**Thursday, April 26, 2012**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

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

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

In Ecclesiastes we read:

“For everything there is a season... a time to weep, and a time to laugh...” (Ecclesiastes 3:1a, 4a)

Please join your heart with mine as we pray:

Dear God, the pressures on the members of this Senate are indeed great. Their “to-do-lists” are seemingly endless. The expectations of so many--of groups and of individuals--are sky high. The tensions are frequently palpable. In the midst of all of the pressures that crowd upon them, dear Lord, we pray that the members of this body and their staff members will not forget one of Your great gifts to us all: the gift of laughter. May these Senators often find real joy in the work they do, and may their occasional laughter draw them closely together. In Your loving name we pray, dear Lord.

Amen.

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

**Point of Quorum**

At 11:04 A.M., Senator LARRY MARTIN made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Elliott

Fair Gregory Grooms

Leventis *Martin, Larry Martin, Shane*

Massey Matthews Nicholson

O'Dell Rose Scott

Setzler Sheheen Thomas

Verdin Williams

A quorum being present, the Senate resumed.

**Recorded Presence**

Senators COLEMAN, FORD, HAYES, HUTTO, KNOTTS, MALLOY, McGILL, PEELER, RYBERG and LEATHERMAN recorded their presence subsequent to the Call of the Senate.

**Doctor of the Day**

Senator THOMAS introduced Dr. John Rutledge of Simpsonville, S.C., Doctor of the Day.

**Leave of Absence**

On motion of Senator MALLOY, at 11:05 A.M., Senator PINCKNEY was granted a leave of absence until 12:30 P.M.

**Leave of Absence**

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

**Leave of Absence**

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

**Leave of Absence**

On motion of Senator SHANE MARTIN, at 11:05 A.M., Senator SHOOPMAN was granted a leave of absence for today.

**Leave of Absence**

On motion of Senator HUTTO, at 1:30 P.M., Senator RANKIN was granted a leave of absence for the balance of the day.

**Leave of Absence**

At 2:30 P.M., Senator O’DELL requested a leave of absence until 11:00 A.M. on Tuesday, May 1, 2012.

**Leave of Absence**

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

**Expression of Personal Interest**

Senator CAMPSEN rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator KNOTTS rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator MALLOY rose for an Expression of Personal Interest.

**CO-SPONSORS ADDED**

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

S. 10 Sen. Hayes

S. 149 Sens. Grooms, Hayes

S. 427 Sen. Alexander

S. 428 Sens. Alexnder, Knotts

S. 429 Sen. Ford

S. 746 Sen. Hayes

S. 1015 Sen. Alexander

S. 1100 Sen. Ford

S. 1331 Sen. Ford

S. 1353 Sen. Knotts

S. 1467 Sen. Ford

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1490 -- Senator Davis: A SENATE RESOLUTION TO SUPPORT THE EFFORTS OF THE SOUTH CAROLINA OLYMPIA COMMITTEE, INC. TO BRING THE USS OLYMPIA TO A PERMANENT HOME AT THE HISTORIC DRY DOCK OF MARINE CORPS RECRUIT DEPOT, PARRIS ISLAND.

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The Senate Resolution was adopted.

S. 1491 -- Senator Lourie: A SENATE RESOLUTION TO CONGRATULATE TERECIA WEBB WILSON OF NEWBERRY COUNTY, TRAINING, SAFETY AND SECURITY PROGRAM MANAGER FOR THE OFFICE OF PUBLIC TRANSIT IN THE DIVISION OF INTERMODAL AND FREIGHT PROGRAMS FOR THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, UPON THE OCCASION OF HER RETIREMENT, TO COMMEND HER FOR HER MANY YEARS OF SERVICE TO THE CITIZENS OF THIS GREAT STATE, AND TO WISH HER CONTINUED SUCCESS AND FULFILLMENT IN ALL HER FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 1492 -- Senator Bryant: A BILL TO PROVIDE THAT THE DESIGNATED PARCELS OF PROPERTY IN ANDERSON COUNTY ARE MADE A PART OF ANDERSON COUNTY SCHOOL DISTRICT FIVE.

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

S. 1493 -- Senator Malloy: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE HARTSVILLE HIGH SCHOOL BASKETBALL TEAM FOR A SUCCESSFUL SEASON AND TO COMMEND ITS OUTSTANDING PLAYERS AND COACHES FOR CAPTURING THE 2012 CLASS AAA STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

H. 5179 -- Reps. Weeks, G. M. Smith, Sabb, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, 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, Johnson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pinson, Pitts, Pope, Putnam, Quinn, Rutherford, Ryan, Sandifer, Sellers, Simrill, Skelton, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Vick, Whipper, White, Whitmire, Williams, Willis and Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR HUBERT DUVALL OSTEEN, JR., OF SUMTER FOR A LIFETIME OF SERVICE IN JOURNALISM, AND TO CONGRATULATE HIM UPON RECEIVING THE SOUTH CAROLINA PRESS ASSOCIATION DISTINGUISHED SERVICE AWARD.

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

**Message from the House**

Columbia, S.C., April 26, 2012

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has appointed Reps. J.M. Neal, Owens and Patrick to the Committee of Conference on the part of the House on:

H. 3241 -- Reps. Owens, Stringer, G.R. Smith, Harrison, Daning, Hamilton, Bingham, Long, Henderson, Atwater, Lucas, Clemmons, Cooper, Horne, Simrill, D.C. Moss, Sandifer, Harrell, Erickson, Norman, Barfield and Loftis: A BILL TO AMEND CHAPTER 40, TITLE 59 OF THE 1976 CODE RELATED TO CHARTER SCHOOLS, TO PROVIDE FOR AMENDED DEFINITIONS, SPONSORSHIP, APPLICATION AND CONVERSION PROCEDURES, POWERS, DUTIES, REGULATIONS, ENROLLMENT LIMITS, LIABILITY, AND RETIREMENT SYSTEM AVAILABILITY FOR CERTAIN EMPLOYEES; AND TO REVISE THE MEMBERSHIPS OF THE CHARTER SCHOOL ADVISORY COMMITTEE AND THE BOARD OF TRUSTEES OF THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL. *(ABBREVIATED TITLE)*

Very respectfully,

Speaker of the House

Received as information.

**H. 3241--COMMITTEE OF CONFERENCE REAPPOINTED**

Whereupon, Senators MATTHEWS, HAYES and FAIR were appointed to the Committee of Conference on the part of the Senate and a message was sent to the House accordingly.

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

**THIRD READING BILLS**

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

S. 1431 -- Senators Leatherman, Campbell, Grooms, Alexander, L. Martin, Coleman, Ford, Cleary, Hutto, McGill, Nicholson, Anderson, Williams, Pinckney, Hayes, O’Dell, Land, Malloy, Jackson, Matthews, Elliott, Setzler, Fair, Reese, Lourie and Sheheen: A BILL TO AMEND ACT 1377 OF 1968, AS AMENDED, RELATING TO THE ISSUANCE OF STATE CAPITAL IMPROVEMENT BONDS, SO AS TO AUTHORIZE ADDITIONAL PROJECTS AND CONFORM THE AGGREGATE PRINCIPAL INDEBTEDNESS AMOUNT TO THE ADDITIONAL AMOUNTS AUTHORIZED BY THIS ACT.

**S. 1431--Recorded Vote**

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

S. 1479 -- Senator Land: A BILL TO AMEND ACT 375 OF 1947, AS AMENDED, RELATING TO THE CLARENDON HOSPITAL DISTRICT, SO AS TO PROVIDE THAT EIGHT MEMBERS OF THE BOARD OF TRUSTEES ARE APPOINTED BY THE GOVERNOR UPON RECOMMENDATION OF A MAJORITY OF THE GOVERNING BODY OF CLARENDON COUNTY.

By prior motion of Senator LAND

**READ THE SECOND TIME**

S. 1471 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION - DIVISION OF LABOR, RELATING TO LICENSING AND PERMITTING FEES; LICENSING REQUIREMENTS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4238, 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 MASSEY 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 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Elliott

Fair Ford Gregory

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O'Dell Peeler Reese

Rose Ryberg Scott

Setzler Sheheen Thomas

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

H. 3923 -- Rep. Parker: A BILL TO AMEND SECTION 7‑7‑490, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN SPARTANBURG COUNTY, SO AS TO RENAME THE INMAN MILLS BAPTIST VOTING PRECINCT THE GREATER ST. JAMES VOTING PRECINCT AND REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Senator LARRY MARTIN explained the Bill.

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

**Ayes 35; Nays 0**

**AYES**

Alexander Bright Bryant

Campsen Courson Cromer

Davis Fair Ford

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McGill

Nicholson Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Thomas

Verdin Williams

**Total--35**

**NAYS**

**Total--0**

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

**AMENDED, READ THE SECOND TIME**

H. 4906 -- Rep. J.E. Smith: A JOINT RESOLUTION TO EXTEND THE DEADLINE FOR THE VETERANS’ ISSUES STUDY COMMITTEE TO SUBMIT ITS WRITTEN REPORT FROM JANUARY 31, 2012, TO JANUARY 31, 2013.

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

Senator ALEXANDER proposed the following amendment (NBD\12381AC12), which was adopted:

Amend the joint resolution, as and if amended, Section 1 on page 1, lines 20-21 by deleting /January 31, 2013/ and inserting /January 31, 2016/.

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER explained the amendment.

The amendment was adopted.

The question then was second reading of the Joint Resolution.

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

**Ayes 35; Nays 0**

**AYES**

Alexander Bright Bryant

Campsen Courson Cromer

Davis Fair Ford

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McGill

Nicholson Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Thomas

Verdin Williams

**Total--35**

**NAYS**

**Total--0**

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

**AMENDED, READ THE SECOND TIME**

S. 149 -- Senators Campsen, Rose, McConnell, Ryberg, Fair, Massey, Leventis, Bryant, Davis, Shoopman, Grooms and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “EQUAL ACCESS TO INTERSCHOLASTIC ACTIVITIES ACT” BY ADDING SECTION 59‑63‑100 SO AS TO PERMIT HOME SCHOOL STUDENTS, GOVERNOR’S SCHOOL STUDENTS, AND CHARTER SCHOOL STUDENTS TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES OF THE SCHOOL DISTRICT IN WHICH THE STUDENT RESIDES PURSUANT TO CERTAIN CONDITIONS.

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

There was no objection.

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

Senator HUTTO proposed the following amendment (149R001.CBH), which was adopted:

Amend the bill, as and if amended, page 1, by striking lines 35-36 and inserting:

/ (3) ‘Home school student’ is a child taught in accordance with Section 59‑65‑40, 59‑65‑45, or 59‑65‑47 and has been taught in accordance with one of these sections for a full academic year prior to participating in an interscholastic activity pursuant to this section. /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO 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 36; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Gregory Grooms Hayes

Hutto Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McGill

Nicholson O'Dell Peeler

Reese Rose Ryberg

Scott Setzler Sheheen

Thomas Verdin Williams

**Total--36**

**NAYS**

**Total--0**

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

**S. 149--Ordered to a Third Reading**

On motion of Senator KNOTTS, with unanimous consent, S. 149 was ordered to receive a third reading on Friday, April 27, 2012.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

S. 746 -- Senators Lourie, Hutto, Fair, L. Martin, Rose, O’Dell, Ford, Cromer and Hayes: A BILL TO AMEND TITLE 56 OF THE 1976 CODE, RELATING TO SUSPENSION OF A DRIVER’S LICENSE AND PENALTIES FOR CERTAIN ALCOHOL AND DRUG RELATED DRIVING OFFENSES, TO AMEND PENALTIES RELATING TO THE IMPOSITION OF AN IGNITION INTERLOCK DEVICE. *(ABBREVIATED TITLE)*

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

Senator MALLOY proposed the following amendment (JUD0746.003), which was adopted:

Amend the committee report, as and if amended, page [746-18], by striking lines 11-22, and inserting:

/ (a) six months for ~~the~~ a first conviction, plea of guilty or of nolo contendere, or forfeiture of bail. In lieu of a suspension, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time the person would have otherwise been subject to suspension. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and can not subsequently choose to serve the suspension; / Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the perfecting amendment.

