

*Martin, Shane* Massey O'Dell

Peeler Ryberg Thomas

Verdin

**Total--13**

**NAYS**

Bright Campsen Coleman

Courson Cromer Davis

Elliott Gregory Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Matthews McConnell McGill

Nicholson Rankin Reese

Rose Scott Setzler

Sheheen Williams

**Total--26**

The Senate refused to adjourn.

Senator SETZLER moved to lay the amendment on the table.

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

**Ayes 34; Nays 5**

**AYES**

Alexander Bright Campsen

Coleman Courson Cromer

Davis Elliott Grooms

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McConnell McGill Nicholson

O'Dell Peeler Rankin

Reese Rose Scott

Setzler Sheheen Thomas

Williams

**Total--34**

**NAYS**

Bryant Fair Gregory

Ryberg Verdin

**Total--5**

The amendment was laid on the table.

**Amendment No. 14**

Senator GROOMS proposed the following amendment (BBM\10327HTC11), which was tabled:

Amend the bill, as and if amended, in Section 12‑36‑2691, as contained in SECTION 4, page 5, by adding a new subsection at the end appropriately lettered to read:

/ ( ) Notwithstanding another provision of law, a distribution center may not deliver products to any home or business in South Carolina unless the distribution center collects sales tax from the customer. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

At 7:07 P.M., Senator RYBERG moved that the Senate stand adjourned.

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

**Ayes 9; Nays 27**

**AYES**

Bryant Fair Gregory

Grooms *Martin, Larry* Massey

O'Dell Ryberg Verdin

**Total--9**

**NAYS**

Alexander Bright Campsen

Coleman Courson Cromer

Davis Ford Hutto

Jackson Knotts Land

Leatherman Lourie Malloy

*Martin, Shane* Matthews McConnell

McGill Nicholson Peeler

Rankin Reese Scott

Setzler Sheheen Williams

**Total--27**

The Senate refused to adjourn.

**Statement by Senator ROSE**

Had I been present in the Chamber at the time the vote was taken on the motion to adjourn, I would have voted against the motion to adjourn.

Senator SETZLER moved to lay the amendment on the table.

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

**Ayes 25; Nays 11**

**AYES**

Alexander Coleman Courson

Cromer Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Massey Matthews

McConnell McGill Nicholson

Peeler Rankin Reese

Scott Setzler Sheheen

Williams

**Total--25**

**NAYS**

Bright Bryant Campsen

Davis Fair Gregory

Grooms *Martin, Shane* O'Dell

Ryberg Verdin

**Total--11**

The amendment was laid on the table.

**Statement by Senator ROSE**

Had I been present in the Chamber at the time the vote was taken on the motion to table Amendment No. 14, I would have voted against the motion to table.

**Motion to Reconsider Tabling of Amendment No. 13 Failed**

Having voted on the prevailing side, Senator GROOMS moved to reconsider the vote whereby Amendment No. 13 was laid on the table.

Senator SETZLER moved to table the motion to reconsider.

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

**Ayes 25; Nays 10**

**AYES**

Alexander Coleman Courson

Cromer Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Massey Matthews

McConnell McGill Nicholson

Peeler Rankin Reese

Scott Setzler Sheheen

Williams

**Total--25**

**NAYS**

Bright Campsen Davis

Fair Gregory Grooms

*Martin, Shane* O'Dell Ryberg

Verdin

**Total--10**

The motion to reconsider the vote on Amendment No. 13 was laid on the table.

**Statement by Senator ROSE**

Had I been present in the Chamber at the time the vote was taken on the motion to table the motion to reconsider, I would have voted in favor of the motion to table.

**Motion Under Rule 15A Failed**

At 7:21 P.M., Senator LARRY MARTIN moved under the provisions of Rule 15A to vote on the entire matter of S. 36.

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

**Ayes 4; Nays 32**

**AYES**

Courson Cromer Leventis

*Martin, Larry*

**Total--4**

**NAYS**

Alexander Bright Campsen

Coleman Davis Fair

Ford Gregory Grooms

Hutto Jackson Knotts

Land Leatherman Lourie

Malloy *Martin, Shane* Massey

Matthews McConnell McGill

Nicholson O'Dell Peeler

Rankin Reese Ryberg

Scott Setzler Sheheen

Verdin Williams

**Total--32**

Having failed to receive the necessary vote, the motion under Rule 15A failed.

**Statement by Senator ROSE**

Had I been present in the Chamber at the time the vote was taken on the motion to under Rule 15A, I would have voted against the motion for cloture.

**Expression of Personal Interest**

Senator SETZLER rose for an Expression of Personal Interest.

**Amendment No. 15**

Senator VERDIN proposed the following amendment (BBM\  
10328HTC11):

Amend the bill, as and if amended, by adding a penultimate new SECTION to read:

/ SECTION \_\_. Article 25, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12-36-2692. Notwithstanding another provision of law, any retail business, corporation, or other entity that creates jobs in the State is not required to collect sales tax for online purchases for five years, beginning on January 1, 2011 and ending on January 1, 2016. /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

**Point of Quorum**

At 7:48 P.M., Senator McGILL made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Bright Campsen

Coleman Courson Cromer

Davis Elliott Fair

Gregory Grooms Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Nicholson O'Dell

Peeler Rankin Reese

Ryberg Scott Setzler

Sheheen Verdin Williams

A quorum being present, the Senate resumed.

Senator VERDIN explained the amendment.

**Point of Quorum**

At 8:47 P.M., Senator GROOMS made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Bright Campsen

Coleman Cromer Davis

Elliott Fair Grooms

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Matthews McConnell

McGill Nicholson O'Dell

Peeler Rankin Reese

Ryberg Scott Setzler

Sheheen Verdin Williams

A quorum being present, the Senate resumed.

Senator VERDIN resumed speaking on the amendment.

**RECESS**

At 8:51 P.M., with Senator VERDIN retaining the floor, on motion of Senator SHEHEEN, with unanimous consent, the Senate receded from business subject to the Call of the Chair.

At 9:17 P.M., the Senate resumed.

**Objection**

With Senator VERDIN retaining the floor, Senator SHEHEEN asked unanimous consent to make a motion that the Senate stand adjourned.

Senator PEELER objected.

Senator VERDIN resumed speaking on the amendment.

At 9:18 P.M., Senator VERDIN moved that the Senate stand adjourned.

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

**Ayes 25; Nays 9**

**AYES**

Alexander Campsen Coleman

Davis Fair Grooms

Hutto Land Leatherman

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McConnell

McGill Nicholson O'Dell

Rankin Reese Ryberg

Scott Sheheen Verdin

Williams

**Total--25**

**NAYS**

Bright Cromer Elliott

Jackson Knotts Leventis

Lourie Peeler Setzler

**Total--9**

Consideration was interrupted by adjournment.

**Statement by Senator ROSE**

Had I been present in the Chamber at the time the vote was taken on the motion to adjourn, I would have voted against the motion to adjourn.

**MOTION ADOPTED**

On motion of Senator FAIR, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. William Thomas Forrest of Greenville, S.C.

and

**MOTION ADOPTED**

On motion of Senators NICHOLSON and O’DELL, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Greg Hadden of Greenwood, S.C., and Mr. Phillip Crawford, Jr. of Abbeville, S.C. Mr. Hadden, 36, and Mr. Crawford, 33, were killed in a tragic train accident in Mineral Springs, N.C. on May 24, 2011.

**ADJOURNMENT**

At 9:20 P.M., on motion of Senator VERDIN, the Senate adjourned to meet tomorrow at 10:00 A.M.

\* \* \*