The amendment was adopted.

**Recorded Vote**

Senators SETZLER, ALEXANDER, FAIR and CROMER desired to be recorded as voting against the adoption of the amendment.

The question then was the adoption of the committee amendment.

The Committee on Judiciary proposed the following amendment (JUD0746.002), which was adopted:

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

/ SECTION 1. Section 56‑1‑286(F) of the 1976 Code is amended to read:

“(F)(1) ~~If~~ Except as provided in subitem (F)(2), if a person refuses upon the ~~request of the~~ primary investigating ~~officer~~ officer’s request to submit to chemical tests as provided in subsection (C), the department ~~must~~ shall suspend ~~his~~ the person’s license, permit, or ~~any~~ nonresident operating privilege, or deny the issuance of a license or permit to ~~him~~ the person for:

~~(1)~~(a) six months; or

~~(2)~~(b) one year, if the person, within the five years preceding the violation of this section, has been previously convicted of violating Section 56‑5‑2930, 56‑5‑2933, ~~or~~ 56‑5‑2945, or ~~any other~~ a law of ~~this State or~~ another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or ~~another drug~~ other drugs, or the person has had a previous suspension imposed pursuant to Section 56‑1‑286, ~~56‑5‑2950, or~~ 56‑5‑2951, or 56-5-2990.

(2) In lieu of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time the person would have otherwise been subject to suspension or denial of the issuance of a license or permit. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and can not subsequently choose to serve the suspension.”

SECTION 2. Section 56‑1‑286(G) of the 1976 Code is amended to read:

“(G)(1) ~~If~~ Except as provided in subitem (G)(2), if a person submits to a chemical test and the test result indicates an alcohol concentration of two one‑hundredths of one percent or more, the department ~~must~~ shall suspend ~~his~~ the person’s license, permit, or ~~any~~ nonresident operating privilege, or deny the issuance of a license or permit to ~~him~~ the person for:

~~(1)~~(a) three months; or

~~(2)~~(b) six months, if the person, within the five years preceding the violation of this section, has been previously convicted of violating Section 56‑5‑2930, 56‑5‑2933, ~~or~~ 56‑5‑2945, or ~~any other~~ a law of ~~this State or~~ another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or ~~another drug~~ other drugs, or the person has had a previous suspension imposed pursuant to Section 56‑1‑286, ~~56‑5‑2950, or~~ 56‑5‑2951, or 56-5-2990.

(2) In lieu of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time the person would have otherwise been subject to suspension or denial of the issuance of a license or permit. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and can not subsequently choose to serve the suspension.”

SECTION 3. Section 56‑1‑286(I) of the 1976 Code is amended to read:

“(I) A test may not be administered or samples taken unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

(1) ~~he~~ the person does not have to take the test or give the samples but that ~~his~~ the person’s privilege to drive must be suspended or denied for at least six months or, as an alternative, the person may enroll in the Ignition Interlock Device Program for at least six months, if ~~he~~ the person refuses to submit to the tests, and that ~~his~~ the person’s refusal may be used against ~~him~~ the person in court;

(2) ~~his~~ the person’s privilege to drive must be suspended for at least three months or, as an alternative, the person may enroll in the Ignition Interlock Device Program for at least three months, if ~~he~~ the person takes the test or gives the samples and has an alcohol concentration of two one‑hundredths of one percent or more;

(3) ~~he~~ the person has the right to have a qualified person of ~~his~~ the person’s own choosing conduct additional independent tests at ~~his~~ the person’s expense;

(4) ~~he~~ the person has the right to request ~~an administrative~~ a contested hearing within thirty days of the issuance of the notice of suspension; and

(5) ~~he~~ the person ~~must~~ shall enroll in an Alcohol and Drug Safety Action Program within thirty days of the issuance of the notice of suspension if ~~he~~ the person does not request an administrative hearing or within thirty days of the issuance of notice that the suspension has been upheld at the ~~administrative~~ contested hearing.

The primary investigating officer ~~must notify~~ shall promptly notify the department of ~~the~~ a person’s refusal ~~of a person~~ to submit to a test requested pursuant to this section as well as the test result of ~~any~~ a person who submits to a test pursuant to this section and registers an alcohol concentration of two one‑hundredths of one percent or more. The notification must be in a manner prescribed by the department.”

SECTION 4. Section 56‑1‑400 of the 1976 Code is amended to read:

“Section 56-1-400. (A) The Department of Motor Vehicles, upon suspending or revoking a license, shall require that ~~such~~ the license ~~shall~~ be surrendered to the Department of Motor Vehicles. At the end of the suspension period ~~of suspension~~, other than a suspension for reckless driving, driving under the influence of intoxicants, or pursuant to the point system ~~such license so~~ the surrendered license ~~shall~~ must be returned to the licensee, or in the discretion of the Department of Motor Vehicles, a new license issued to ~~him~~ the licensee. The Department of Motor Vehicles shall not return nor restore a license which has been suspended for reckless driving, driving under the influence of intoxicants, or for violations under the point system until the person has filed an application for a new license, submitted to an examination as upon an original application, and has satisfied the Department of Motor Vehicles, after an investigation of the person’s character, habits, and driving ability ~~of the person~~, that it would be safe to grant ~~him~~ the person the privilege of driving a motor vehicle on the public highways. ~~Provided, the~~ The Department of Motor Vehicles, ~~in its discretion,~~ where the suspension is for a violation under the point system, may waive ~~such~~ the examination, application, and investigation. A record of the suspension ~~shall~~ must be endorsed on the license returned to the licensee, or the new license issued to the licensee, showing the grounds of ~~such~~ the suspension. ~~In the case of a license suspended for driving under the influence of intoxicants~~ If a person is permitted to operate a motor vehicle only with an ignition interlock device installed pursuant to Section 56-5-2941, the restriction on the license returned to the licensee, or the new license issued to the licensee, must conspicuously identify the licensee as a person who may only drive a motor vehicle with an ignition interlock device installed and the restriction must be maintained on the license for the duration of the period for which the ignition interlock device must be maintained pursuant to Section ~~56‑5‑2941~~ 56-1-286, 56-5-2945, 56-5-2951, or 56-5-2990. For purposes of Title 56, the license must be referred to as an ignition interlock restricted license. Unless the person establishes that ~~he~~ the person is entitled to the exemption set forth in subsection (B), no ignition interlock restricted license ~~containing an ignition interlock device restriction shall~~ may be issued by the Department of Motor Vehicles without written notification from the authorized ignition interlock service provider that the ignition interlock device has been installed and confirmed to be in working order. If a person chooses to not have an ignition interlock device installed when required by law, the license will remain suspended ~~for three years from the date the suspension for driving under the influence of intoxicants ends~~ indefinitely. If ~~during this three‑year period~~ the person subsequently decides to have the ignition interlock device installed, the device must be installed for the ~~full suspension period or until the end of the three‑year period, whichever comes first~~ length of time set forth in Section 56‑1‑286, 56‑5‑2945, 56‑5‑2951, or 56‑5‑2990. This provision ~~shall~~ does not affect nor bar the reckoning of prior offenses for reckless driving and driving under the influence of intoxicating liquor or narcotic drugs, as provided in Article 23 of Chapter 5 of this title.

(B) A person who does not own a vehicle, as shown in the Department of Motor Vehicles’ records, and who certifies that ~~he~~ the person:

(1) cannot obtain a vehicle owner’s permission to have an ignition interlock device installed on a vehicle;

(2) will not be driving ~~any~~ a vehicle other than the one owned by ~~his~~ the person’s employer; and

(3) ~~that he~~ will not own a vehicle during the interlock period, may petition the Department of Motor Vehicles, on a form provided by ~~it~~ the department, for issuance of ~~a~~ an ignition interlock restricted license ~~containing an ignition interlock device restriction,~~ that permits the person to operate a vehicle specified by the employee according to the employer’s needs as contained in the employer’s statement during the days and hours specified in the employer’s statement without having to show that an ignition interlock device has been installed. The form must contain:

(1) identifying information about the employer’s noncommercial vehicles the person will be operating;

(2) a statement that explains the circumstances in which the person will be operating the employer’s vehicles; and

(3) the notarized signature of the person’s employer.

This subsection does not apply during the first three hundred and twenty days a person who is convicted, pleads guilty or nolo contendere, or forfeits bail for a second or subsequent conviction of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, is required to have an ignition interlock installed pursuant to Section 56-5-2945 or 56-5-2990. The determination of eligibility for ~~this~~ the waiver is subject to periodic review at the discretion of the Department of Motor Vehicles. The Department of Motor Vehicles ~~must~~ shall revoke a ~~license~~ waiver issued pursuant to this exemption if ~~it~~ the department determines that the person has been driving a vehicle other than the one owned by ~~his~~ the person’s employer or has been operating the person’s employer’s vehicle outside the locations, days, or hours specified by the employer in the department’s records. The person may seek relief from the Department of Motor Vehicle's determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings. However, the filing of a request for a contested case hearing will not stay the revocation of the waiver pending the hearing.

(C) Any person whose license has been suspended or revoked for an offense within the jurisdiction of the court of general sessions shall provide the Department of Motor Vehicles with proof that the fine owed by the person has been paid before the Department of Motor Vehicles may return or issue the person a license. Proof that the fine has been paid may be a receipt from the clerk of court of the county in which the conviction occurred stating that the fine has been paid in full.”

SECTION 5. Section 56‑1‑748 of the 1976 Code is amended to read:

“Section 56-1-748. No person issued a restricted driver’s license under the provisions of Section 56‑1‑170(B), ~~Section~~ 56‑1‑320(A), ~~Section~~ 56‑1‑740(B), ~~Section~~ 56‑1‑746 (D), ~~Section~~ 56‑5‑750(G), ~~Section~~ 56‑9‑430(B), ~~Section~~ 56‑10‑260(B), ~~Section~~ 56‑10‑270(C), or ~~Section~~ 56‑5‑2951~~(H)~~ shall subsequently be eligible for issuance of a restricted driver’s license under these provisions.”

SECTION 6. Section 56‑1‑1320(A) of the 1976 Code is amended to read:

“(A) ~~A~~ For offenses that occurred prior to July 2, 2013, a person with a South Carolina driver’s license, a person who had a South Carolina driver’s license at the time of the offense referenced below, or a person exempted from the licensing requirements by Section 56‑1‑30, who is or has been convicted of a first offense violation of ~~an ordinance of a municipality, or~~ a law of this State~~,~~ that prohibits a person from operating a vehicle while under the influence of intoxicating liquor, drugs, or narcotics, including Section 56‑5‑2930 and ~~Section~~ 56‑5‑2933, and whose license is not presently suspended for any other reason, may apply to the Department of Motor Vehicles to obtain a provisional driver’s license of a design to be determined by the department to operate a motor vehicle. The person shall enter an Alcohol and Drug Safety Action Program as provided for in Section 56‑1‑1330, shall furnish proof of responsibility as provided for in Section 56‑1‑1350, and shall pay to the department a fee of one hundred dollars for the provisional driver’s license. The provisional driver’s license is not valid for more than six months from the date of issue shown on the license. ~~The determination of whether or not a provisional driver’s license may be issued pursuant to the provisions of this article as well as reviews of cancellations or suspensions under Sections 56‑1‑370 and 56‑1‑820 must be made by the director of the department or his designee.~~”

SECTION 7. Section 56‑5‑2941 of the 1976 Code is amended to read:

“Section 56-5-2941. (A) ~~Except as otherwise provided in this section, in addition to the penalties required and authorized to be imposed against a person violating the provisions of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, or violating the provisions of another law of any other state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs~~ Pursuant to Section 56-5-2945 and 56-5-2990, the Department of Motor Vehicles ~~must~~ shall require ~~the~~ a person~~, if he is a subsequent offender and a resident of this State,~~ who has violated the provisions of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs to have installed on any motor vehicle the person drives an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. The Department of Motor Vehicles may waive the requirements of this section if ~~it~~ the department ~~finds~~ determines that the ~~offender~~ person has a medical condition that makes ~~him~~ the person incapable of properly operating the installed ignition interlock device. In such case, the Department of Motor Vehciles shall suspend the person’s driver’s license pursuant to Section 56-5-2945 and 56-5-2990. The Department of Motor Vehicles shall also require a person who has enrolled in the Ignition Interlock Device Program in lieu of a driver’s license suspension or denial of the issuance of a driver’s license or permit pursuant to Section 56-1-286, 56-5-2945, 56-5-2951, 56-5-2990 to have an ignition interlock device installed on any motor vehicle the person drives. The length of time that an ignition interlock device is required to be affixed to a motor vehicle is set forth in Section 56-1-286, 56-5-2945, 56-5-2951, and 56-5-2990 ~~following the completion of a period of license suspension imposed on the offender is two years for a second offense, three years for a third offense, and the remainder of the offender’s life for a fourth or subsequent offense~~.

(B) Notwithstanding the pleadings, for purposes of a second or a subsequent offense, the specified length of time that an ignition interlock device is required to be affixed to a motor vehicle is based on the Department of Motor Vehicle's records for offenses pursuant to Section 56-1-286, Section 56‑5‑2930, 56‑5‑2933, ~~or~~ 56‑5‑2945, or 56-5-2950.

~~(B)~~(C) If a ~~person who is a subsequent offender and a~~ resident of this State is convicted of violating ~~the provisions of~~ a law of ~~any other~~ another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, and, as a result of the conviction, the person is subject to an ignition interlock device requirement in the other state, the person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

~~(C)~~(D) If a person from another state becomes a resident of South Carolina while subject to an ignition interlock device requirement in another state, the person may only obtain a South Carolina driver’s license if the person enrolls in the South Carolina ~~ignition interlock device program~~ Ignition Interlock Device Program pursuant to this section. The person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

~~(D)~~(E) The ~~offender~~ person shall be subject to an Ignition Interlock Device Point System managed by the Department of Probation, Parole and Pardon Services.

(1) ~~An offender~~ A person receiving a total of:

(a) two points will have ~~their~~ the length of time that the ignition interlock device is required extended by two months~~.~~;

(b) ~~An offender receiving a total of~~ three points will have ~~their~~ the length of time that the ignition interlock device is required extended by four months, ~~and must~~ shall submit to a substance abuse assessment pursuant to Section 56‑5‑2990, and successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the ~~individual~~ person not complete the recommended plan, or not make progress toward completing the plan, the Department of Motor Vehicles ~~must~~ shall suspend the ~~individual’s driver’s~~ person’s ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan~~.~~;

(c) ~~An offender receiving a total of~~ four points ~~shall~~ will have ~~their~~ the person’s ignition interlock restricted license suspended for a period of ~~one year~~ three months, ~~and~~ shall submit to a substance abuse assessment pursuant to Section 56‑5‑2990, and successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. ~~Completion of the plan is mandatory as a condition of reinstatement of the person’s driving privileges.~~ Should the person not complete the recommended plan, or not make progress toward completing the plan, the Department of Motor Vehicles shall leave the person’s ignition interlock restricted license in suspended status, or, if the license has already been reinstated following the three month suspension, shall re-suspend the person’s ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan. The Department of Alcohol and Other Drug Abuse Services is responsible for notifying the Department of Motor Vehicles of ~~an individual’s~~ a person’s completion and compliance with education and treatment programs. Upon reinstatement of driving privileges following the three month suspension, the Department of Probation, Parole and Pardon Services shall reset the person’s point total to zero points.

~~(E)~~(F) The cost of the ignition interlock device must be borne by the ~~offender~~ person. However, if the ~~offender~~ ~~believes he~~ person is indigent and cannot afford the cost of the ignition interlock device, the ~~offender~~ person may submit an affidavit of indigency to the Department of Probation, Parole and Pardon Services for a determination of indigency as it pertains to the cost of the ignition interlock device. The affidavit of indigency form must be made publicly accessible on the Department of Probation, Parole and Pardon Services’ Internet web site. If the Department of Probation, Parole and Pardon Services determines that the ~~offender~~ person is indigent as it pertains to the ignition interlock device, ~~it~~ the Department of Probation, Parole and Pardon Services may authorize an ignition interlock device to be affixed to the motor vehicle and the cost of the initial installation and standard use of the ignition interlock device to be paid for by the Ignition Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services. Funds remitted to the Department of Probation, Parole and Pardon Services for the Ignition Interlock Device Fund may also be used by the Department of Probation, Parole and Pardon Services to support the Ignition Interlock Device Program. For purposes of this section, a person is indigent if the person is financially unable to afford the cost of the ignition interlock device. In making a determination whether a person is indigent, all factors concerning the person’s financial conditions should be considered including, but not limited to, income, debts, assets, number of ~~dependants~~ dependents claimed for tax purposes, living expenses, and family situation. A presumption that the person is indigent is created if the person’s net family income is less than or equal to the poverty guidelines established and revised annually by the United States Department of Health and Human Services published in the Federal Register. ‘Net income’ means gross income minus deductions required by law. The determination of indigency is subject to periodic review at the discretion of the Department of Probation, Parole and Pardon Services.

~~(F)~~(G) The ignition interlock service provider ~~must~~ shall collect and remit monthly to the Ignition Interlock Device Fund a fee as determined by the Department of Probation, Parole and Pardon Services not to exceed ~~three hundred sixty~~ thirty dollars per ~~year~~ month for each ~~year~~ month the person is required to drive a vehicle with an ignition interlock device. Any ignition interlock service provider failing to properly remit funds to the Ignition Interlock Device Fund may be decertified as an ignition interlock service provider by the Department of Probation, Parole and Pardon Services. If a service provider is decertified for failing to remit funds to the Ignition Interlock Device Fund, the cost for removal and replacement of an ignition interlock device must be borne by the service provider.

~~(G)~~(H) The ~~offender must~~ person shall have the ignition interlock device inspected every sixty days to verify that the ignition interlock device is affixed to the motor vehicle and properly operating, and to allow for the preparation of an ignition interlock device inspection report by the service provider indicating the ~~offender’s~~ person’s alcohol content at each attempt to start and running ~~re‑test~~ retest during each sixty‑day period. Only a service provider authorized by the Department of Probation, Parole and Pardon Services to perform inspections on ignition interlock devices may conduct inspections. The service provider immediately ~~must~~ shall report any devices that fail inspection to the Department of Probation, Parole and Pardon Services. The report must contain the name of the ~~offender~~ person, identify the vehicle upon which the failed device is installed and the reason for the failed inspection, and indicate the ~~offender’s~~ person’s alcohol content at each attempt to start and running ~~re‑test~~ retest during each sixty‑day period. Failure of the ~~offender~~ person to have the ignition interlock device inspected every sixty days will result in one ignition interlock device point. ~~Upon review of the interlock device inspection report, if the report reflects that the offender attempted to start the motor vehicle with an alcohol concentration of two one‑hundredths of one percent or more, the offender is assessed one‑half interlock device point.~~ Upon review of the ignition interlock device inspection report, if the report reflects that the ~~offender~~ person violated a running ~~re‑test~~ retest by having an alcohol concentration between two one‑hundredths of one percent and less than four one‑hundredths of one percent, the ~~offender~~ person is assessed one‑half ignition interlock device point. Upon review of the ignition interlock device inspection report, if the report reflects that the ~~offender~~ person violated a running ~~re‑test~~ retest by having an alcohol concentration between four one‑hundredths of one percent and less than fifteen one‑hundredths of one percent, the ~~offender~~ person is assessed one ignition interlock device point. Upon review of the ignition interlock device inspection report, if the report reflects that the ~~offender~~ person violated a running ~~re‑test~~ retest by having an alcohol concentration above fifteen one‑hundredths of one percent, the ~~offender~~ person is assessed two ignition interlock device points. Upon review of the ignition interlock device inspection report, if the report reflects that the person has failed to complete a running retest, the person must be assessed one ignition interlock device point. ~~An individual~~ A person may appeal any ignition interlock device points received to an administrative hearing officer with the Department of Probation, Parole and Pardon Services through a process established by the Department of Probation, Parole and Pardon Services. The administrative hearing officer’s decision on appeal ~~shall be~~ is final and no appeal from such decision ~~shall be~~ is allowed.

~~(H)~~(I) Ten years from the date of the person’s last conviction and every five years thereafter a fourth or subsequent offender whose license has been reinstated pursuant to Section 56‑1‑385 may apply to the Department of Probation, Parole and Pardon Services for removal of the ignition interlock device and the removal of the restriction from ~~his~~ the person’s driver’s license. The Department of Probation, Parole and Pardon Services may, for good cause shown, ~~remove the device and remove the restriction~~ notify the Department of Motor Vehicles that the person is eligible to have the restriction removed from the ~~offender’s~~ person’s license.

~~(I)~~(J) Except as otherwise provided in this section, it is unlawful for a person issued ~~a driver’s license with~~ an ignition interlock ~~restriction~~ restricted license to drive a motor vehicle that is not equipped with a properly operating, certified ignition interlock device. A person who violates this ~~section must be punished in the manner provided by law~~ subsection is in violation of Section 56-1-460.

~~(J)~~(K)(1) An ~~offender that~~ person who is required in the course and scope of ~~his~~ the person’s employment to drive a motor vehicle owned by the ~~offender’s~~ person’s employer may drive ~~his~~ the employer’s motor vehicle without installation of an ignition interlock device, provided that the ~~offender’s~~ person’s use of the employer’s motor vehicle is solely for the employer’s business purposes. This subsection does not apply to ~~an offender~~ a person who is self‑employed or to ~~an offender~~ a person who is employed by a business owned in whole or in part by the ~~offender~~ person or a member of the ~~offender’s~~ person’s household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle’s ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section. This subsection also does not apply during the first three hundred and twenty days a person who is convicted, pleads guilty or nolo contendere, or forfeits bail for a second or subsequent conviction of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, is required to have an ignition interlock installed pursuant to Section 56-5-2945 or 56-5-2990.

(2) Whenever the person operates the employer’s vehicle pursuant to this subsection, the person shall have with the person a copy of the Department of Motor Vehicle’s form specified by Section 56-1-400(B).

~~(K)~~(L) It is unlawful for a person to tamper with or disable, or attempt to tamper with or disable, an ignition interlock device installed on a motor vehicle pursuant to this section. Obstructing or obscuring the camera lens of an ignition interlock device constitutes tampering. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

~~(L)~~(M) It is unlawful for a person to knowingly rent, lease, or otherwise provide ~~an offender~~ a person who is subject to the provisions of this section with a motor vehicle without a properly operating, certified ignition interlock device. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

~~(M)~~(N) It is unlawful for ~~an offender~~ a person who is subject to the provisions of this section to solicit or request another person, or for a person to solicit or request another person on behalf of ~~an offender~~ a person who is subject to the provisions of this section, to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

~~(N)~~(O) It is unlawful for another person to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

~~(O)~~(P) Only ignition interlock devices certified by the Department of Probation, Parole and Pardon Services may be used to fulfill the requirements of this section.

(1) The Department of Probation, Parole and Pardon Services ~~must~~ shall certify whether a device meets the accuracy requirements and specifications provided in guidelines or regulations adopted by the National Highway Traffic Safety Administration, as amended from time to time. All devices certified to be used in South Carolina must be set to prohibit the starting of a motor vehicle when an alcohol concentration of two one‑hundredths of one percent or more is measured and all running ~~re‑tests~~ retests must record violations of an alcohol concentration of two one‑hundredths of one percent or more and must capture a photographic image of the driver as the driver is operating the ignition interlock device. The photographic images recorded by the ignition interlock device may be used by the Department of Probation, Parole and Pardon Services to aid in the Department of Probation, parole and Pardon Services’ management of the Ignition Interlock Device Program; however, neither the Department of Probation, Parole and Pardon Services, the Department of Probation, Parole and Pardon Services’ employees, nor any other political subdivision of this State may be held liable for any injury caused by a driver or other person who operates a motor vehicle after the use or attempt to use an ignition interlock device.

(2) The Department of Probation, Parole and Pardon Services shall maintain a current list of certified ignition interlock devices and ~~their~~ manufacturers. The list must be updated at least quarterly. If a particular certified ignition interlock device fails to continue to meet federal requirements, the ignition interlock device must be decertified, may not be used until it is compliant with federal requirements, and must be replaced with ~~a~~ an ignition interlock device that meets federal requirements. The cost for removal and replacement must be borne by the manufacturer of the noncertified ignition interlock device.

(3) Only ignition interlock installers certified by the Department of Probation, Parole and Pardon Services may install and service ignition interlock devices required pursuant to this section. The Department of Probation, Parole and Pardon Services shall maintain a current list of vendors that are certified to install the ignition interlock devices.

~~(P)~~(Q) In addition to availability under the Freedom of Information Act, any Department of Probation, Parole and Pardon Services policy concerning ignition interlock devices must be made publicly accessible on the Department of Probation, Parole and Pardon ~~Service’s~~ Services’ Internet web site.

~~(Q)~~(R) The Department of Probation, Parole and Pardon Services shall develop policies including, but not limited to, the certification, use, maintenance, and operation of ignition interlock devices and the Ignition Interlock Device Fund.”

SECTION 8. Section 56‑5‑2942(D) of the 1976 Code is amended to read:

“(D) Upon notification by a court in this State or ~~by any other~~ another state of a conviction for a second or subsequent violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, the department ~~must~~ shall require the ~~person~~ convicted person, unless the convicted person is a holder of a valid ignition interlock restricted license, to surrender all license plates and vehicle registrations subject to immobilization pursuant to this section. The immobilization is for a period of thirty days to take place during the driver’s license suspension pursuant to a conviction for a second or subsequent violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945. The department ~~must~~ shall maintain a record of all vehicles immobilized pursuant to this section.”

SECTION 9. Section 56‑5‑2945(B) of the 1976 Code is amended to read:

“(B)(1) As used in this section, ‘great bodily injury’ means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) The Department of Motor Vehicles ~~must~~ shall suspend the driver’s license of a person who is convicted or who receives a sentence upon a plea of guilty or nolo contendere pursuant to this section for a period to include a period of incarceration plus:

(a) for a first offense, three years ~~for a conviction of Section 56‑5‑2945~~ when ~~"~~great bodily injury~~"~~ occurs and five years when a death occurs. ~~This~~ The period of incarceration ~~shall~~ must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident ~~shall~~ must run concurrently. In lieu of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time the person would have otherwise been subject to suspension or denial of the issuance of a license or permit; however, the person is not required to have an ignition interlock device affixed to the motor vehicle during a period of incarceration. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and can not subsequently choose to serve the suspension; and

(b) for a second or subsequent offense, forty-five days followed by a requirement that the person have an ignition interlock device installed for three years when great bodily injury occurs and five years when a death occurs. During the first three hundred and twenty days, the person must be restricted to driving to and from work, school, an alcohol treatment program, or an ignition interlock service provider. The ignition interlock device must be administered pursuant to the provisions of Section 56-5-2941. The Department of Motor Vehicles may waive the requirement if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed ignition interlock device. In such case, the department shall suspend the person’s driver’s license for three years when great bodily injury occurs and five years when a death occurs. The period of incarceration must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident must run concurrently.”

SECTION 10. Section 56‑5‑2950(B) of the 1976 Code is amended to read:

“(B) No tests may be administered or samples obtained unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

(1) ~~he~~ the person does not have to take the test or give the samples, but that ~~his~~ the person’s privilege to drive must be suspended or denied for at least six months or, as an alternative, the person may enroll in the Ignition Interlock Device Program for at least six months, if ~~he~~ the person refuses to submit to the test, and that ~~his~~ the person’s refusal may be used against ~~him~~ the person in court;

(2) ~~his~~ the person’s privilege to drive must be suspended for at least one month or, as an alternative for a second or subsequent offense, the person may enroll in the Ignition Interlock Device Program for at least two months, if ~~he~~ the person takes the test or gives the samples and has an alcohol concentration of fifteen one‑hundredths of one percent or more;

(3) ~~he~~ the person has the right to have a qualified person of ~~his~~ the person’s own choosing conduct additional independent tests at ~~his~~ the person’s expense;

(4) ~~he~~ the person has the right to request ~~an administrative~~ a contested hearing within thirty days of the issuance of the notice of suspension; and

(5) if ~~he~~ the person does not request an administrative hearing or if ~~his~~ the person’s suspension is upheld at the ~~administrative~~ contested hearing, ~~he~~ the person must enroll in an Alcohol and Drug Safety Action Program.”

SECTION 11. Section 56‑5‑2951(I) of the 1976 Code is amended to read:

“(I)(1) ~~The~~ Except as provided in subitem (I)(3), the period of a driver’s license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, an arrested person who has no previous convictions for violating Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, or ~~any other~~ a law of ~~this State or~~ another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or ~~another drug~~ other drugs within the ten years preceding a violation of this section, and who has had no previous suspension imposed pursuant to Section ~~56-5-2950~~ 56-1-286, 56-5-2945, ~~or~~ 56‑5‑2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) six months for a person who refuses to submit to a test pursuant to Section 56‑5‑2950; or

(b) one month for a person who takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more.

(2) The period of a driver’s license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, an arrested person who has been convicted previously for violating Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, or any other law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or another drug within the ten years preceding a violation of this section, or who has had a previous suspension imposed pursuant to Section ~~56‑5‑2950~~ 56‑1‑286, 56‑5‑2945, ~~or~~ 56‑5‑2951, or 56‑5‑2990, within the ten years preceding a violation of this section is:

(a) for a second offense, nine months if ~~he~~ the person refuses to submit to a test pursuant to Section 56‑5‑2950 or two months if ~~he~~ the person takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more;

(b) for a third offense, twelve months if ~~he~~ the person refuses to submit to a test pursuant to Section 56‑5‑2950 or three months if ~~he~~ the person takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more; and

(c) for a fourth or subsequent offense, fifteen months if ~~he~~ the person refuses to submit to a test pursuant to Section 56‑5‑2950 or four months if ~~he~~ the person takes a test pursuant to Section 56‑5‑2950 and has an alcohol concentration of fifteen one‑hundredths of one percent or more.

(3) In lieu of a suspension or denial of the issuance of a license or permit, except a suspension or denial pursuant to subitem (I)(1)(b), a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time the person would have otherwise been subject to suspension or denial of the issuance of a license or permit; however, the person is not required to have an ignition interlock device affixed to the motor vehicle during a period of incarceration. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and can not subsequently choose to serve the suspension.”

SECTION 12. Section 56‑5‑2990(A) of the 1976 Code is amended to read:

“(A)(1) The Department of Motor Vehicles shall suspend the driver’s license of a person who is convicted, receives a sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for a violation of Section 56‑5‑2930, Section 56‑5‑2933, or ~~for the violation of another law or ordinance of this State or of a municipality of this State~~ a law of another state that prohibits a person from driving a motor vehicle while under the influence of ~~intoxicating liquor, drugs, or narcotics~~ alcohol or other drugs for:

(a) ~~six months~~ no period of time for ~~the~~ a first conviction, plea of guilty or of nolo contendere, or forfeiture of bail. However, the Department of Motor Vehicles shall require the person to have an ignition interlock device installed for six months on any motor vehicle the person drives. The ignition interlock device must be installed and maintained pursuant to the provisions of Section 56-5-2941. The department may waive the requirement if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed ignition interlock device. In such case, the department shall suspend the person’s driver’s license for six months;

(b) ~~one year~~ forty-five days for ~~the~~ a second conviction, plea of guilty or of nolo contendere, or forfeiture of bail. Following the suspension, the Department of Motor Vehicles shall require the person to have an ignition interlock device installed for two years on any motor vehicle the person drives. During the first three hundred and twenty days, the person must be restricted to driving to and from work, school, an alcohol treatment program, or an ignition interlock service provider. The ignition interlock device must be administered pursuant to the provisions of Section 56-5-2941. The department may waive the requirement if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed ignition interlock device. In such case, the department shall suspend the person’s driver’s license for two years;

(c) ~~two years~~ forty-five days for ~~the~~ a third conviction, plea of guilty or of nolo contendere, or forfeiture of bail. Following the suspension, the Department of Motor Vehicles shall require the person to have an ignition interlock device installed for three years on any motor vehicle the person drives. During the first three hundred and twenty days, the person must be restricted to driving to and from work, school, an alcohol treatment program, or an ignition interlock service provider. The ignition interlock device must be administered pursuant to the provisions of Section 56-5-2941. The department may waive the requirement if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed ignition interlock device. In such case, the department shall suspend the person’s driver’s license for three years; and

(d) a permanent revocation of the driver’s license for ~~the~~ a fourth or subsequent conviction, plea of guilty or of nolo contendere, or forfeiture of bail. If the driver’s license is ever reinstated, the Department of Motor Vehicles shall suspend the driver’s license for forty-five days. Following the suspension, the department shall require the person to have an ignition interlock device installed for life on any motor vehicle the person drives. During the first three hundred and twenty days, the person must be restricted to driving to and from work, school, an alcohol treatment program, or an ignition interlock service provider. The ignition interlock device must be administered pursuant to the provisions of Section 56‑5‑2941. The department may waive the requirement if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed ignition interlock device. In such case, the department shall suspend the person’s driver’s license for life.

(2) Only those violations which occurred within ten years including and immediately preceding the date of the last violation shall constitute prior violations within the meaning of this section. However, if the third conviction occurs within five years from the date of the first offense, then the department shall suspend the driver’s license for ~~four years~~ forty-five days. Following the suspension, the Department of Motor Vehicles shall require the person to have an ignition interlock device installed for four years on any motor vehicle the person drives. During the first three hundred and twenty days, the person must be restricted to driving to and from work, school, an alcohol treatment program, or an ignition interlock service provider. The ignition interlock device must be administered pursuant to the provisions of Section 56‑5‑2941. The department may waive the requirement if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed ignition interlock device. In such case, the department shall suspend the person’s driver’s license for four years.

(3) A person whose license is revoked following conviction for a fourth offense as provided in this section is forever barred from being issued any license by the Department of Motor Vehicles to operate a motor vehicle except as provided in Section 56‑1‑385.”

SECTION 13. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 14. This act takes effect on July 2, 2013. /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 36; Nays 1**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Ford

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McGill Nicholson O'Dell

Peeler Reese Rose

Ryberg Scott Setzler

Sheheen Verdin Williams

**Total--36**

**NAYS**

Fair

**Total--1**

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

**S. 746--Ordered to a Third Reading**

On motion of Senator CAMPSEN, with unanimous consent, S. 746 was ordered to receive a third reading on Friday, April 27, 2012.

**READ THE SECOND TIME**

S. 427 -- Senators Hayes, Hutto, Grooms, Land, O’Dell, Ford and Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑45‑17 SO AS TO PROVIDE MINIMUM CONTINUING EDUCATION COURSE REQUIREMENTS FOR COUNTY TAX COLLECTORS AND PROVIDE EXCEPTIONS; BY ADDING SECTION 12‑59‑85 SO AS TO ALLOW A COUNTY FORFEITED LAND COMMISSION TO REFUSE TO ACCEPT TITLE TO PROPERTY WHEN REFUSAL IS IN THE PUBLIC INTEREST; AND TO AMEND SECTIONS 12‑51‑50, AS AMENDED, AND 12‑51‑70, RELATING TO DELINQUENT TAX SALES, SO AS TO PROVIDE FOR THE SALES DATE AND TO INCREASE FROM THREE HUNDRED TO ONE THOUSAND DOLLARS THE DAMAGES FOR WHICH A DEFAULTING BIDDER IS LIABLE.

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 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McGill Nicholson O'Dell

Peeler Pinckney Reese

Rose Ryberg Scott

Setzler Sheheen Thomas

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

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

**AMENDED, READ THE SECOND TIME**

S. 428 -- Senators Hayes, Hutto, Grooms, Land, O’Dell, Alexander and Knotts: A BILL TO AMEND SECTION 12‑37‑251, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CALCULATION OF ROLLBACK MILLAGE USED IN THE YEAR OF IMPLEMENTATION OF A COUNTYWIDE REASSESSMENT PROGRAM, SO AS TO REVISE THE METHOD OF CALCULATING ROLLBACK MILLAGE AND TO PROVIDE FOR THE IMPOSITION OF AN “EQUIVALENT MILLAGE” FOR MUNICIPAL PROPERTY TAX WHEN MUNICIPAL BOUNDARIES EXTEND INTO MULTIPLE COUNTIES ON DIFFERENT REASSESSMENT SCHEDULES.

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

Senator ALEXANDER proposed the following amendment (NBD\12384DG12), which was adopted:

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

/ SECTION \_\_\_. Article 1, Chapter 1, Title 6 of the 1976 Code is amended by adding:

“Section 6-1-195. A local government body must prominently display notice of the property tax exemption for a newly constructed detached single family home offered for sale by a residential builder or developer pursuant to Section 12-37-220(B)(51) in a conspicuous place at its office where a person applies for a certificate of occupancy. If the certificate of occupancy is granted, written notification of the exemption must accompany the certificate.” /

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER 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 33; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McGill Nicholson

Peeler Reese Rose

Ryberg Scott Setzler

Thomas Verdin Williams

**Total--33**

**NAYS**

**Total--0**

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

**AMENDED, READ THE SECOND TIME**

S. 1478 -- Senators Campsen and Sheheen: A BILL TO AMEND SECTIONS 56‑3‑8000 AND 56‑3‑8100 OF THE 1976 CODE, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES CREATED BY THE GENERAL ASSEMBLY AND ISSUED ON BEHALF OF A NON‑PROFIT ORGANIZATION, TO REVISE THE REQUIREMENTS PLACED UPON THE INDIVIDUALS OR ORGANIZATIONS THAT SEEK PRODUCTION OF A SPECIAL LICENSE PLATE, TO REVISE THE COST OF THE LICENSE PLATES, REVISE THE DISTRIBUTION OF FEES COLLECTED, TO REVISE THE DESIGN OF A SPECIAL LICENSE PLATE, AND TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE SPECIAL PERSONALIZED LICENSE PLATES FOR ANY SPECIAL ORGANIZATIONAL LICENSE PLATE; AND TO AMEND SECTION 56‑3‑1230, RELATING TO LICENSE PLATE SPECIFICATIONS AND THE ISSUANCE OF NEW LICENSE PLATES AND REVALIDATION STICKERS, TO PROVIDE A REFERENCE TO THE FEE CHARGED FOR THE ISSUANCE OF A REPLACEMENT LICENSE PLATE, AND TO DELETE THE PROVISION THAT ALLOWS A PORTION OF THE BIENNIAL REGISTRATION FEE BE USED TO DEFRAY THE COSTS ASSOCIATED WITH THE PRODUCTION AND ISSUANCE OF NEW LICENSE PLATES.

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

Senator CAMPSEN proposed the following amendment (1478R002.GEC), which was adopted:

Amend the bill, as and if amended, by striking SECTION 1 and SECTION 2 and inserting:

/ SECTION 1. Section 56-3-8000 of the 1976 Code is amended to read:

“Section 56-3-8000. (A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56‑3‑630, and motorcycles as defined in Section 56-3-20, registered in their names ~~which may have imprinted on the plate an emblem, a seal, or other symbol the department considers appropriate of an~~ issued on behalf of an organization which has obtained certification pursuant to either Section 501(C)(3), 501(C)(6), 501(C)(7), or 501(C)(8) of the Federal Internal Revenue Code and maintained this certification for a period of five years.

(1) The department must develop a basic plate design that will be used for all special organizational license plates. The plate must be the same size and general design of regular motor vehicle license plates but may be imprinted on the plate in an area specified by an emblem, seal, insignia, or other identifying symbol of the sponsoring organization that the department considers appropriate. No text or slogans may be added to the plate design unless they are part of the approved emblem, seal, insignia, or other identifying symbol. The standard plate design must be issued for all organizational plates newly requested. Organizational plate designs currently in production must be changed when the plate, or plate class, is replaced.

(2) The plate must be issued or revalidated for a biennial period which expires twenty-four months from the month that it was issued. The biennial fee for this special license plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee to be requested by the individual or organization seeking issuance of the plate. The initial fee amount requested may be changed only every five years from the first year the plate is issued. ~~Of the additional fee collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of producing and administering special license plates. Any of the remaining fee not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate. The special license plate must be issued or revalidated for a biennial period which expires twenty‑four months from the month it is issued.~~

(B) If the organization seeking issuance of the plate does not request an additional fee in addition to the regular registration fee, the department may collect an additional fee of ten dollars.

(C) Of the additional fee collected pursuant to subsections (A) and (B), the Comptroller General shall place sufficient funds into a special restricted account to be used by the department to defray the expenses associated with producing and administering special license plates.

(D) The remainder of additional fees collected pursuant to subsections (A) and (B) not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate, or to the general fund if no additional fee is requested by the organization.

~~(B)~~(E)(1) Before the department produces and distributes a plate pursuant to this section, it must receive~~:~~

~~(1)~~ ~~four hundred or more prepaid applications for the special license plate or four thousand~~ a non-refundable application fee of six thousand eight hundred dollars from the individual or organization seeking issuance of the license plate and a plan to market the sale of the special license plate which must be approved by the department.~~; and~~

(2) ~~a plan to market the sale of the special license plate which must be approved by the department. If the individual or organization seeking issuance of the plate submits four thousand dollars, the~~ The Comptroller General shall place ~~that money~~ the non-refundable application fee into a restricted account to be used by the department to defray the initial cost of producing the special license plate.

~~(C)~~(F) If the department receives less than three hundred biennial applications and renewals for a particular plate authorized under this section, it shall not produce additional plates in that series. The department shall continue to issue plates of that series until the existing inventory is exhausted.

~~(D)~~(G) License plates issued pursuant to this section shall not contain a reference to a private or public college or university in this State or use symbols, designs, or logos of these institutions without the institution's written authorization.

~~(E)~~(H) Before a design is approved, the organization must submit to the department written authorization ~~for the~~ of legal authority to use ~~of~~ any copyrighted or registered logo, trademark, or design, and the organization’s acceptance of legal responsibility for the use.

~~(F)~~(I)(1) The department may alter, modify, or refuse to produce any special license plate that it deems offensive or fails to meet community standards. If the department alters, modifies, or refuses to produce a special license plate, the organization or individual applying for the license plate may appeal the department's decision to a special joint legislative committee. This committee shall be comprised of two members from the House Education and Public Works Committee and two members from the Senate Transportation Committee.

(2) Appointments to the joint legislative committee shall be made by the chairmen of the House Education and Public Works Committee and the Senate Transportation Committee. The department's decision may be reversed by a majority of the joint legislative committee. If the committee reverses the department's decision, the department must issue the license plate pursuant to the committee's decision. However, the provision contained in ~~subitem (B) of this section~~ subsection (E) also must be met. The joint legislative committee may also review all license plates issued by the department and instruct the department to cease issuing or renewing a plate it deems offensive or fails to meet community standards.

~~(G)~~(J) For each new classification of special vehicle license plate including, but not limited to, motorcycle license plates, created pursuant to this section must meet the requirements of Articles 81 and 82, Chapter 3, Title 56 as appropriate.

(K) The fee required by subsection (E)(1) may be reviewed by the General Assembly no later than January 15, 2015, and every two years thereafter. The department must provide a detailed, comprehensive justification to increase the fee. Any fee increase must be introduced in a stand alone bill that must be considered separate and apart from any other matter.”

SECTION 2. Section 56-3-8100 of the 1976 Code is amended to read:

“Section 56-3-8100. (A) Before the Department of Motor Vehicles produces and distributes a special license plate created by the General Assembly after ~~January 1, 2006~~ the effective date of A. \_\_\_ of 2012, R. \_\_\_, S. 1478, it must receive:

(1) ~~four hundred prepaid applications for the special license plate or four thousand~~ a non-refundable application fee of six thousand eight hundred dollars from the individual or organization seeking issuance of the license plate; and

(2) a plan to market the sale of the special license plate which must be approved by the department~~; and~~

~~(3)~~ ~~the emblem, a seal, or other symbol to be used for the plate and, if necessary, written authorization for the department to use a logo, trademark, or design that is copyrighted or registered. If the individual or organization seeking issuance of the plate submits four thousand dollars, the Comptroller General shall place that money into a restricted account to be used by the department to defray the initial cost of producing the special license plate~~.

(B) The Comptroller General shall place the non-refundable application fee into a restricted account to be used by the department to defray the initial cost of producing the special license plate.

(C) The department must develop a basic plate design that will be used for all special organizational license plates. The plate must be the same size and general design of regular motor vehicle license plates but may be imprinted on the plate in an area specified by an emblem, seal, insignia, or other identifying symbol of the sponsoring organization that the department considers appropriate. No text or slogans may be added to the plate design unless they are part of the approved emblem, seal, insignia, or other identifying symbol. The standard plate design must be issued for all organizational plates newly requested. Organizational plate designs currently in production must be changed when the plate, or plate class, is replaced.

~~(B)~~(D) The fee for all special license plates created by the General Assembly ~~after January 1, 2006,~~ is the regular biennial registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee to be requested by the individual or organization seeking issuance of the plate. The initial fee amount requested can only be changed every five years from the first year the plate is issued. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty‑four months from the month the special license plate is issued.

(E) If the organization seeking issuance of the plate does not request an additional fee in addition to the regular registration fee, the department may collect an additional fee of ten dollars.

~~(C)~~(F) Of the additional fee collected pursuant to ~~this section~~ subsections (B) and (C), the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of producing and administering special license plates. Any of the remaining additional fee collected pursuant to subsections (B) and (C) not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate, or to the general fund, if no additional fee is requested by the organization.

~~(D)~~(G) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

~~(E)~~(H) If the department receives less than three hundred biennial applications and renewals for plates created pursuant to Article 12, Chapter 3, Title 56; Article 14, Chapter 3, Title 56; Article 31, Chapter 3, Title 56; Article 39, Chapter 3, Title 56; Article 40, Chapter 3, Title 56; Article 43, Chapter 3, Title 56; Article 45, Chapter 3, Title 56; Article 49, Chapter 3, Title 56; Article 50, Chapter 3, Title 56; Article 60, Chapter 3, Title 56; Article 70, Chapter 3, Title 56; Article 72, Chapter 3, Title 56; and Article 76, Chapter 3, Title 56, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

~~(F)~~(I) The provisions contained in subsection (A)(1) and (2) do not apply to the production and distribution of the Korean War Veterans Special License Plates contained in Article 68, Chapter 3, Title 56.

~~(G)~~(J) Each new classification of special vehicle license plate, including, but not limited to, motorcycle license plates, created pursuant to this section, must meet the requirements of Articles 81 and 82, Chapter 3, Title 56 as appropriate.

(K) The fee required by subsection (E)(1) may be reviewed by the General Assembly no later than January 15, 2015, and every two years thereafter. The department must provide a detailed, comprehensive justification to increase the fee. Any fee increase must be introduced in a stand alone bill that must be considered separate and apart from any other matter.”

SECTION 3. Chapter 3, Title 56 of the 1976 Code is amended by adding:

“Section 56-3-8150. (A) The department may issue special personalized motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names for any special organizational plate authorized pursuant to Section 56-3-8000 or any organizational plate authorized by statute.

(B) The fee for all special personalized organizational license plates created pursuant to this section is the regular biennial registration fee set forth in Article 5, Chapter 3 of this title plus an additional biennial fee of fifty dollars, in addition to any special fee associated with that plate design. The Comptroller General shall place the thirty dollars of the personalized organization plate fee in a special restricted account to be used by the department to defray the costs of its vehicle tag programs. The remaining fee must be distributed to the sponsoring organization. The department may not refund the fee once the personalized plate has been manufactured.

(C) The plate design will be identical to the design approved by the department for the organizational plate but the plate will bear the requested number or letter combination subject to approval by the department. There may be no duplication of registration plates. The department, in its discretion, may refuse the issue of letter or number combinations which may carry connotations offensive to good taste and decency and may not assign to a person not holding the relevant office letters or numerals denoting the holder to have public office.” /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the amendment and the Bill.

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 33; Nays 4**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Davis Fair Gregory

Grooms Hayes Hutto

Jackson Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McGill Nicholson O'Dell

Pinckney Reese Rose

Ryberg Scott Setzler

Sheheen Verdin Williams

**Total--33**

**NAYS**

Cromer Knotts Peeler

Thomas

**Total--4**

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

**S. 1478--Ordered to a Third Reading**

On motion of Senator CAMPSEN, with unanimous consent, S. 1478 was ordered to receive a third reading on Friday, April 27, 2012.

**AMENDED, READ THE SECOND TIME**

S. 1246 -- Senators Lourie and McConnell: A BILL TO AMEND SECTION 47‑1‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRUELTY TO ANIMALS, SO AS TO REVISE CERTAIN CRIMINAL PENALTIES.

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

Senator VERDIN proposed the following amendment (1246R001.GEC), which was adopted:

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

/ SECTION 1. Section 47‑1‑40 of the 1976 Code is amended to read:

“Section 47‑1‑40. (A) ~~Whoever~~ A person who knowingly or intentionally overloads, overdrives, overworks, or ill‑treats ~~any~~ an animal, deprives ~~any~~ an animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon ~~any~~ an animal, or by omission or commission knowingly or intentionally causes these ~~things~~ acts to be done, ~~for every offense~~ is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding ~~sixty days~~ one year or by a fine of not less than one hundred dollars nor more than ~~five hundred~~ one thousand dollars, or both, for a first offense; ~~by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense;~~ or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a ~~third~~ second or subsequent offense. Notwithstanding any other provision of law, ~~a first~~ an offense under this subsection ~~shall~~ must be tried in magistrate’s or municipal court.

(B) ~~Whoever~~ A person who tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon ~~any~~ an animal or by omission or commission causes ~~the~~ these acts to be done, ~~for any of the offenses~~ is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.”

SECTION 2. Section 47‑1‑130 of the 1976 Code is amended to read:

“Section 47‑1‑130. (A) Any person violating the laws in relation to cruelty to animals may be arrested by a law enforcement officer and held, without warrant, in the same manner as in the case of persons found breaking the peace.

(B) The South Carolina Society for the Prevention of Cruelty to Animals, or other organization organized for the same purpose, may not make an arrest for a violation of the laws in relation to cruelty to animals.”

SECTION 3. Section 47‑1‑140 of the 1976 Code is amended to read:

“Section 47‑1‑140. The ~~person~~ law enforcement officer making the arrest, with or without warrant, shall use reasonable diligence to give notice to the owner of the animals found in the charge or custody of the person arrested, if the person is not the owner, and shall care and provide properly for the animals. The ~~person~~ law enforcement officer making ~~such~~ the arrest shall have a lien on the animals for the expense of such care and provision. ~~But if such person making the arrest be an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or other society incorporated for that purpose, the provisions of Section 47‑1‑120 shall apply in lieu of the provisions of this section.~~ Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47‑1‑150.”

SECTION 4. Section 47‑1‑150(B) of the 1976 Code is amended to read:

“(B) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(1) removed from its present custody~~,~~; or

(2) made the subject of an order to provide care, issued to its owner by the magistrate or municipal judge, any law enforcement officer, or any agent of the county ~~or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose~~ and given protection and an appropriate and humane disposition made.”

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

The amendment was adopted.

Senators SHEHEEN and LOURIE proposed the following amendment (1246R002.VAS), which was adopted:

Amend the bill, as and if amended, page 1, by striking line 28 and inserting:

/ exceeding ~~sixty days~~ one year or by a fine of not less than one /

Renumber sections to conform.

Amend title to conform.

Senator LOURIE 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 37; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McGill Nicholson O'Dell

Peeler Pinckney Reese

Rose Ryberg Scott

Setzler Thomas Verdin

Williams

**Total--37**

**NAYS**

**Total--0**

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

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 10 -- Senators McConnell, McGill, Rose, Campsen, Knotts and Hayes: A JOINT RESOLUTION TO CREATE THE COMMISSION ON STREAMLINING GOVERNMENT AND REDUCTION OF WASTE AND PROVIDE FOR THE MEMBERSHIP, POWERS, DUTIES, AND FUNCTIONS OF THE COMMISSION; TO PROVIDE A PROCEDURE FOR THE SUBMISSION, CONSIDERATION, APPROVAL, AND IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMISSION; TO PROVIDE FOR STAFF SUPPORT AND FINANCES FOR THE COMMISSION; TO PROVIDE FOR COOPERATION WITH AND SUPPORT FOR THE COMMISSION; TO PROVIDE FOR THE APPLICABILITY OF OTHER LAWS; AND TO PROVIDE FOR ITS TERMINATION.

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

The Committee on Judiciary proposed the following amendment (JUD0010.001), which was adopted:

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

/ SECTION 1. It is essential that the State act to reduce the cost of state government, through all means available, including efficiencies, economies, greater effectiveness, and other means to streamline government in order to ensure that available state tax dollars are being spent efficiently and effectively. Many state agencies were created years ago, and a review of all agencies and their activities, functions, programs, and services is needed to determine whether the purpose served by the agency or activity, function, program, or service continues to be relevant and cost efficient.

SECTION 2. As used in this joint resolution, unless the context requires otherwise:

(1) “Agency” means and includes any office, department, board, commission, institution, division, instrumentality, or functional group, existing before or created after the enactment of this joint resolution, that is authorized to exercise, or that does exercise, a function in the executive branch of state government. “Agency” does not mean a public institution of postsecondary education, a postsecondary education governing or management board, an entity under the control of a public institution of postsecondary education or postsecondary education governing or management board, or an entity whose operating budget is not appropriated by the South Carolina General Assembly through the annual appropriations bill.

(2) “Commission” means the Commission on Streamlining Government and Reduction of Waste.

SECTION 3. (A) There is created the Commission on Streamlining Government and Reduction of Waste to examine each agency’s statutory activities, functions, programs, services, powers, duties, and responsibilities to determine, in an effort to reduce the size of state government, which of these activities, functions, programs, services, powers, duties, and responsibilities may be:

(1) eliminated;

(2) streamlined;

(3) consolidated;

(4) privatized; or

(5) outsourced.

(B) The commission shall target agencies whose activities, functions, programs, or services may be consolidated or eliminated, in addition to identifying opportunities for privatizing and outsourcing current state activities, functions, programs, or services.

(C) The commission shall examine the necessity and performance of activities, functions, programs, and services to ensure that they are meeting current performance standards effectively and efficiently and they are meeting the needs of South Carolina citizens.

(D) The commission is composed of:

(1) the Speaker of the House of Representatives, or his designee;

(2) the President Pro Tempore of the Senate, or his designee;

(3) the Chairman of the House Ways and Means Committee, or his designee;

(4) the Chairman of the Senate Finance Committee, or his designee;

(5) two individuals appointed by the Governor;

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

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

(E) The members of the commission are entitled to receive per diem as is allowed by law for legislative members of boards, committees, and commissions when engaged in the exercise of their duties as members of the commission. This must be paid from approved accounts of their respective appointing authorities.

(F)(1) The commission may hold public hearings as part of its evaluation process and may appoint advisory groups to conduct studies, research, or analyses, and make reports and recommendations with respect to a matter within the jurisdiction of the commission. Each advisory group shall consist of no more than five members including at least one commission member, with one of the commission members serving as its chairman, and no more than three non-commission members. The non-commission advisory group members shall be entitled to vote on matters before the advisory group.

(2) At the first meeting, the members of the commission shall elect from their membership a chairman and vice chairman and other officers as necessary. The President Pro Tempore of the Senate or his designee shall preside over the commission until a chairman is elected.

(3) Members of each advisory group are entitled to receive a per diem pursuant to subsection (E).

SECTION 4. (A) Reports submitted by the commission pursuant to this section may include recommendations:

(1) to eliminate, streamline, consolidate, privatize, or outsource constitutional and statutory agency activities, functions, programs, services, powers, duties, and responsibilities to provide the same or greater type and quality of activity, function, program, or service that results in cost reduction or greater efficiency or effectiveness;

(2) to ensure that agency activities, functions, programs, and services are not duplicative and are necessary, meeting or exceeding performance standards, and meeting the needs of South Carolina citizens;

(3) for the elimination, consolidation, privatization, or outsourcing of an agency to provide a more cost efficient or more effective manner of providing an activity, function, program, or service;

(4) providing for the use of alternative resources to the operation of agencies, activities, functions, programs, and services to provide a more cost-effective manner without impacting the quality or availability of needed services; and

(5) for standards, processes, and guidelines for agencies to use in order to review and evaluate government activities, functions, programs, and services to eliminate, streamline, consolidate, privatize, or outsource.

(B)(1) The commission shall submit an initial report of its recommendations, including recommendations requiring legislation or administrative action, to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives no later than December 3, 2012.

(2) The commission shall submit the recommendations in the report as a reorganization plan and submit the plan to the Governor, the President Pro Tempore of the Senate, the Chairman of the Senate Finance Committee, the Speaker of the House of Representatives, and the Chairman of the House Ways and Means Committee by January 2, 2013. The committees shall review the plan by February 5, 2013.

(3) Executive and legislative action should be taken to implement the portions of the reorganization plan that are either approved or modified as soon as possible.

(C) The commission shall submit a report before January 1, 2014, consisting of the status and implementation of the reorganization plan to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. Upon request by the Governor, President Pro Tempore of the Senate, or the Speaker of the House of Representatives, the commission must submit an updated report of the status and implementation of the reorganization plan. A request for an updated report must be submitted no later than July first, and the report submitted by January first of the following year.

SECTION 5. The staffs of the Senate, House of Representatives, and State Budget and Control Board may provide staff support and otherwise assist the commission as requested by the commission. The commission may submit a written request to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or the State Budget and Control Board for specific support and assistance to be provided by the staffs of their respective agencies.

SECTION 6. (A) Each agency shall furnish aid, services, and assistance as may be requested by the commission.

(B) To the extent permitted by, and in accordance with, applicable laws, each officer and agency shall make available all facts, records, information, and data requested by the commission and in all ways cooperate with the commission in carrying out the functions and duties imposed by this joint resolution.

(C) All information requested by the commission must be submitted to the commission as soon as possible but not more than fifteen business days after the date of the request. The commission chairman may extend this time period for good cause shown.

SECTION 7. The commission may apply for, contract for, receive, and expend for purposes of this joint resolution any appropriation or grant from the State, its political subdivisions, the federal government, or any other public or private source to carry out its duties and responsibilities.

SECTION 8. This joint resolution is repealed January 10, 2016.

SECTION 9. This joint resolution takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Resolution.

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

**Ayes 38; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O'Dell Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Thomas

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

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

**S. 10--Ordered to a Third Reading**

On motion of Senator CAMPSEN, with unanimous consent, S. 10 was ordered to receive a third reading on Friday, April 27, 2012.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 429 -- Senators Hayes and Ford: A BILL TO AMEND SECTION 62‑7‑918, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT, SO AS TO PROVIDE FOR THE PROCESS TO DETERMINE THE ALLOCATION OF PAYMENT MADE FROM A SEPARATE FUND TO CERTAIN TRUSTS AND TO PROVIDE COMMENT; AND TO AMEND SECTION 62‑7‑929, SO AS TO PROVIDE THE SOURCE OF FUNDS THAT MUST PAY FOR A TAX ON A TRUST’S SHARE OF THE TAXABLE INCOME OF THE ENTITY AND TO PROVIDE COMMENT.

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

The Committee on Judiciary proposed the following amendment (JUD0429.001), which was adopted:

Amend the bill, as and if amended, page 3, by striking lines 15-41, and page 4, by striking lines 1-33 and inserting the following:

/ (H)~~(E)~~ This section does not apply to payments subject to Section 62‑7‑919.”

REPORTER’S COMMENTS

Scope. Section 62‑7‑918 applies to amounts received under contractual arrangements that provide for payments to a third party beneficiary as a result of services rendered or property transferred to the payer. While the right to receive such payments is a liquidating asset of the kind described in Section 62‑7‑919 i.e., “an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration,” these payment rights are covered separately in Section 62‑7‑918 because of their special characteristics.

Section 62‑7‑918 applies to receipts from all forms of annuities and deferred compensation arrangements, whether the payment will be received by the trust in a lump sum or in installments over a period of years. It applies to bonuses that may be received over two or three years and payments that may last for much longer periods, including payments from an individual retirement account (IRA), deferred compensation plan (whether qualified or not qualified for special federal income tax treatment), and insurance renewal commissions. It applies to a retirement plan to which the settlor has made contributions, just as it applies to an annuity policy that the settlor may have purchased individually, and it applies to variable annuities, deferred annuities, annuities issued by commercial insurance companies, and “private annuities” arising from the sale of property to another individual or entity in exchange for payments that are to be made for the life of one or more individuals. The section applies whether the payments begin when the payment right becomes subject to the trust or are deferred until a future date, and it applies whether payments are made in cash or in kind, such as employer stock (in‑kind payments usually will be made in a single distribution that will be allocated to principal under the second sentence of subsection (C).

Prior Acts. Under Section 12 of the 1962 Act and Section 62‑7‑414 of the 1963 SC Act, receipts from “rights to receive payments on a contract for deferred compensation” are allocated to income each year in an amount “not in excess of 5% per year” of the property’s inventory value. While “not in excess of 5%” suggests that the annual allocation may range from zero to five percent of the inventory value, in practice the rule is usually treated as prescribing a five percent allocation. The inventory value is usually the present value of all the future payments, and since the inventory value is determined as of the date on which the payment right becomes subject to the trust, the inventory value, and thus the amount of the annual income allocation, depends significantly on the applicable interest rate on the decedent’s date of death. That rate may be much higher or lower than the average long‑term interest rate. The amount determined under the five percent formula tends to become fixed and remain unchanged even though the amount received by the trust increases or decreases.

Allocations Under Section 62‑7‑918(B). Section 62‑7‑918(B) applies to plans whose terms characterize payments made under the plan as dividends, interest, or payments in lieu of dividends or interest. For example, some deferred compensation plans that hold debt obligations or stock of the plan’s sponsor in an account for future delivery to the person rendering the services provide for the annual payment to that person of dividends received on the stock or interest received on the debt obligations. Other plans provide that the account of the person rendering the services shall be credited with “phantom” shares of stock and require an annual payment that is equivalent to the dividends that would be received on that number of shares if they were actually issued; or a plan may entitle the person rendering the services to receive a fixed dollar amount in the future and provide for the annual payment of interest on the deferred amount during the period prior to its payment. Under Section 62‑7‑918(B) payments of dividends, interest or payments in lieu of dividends or interest under plans of this type are allocated to income; all other payments received under these plans are allocated to principal.

Section 62‑7‑918(B) does not apply to an IRA or an arrangement with payment provisions similar to an IRA. IRAs and similar arrangements are subject to the provisions in Section 62‑7‑918(C).

Allocations Under Section 62‑7‑918(C). The focus of Section 62‑7‑918, for purposes of allocating payments received by a trust to or between principal and income, is on the payment right rather than on assets that may be held in a fund from which the payments are made. Thus, if an IRA holds a portfolio of marketable stocks and bonds, the amount received by the IRA as dividends and interest is not taken into account in determining the principal and income allocation except to the extent that the Internal Revenue Service may require them to be taken into account when the payment is received by a trust that qualifies for the estate tax marital deduction (a situation that is provided for in Section 62‑7‑918(D)). An IRA is subject to federal income tax rules that require payments to begin by a particular date and be made over a specific number of years or a period measured by the lives of one or more persons. The payment right of a trust that is named as a beneficiary of an IRA is not a right to receive particular items that are paid to the IRA, but is instead the right to receive an amount determined by dividing the value of the IRA by the remaining number of years in the payment period. This payment right is similar to the right to receive a unitrust amount, which is normally expressed as an amount equal to a percentage of the value of the unitrust assets without regard to dividends or interest that may be received by the unitrust.

An amount received from an IRA or a plan with a payment provision similar to that of an IRA is allocated under Section 62‑7‑918(C) which differentiates between payments that are required to be made and all other payments. To the extent that a payment is required to be made (either under federal income tax rules or, in the case of a plan that is not subject to those rules, under the terms of the plan), ten percent of the amount received is allocated to income and the balance is allocated to principal. All other payments are allocated to principal because they represent a change in the form of a principal asset; Section 62‑7‑918 follows the rule in Section 62‑7‑913(2) which provides that money or property received from a change in the form of a principal asset be allocated to principal.

Section 62‑7‑918(C) produces an allocation to income that is similar to the allocation under the 1962 Act formula and the 1963 SC Act formula if the annual payments are the same throughout the payment period, and it is simpler to administer. The amount allocated to income under Section 62‑7‑918 is not dependent upon the interest rate that is used for valuation purposes when the decedent dies, and if the payments received by the trust increase or decrease from year to year because the fund from which the payment is made increases or decreases in value, the amount allocated to income will also increase or decrease.

Marital deduction requirements. When an IRA or other retirement arrangement (a “plan”) is payable to a marital deduction trust, the IRS treats the plan as a separate property interest that itself must qualify for the marital deduction. IRS Revenue Ruling 2006‑26 said that, as written, the prior uniform act version of Section 62‑7‑918 does not cause a trust to qualify for the IRS’ safe harbors. Revenue Ruling 2006‑26 was limited in scope to certain situations involving IRAs and defined contribution retirement plans. Without necessarily agreeing with the IRS’ position in that ruling, the revision to this section is designed to satisfy the IRS’ safe harbor and to address concerns that might be raised for similar assets. No IRS pronouncements have addressed the scope of Code § 2056(b)(7)(C).

Subsection (F) requires the trustee to demand certain distributions if the surviving spouse so requests. The safe harbor of Revenue Ruling 2006‑26 requires that the surviving spouse be separately entitled to demand the fund’s income (without regard to the income from the trust’s other assets) and the income from the other assets (without regard to the fund’s income). In any event, the surviving spouse is not required to demand that the trustee distribute all of the fund’s income from the fund or from other trust assets. Treas. Reg. § 20.2056(b)‑5(f)(8).

Subsection (F) also recognizes that the trustee might not control the payments that the trustee receives and provides a remedy to the surviving spouse if the distributions under subsection (d)(1) are insufficient.

Subsection (G) addresses situations where, due to lack of information provided by the fund’s administrator, the trustee is unable to determine the fund’s actual income. The bracketed language is the range approved for unitrust payments by Treas. Reg. § 1.643(b)‑1. In determining the value for purposes of applying the unitrust percentage, the trustee would seek to obtain the value of the assets as of the most recent statement of value immediately preceding the beginning of the year. For example, suppose a trust’s accounting period is January 1 through December 31. If a retirement plan administrator furnishes information annually each September 30 and declines to provide information as of December 31, then the trustee may rely on the September 30 value to determine the distribution for the following year. For funds whose values are not readily available, subsection (G) relies on Code Section 7520 valuation methods because many funds described in Section 62‑7‑918 are annuities, and one consistent set of valuation principles should apply whether or not the fund is, in fact, an annuity.

Application of Section 62‑7‑904. Section 62‑7‑904(A) of this act gives a trustee who is acting under the prudent investor rule the power to adjust from principal to income if, considering the portfolio as a whole and not just receipts from deferred compensation, the trustee determines that an adjustment is necessary. See Example (5) in the Comment following Section 62‑7‑904.

B. Section 62‑7‑918 of the 1976 Code, as amended in subsection A of this section applies to a trust described in Section 62‑7‑918(D) on and after the following dates:

(1) if the trust is not funded as of the effective date of this act, the date of the decedent’s death;

(2) if the trust is initially funded in the calendar year beginning January 1, 2011, the date of the decedent’s death;

(3) if the trust is not described in subsections (1) or (2) of this section, January 1, 2011.

Amend the bill further, as and if amended, page 5, by striking lines 1-43, page 6, by striking lines 1-43, and page 7, by striking lines 1-31, and inserting the following:

/ (C) A tax required to be paid by a trustee on the trust’s share of the taxable income of the entity must be paid ~~proportionately from~~:

(1) from income, to the extent that receipts from the entity are allocated to income; and

(2) from principal, to the extent that~~:~~

~~(a)~~ receipts from the entity are allocated only to principal; ~~and~~

~~(b)~~ ~~the trust’s share of the taxable income of the entity exceeds the total receipts described in items (1) and (2)(a)~~

(3) proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

(4) from principal to the extent that the tax exceeds the total receipts from the entity.

(D) ~~For purposes of this section, receipts allocated to principal or income must be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.~~ After applying subsections (A) through (C), the trustee shall adjust income or principal receipts to the extent that the trust’s taxes are reduced because the trust receives a deduction for payments made to a beneficiary.”

REPORTER’S COMMENTS

Taxes on Undistributed Entity Taxable Income. When a trust owns an interest in a pass‑through entity, such as a partnership or S corporation, it must report its share of the entity’s taxable income regardless of how much the entity distributes to the trust. Whether the entity distributes more or less than the trust’s tax on its share of the entity’s taxable income, the trust must pay the taxes and allocate them between income and principal.

Subsection (C) requires the trust to pay the taxes on its share of an entity’s taxable income from income or principal receipts to the extent that receipts from the entity are allocable to each. This assures the trust a source of cash to pay some or all of the taxes on its share of the entity’s taxable income. Subsection (D) recognizes that, except in the case of an Electing Small Business Trust (ESBT), a trust normally receives a deduction for amounts distributed to a beneficiary. Accordingly, subsection (D) requires the trust to increase receipts payable to a beneficiary as determined under subsection (C) to the extent the trust’s taxes are reduced by distributing those receipts to the beneficiary.

Because the trust’s taxes and amounts distributed to a beneficiary are interrelated, the trust may be required to apply a formula to determine the correct amount payable to a beneficiary. This formula should take into account that each time a distribution is made to a beneficiary, the trust taxes are reduced and amounts distributable to a beneficiary are increased. The formula assures that after deducting distributions to a beneficiary, the trust has enough to satisfy its taxes on its share of the entity’s taxable income as reduced by distributions to beneficiaries.

Example (1) ‑ Trust T receives a Schedule K‑1 from Partnership P reflecting taxable income of $1 million. Partnership P distributes $100,000 to T, which allocates the receipts to income. Both Trust T and income Beneficiary B are in the 35 percent tax bracket.

Trust T’s tax on $1 million of taxable income is $350,000. Under subsection (C) T’s tax must be paid from income receipts because receipts from the entity are allocated only to income. Therefore, T must apply the entire $100,000 of income receipts to pay its tax. In this case, Beneficiary B receives nothing.

Example (2) ‑ Trust T receives a Schedule K‑1 from Partnership P reflecting taxable income of $1 million. Partnership P distributes $500,000 to T, which allocates the receipts to income. Both Trust T and income Beneficiary B are in the 35 percent tax bracket.

Trust T’s tax on $1 million of taxable income is $350,000. Under subsection (C), T’s tax must be paid from income receipts because receipts from P are allocated only to income. Therefore, T uses $350,000 of the $500,000 to pay its taxes and distributes the remaining $150,000 to B. The $150,000 payment to B reduces T’s taxes by $52,500, which it must pay to B. But the $52,500 further reduces T’s taxes by $18,375, which it also must pay to B. In fact, each time T makes a distribution to B, its taxes are further reduced, causing another payment to be due B.

Alternatively, T can apply the following algebraic formula to determine the amount payable to B:

D = (C‑R\*K)/(1‑R)

D = Distribution to income beneficiary

C = Cash paid by the entity to the trust

R = tax rate on income

K = entity’s K‑1 taxable income

Applying the formula to Example (2) above, Trust T must pay $230,769 to B so that after deducting the payment, T has exactly enough to pay its tax on the remaining taxable income from P.

Taxable Income per K‑1 $1,000,000

Payment to beneficiary $230,769 [1]

Trust Taxable Income $769,231

35 percent tax $269,231

Partnership Distribution $500,000

Fiduciary’s Tax Liability ($269,231)

Payable to the Beneficiary $230,769

In addition, B will report $230,769 on his or her own personal income tax return, paying taxes of $80,769. Because Trust T withheld $269,231 to pay its taxes and B paid $80,769 taxes of its own, B bore the entire $350,000 tax burden on the $1 million of entity taxable income, including the $500,000 that the entity retained that presumably increased the value of the trust’s investment entity.

If a trustee determines that it is appropriate to do so, it should consider exercising the discretion granted in Section 62‑7‑930 to adjust between income and principal. Alternatively, the trustee may exercise the power to adjust under Section 62‑7‑904 to the extent it is available and appropriate under the circumstances, including whether a future distribution from the entity that would be allocated to principal should be reallocated to income because the income beneficiary already bore the burden of taxes on the reinvested income. In exercising the power, the trust should consider the impact that future distributions will have on any current adjustments.

[1] D = (C‑R\*K)/(1‑R) = (500,000 – 350,000)/(1 ‑ .35) = $230,769. (D is the amount payable to the income beneficiary, K is the entity’s K‑1 taxable income, R is the trust ordinary tax rate, and C is the cash distributed by the entity) /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 34; Nays 0**

**AYES**

Alexander Anderson Campsen

Courson Cromer Davis

Fair Ford Gregory

Grooms Hayes Hutto

Jackson Knotts Land

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

McGill Nicholson O'Dell

Peeler Pinckney Reese

Rose Ryberg Scott

Setzler Thomas Verdin

Williams

**Total--34**

**NAYS**

**Total--0**

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

**S. 429--Ordered to a Third Reading**

On motion of Senator CAMPSEN, with unanimous consent, S. 429 was ordered to receive a third reading on Friday, April 27, 2012.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1033 -- Senators Verdin and Elliott: A BILL TO REPEAL CHAPTER 43, TITLE 46 OF THE 1976 CODE, RELATING TO THE MIGRANT FARM WORKERS COMMISSION; AND TO AMEND SECTION 1‑31‑40, RELATING TO THE POWERS AND DUTIES OF THE STATE COMMISSION FOR MINORITY AFFAIRS, TO VEST THE STATE COMMISSION FOR MINORITY AFFAIRS WITH THE POWERS AND DUTIES OF THE FORMER MIGRANT FARM WORKERS COMMISSION.

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

The Committee on Agriculture and Natural Resources proposed the following amendment (1033R001.DBV), which was adopted:

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

/ SECTION 1. Chapter 43, Title 46 of the 1976 Code, relating to the Migrant Farm Workers Commission, is repealed.

SECTION 2. This act takes effect upon the approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 36; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie *Martin, Larry*

*Martin, Shane* Massey McGill

Nicholson O'Dell Peeler

Pinckney Reese Rose

Ryberg Scott Setzler

Thomas Verdin Williams

**Total--36**

**NAYS**

**Total--0**

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

**S. 1033--Ordered to a Third Reading**

On motion of Senator VERDIN, with unanimous consent, S. 1033 was ordered to receive a third reading on Friday, April 27, 2012.

**READ THE SECOND TIME**

S. 1100 -- Senators McGill, Cleary and Ford: A BILL TO AMEND SECTION 4-10-330 OF THE 1976 CODE, RELATING TO THE CAPITAL PROJECT SALES TAX ACT, TO PROVIDE THAT THE AUTHORIZED PROJECTS THAT ARE ALLOWED TO BE FUNDED BY A COUNTY CAPITAL PROJECT SALES TAX TO INCLUDE DREDGING, DEWATERING, CONSTRUCTION OF SPOIL SITES, AND DISPOSAL OF SPOIL MATERIALS.

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

Senator O’DELL explained the Bill.

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

**Ayes 34; Nays 1**

**AYES**

Alexander Anderson Bryant

Campsen Courson Cromer

Davis Fair Ford

Gregory Grooms Hayes

Hutto Knotts Land

Leatherman Leventis Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O'Dell Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Thomas

Williams

**Total--34**

**NAYS**

Bright

**Total--1**

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

**S. 1100--Ordered to a Third Reading**

On motion of Senator O’DELL, with unanimous consent, S. 1100 was ordered to receive a third reading on Friday, April 27, 2012.

**READ THE SECOND TIME**

S. 1331 -- Senators Leatherman and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13‑17‑89 SO AS TO PROVIDE THAT NO PROVISION IN CHAPTER 17, TITLE 13 MAY BE CONSTRUED TO AUTHORIZE THE SOUTH CAROLINA RESEARCH AUTHORITY TO COMMIT THE CREDIT AND TAXING POWER OF THE STATE, TO PROVIDE A WRITTEN NOTICE REQUIREMENT WHEN THE AUTHORITY HAS CERTAIN RELATIONSHIPS WITH A NONPROFIT ENTITY THAT ESTABLISHES A FOR‑PROFIT ENTITY, AND TO PROVIDE THAT A FAILURE TO PROVIDE THIS NOTICE MAY NOT BE CONSTRUED TO INDICATE THE AUTHORITY MAY PLEDGE THE CREDIT AND TAXING POWER OF THE STATE; TO AMEND SECTION 13‑17‑40, AS AMENDED, RELATING TO THE MEMBERSHIP AND TERMS OF THE BOARD OF TRUSTEES AND EXECUTIVE COMMITTEE OF THE AUTHORITY, SO AS TO PROVIDE FOR THE ELECTION OF TWO ADDITIONAL TRUSTEES, TO PERMIT A UNIVERSITY PRESIDENT WHO IS AN EX OFFICIO MEMBER OF THE BOARD TO DESIGNATE THE CHIEF RESEARCH OFFICER OF HIS UNIVERSITY TO PARTICIPATE AND VOTE IN NO MORE THAN TWO MEETINGS OF THE EXECUTIVE COMMITTEE EACH YEAR, TO PROVIDE FOR MEMBERS’ TERMS, FILLING OF VACANCIES, AND REMOVAL OF EXECUTIVE COMMITTEE MEMBERS, AND TO ALLOW THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE AND THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, OR THEIR DESIGNEES, TO SERVE ON THE BOARD, AND TO DELETE ARCHAIC REFERENCES; TO AMEND SECTION 13‑17‑70, AS AMENDED, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES OF THE AUTHORITY, SO AS TO PROVIDE THE BOARD MAY PROVIDE GUARANTEES AS SECURITY FOR CERTAIN OBLIGATIONS; TO AMEND SECTION 13‑17‑87, AS AMENDED, RELATING TO COSTS ASSOCIATED WITH INNOVATION CENTERS ESTABLISHED BY THE AUTHORITY, SO AS TO MAKE CERTAIN FINANCING OPTIONAL RATHER THAN MANDATORY, TO EXPAND THE SOURCES OF FUNDING AVAILABLE FOR FINANCING THESE COSTS, AND TO PROHIBIT THE USE OF A PLEDGE OF CREDIT AND TAXING POWER OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE TO FINANCE THESE COSTS; AND TO AMEND SECTION 8‑13‑770, AS AMENDED, RELATING TO MEMBERS OF THE GENERAL ASSEMBLY SERVING ON BOARDS, SO AS TO MAKE CONFORMING CHANGES.

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

Senator O’DELL explained the Bill.

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

**Ayes 34; Nays 2; Present 1**

**AYES**

Alexander Anderson Campsen

Courson Cromer Davis

Fair Ford Gregory

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Malloy

*Martin, Larry* Massey Matthews

McGill Nicholson O'Dell

Peeler Pinckney Reese

Rose Ryberg Scott

Setzler Thomas Verdin

Williams

**Total--34**

**NAYS**

Bright Bryant

**Total--2**

**PRESENT**

*Martin, Shane*

**Total--1**

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

**S. 1331--Ordered to a Third Reading**

On motion of Senator O’DELL, with unanimous consent, S. 1331 was ordered to receive a third reading on Friday, April 27, 2012.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

S. 1349 -- Senators Alexander, McGill, Cromer and Sheheen: A JOINT RESOLUTION TO PROVIDE THAT THE STATE BUDGET AND CONTROL BOARD, THROUGH ITS OFFICE OF INSURANCE SERVICES, IN STATE FISCAL YEAR 2012‑2013, MAY OFFER TORT LIABILITY INSURANCE COVERAGE TO AN AGING ENTITY AND ITS EMPLOYEES SERVING CLIENTS COUNTYWIDE WHICH PREVIOUSLY HAS OBTAINED ITS TORT LIABILITY INSURANCE COVERAGE THROUGH THE BOARD.

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

The Committee on Finance proposed the following amendment (NBD\12343DG12), which was adopted:

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

/ SECTION 1. The State Budget and Control Board, through the Insurance Reserve Fund, for fiscal year 2012‑2013, may offer insurance coverage to an aging entity and its employees serving clients countywide which previously obtained its tort liability insurance coverage through the board. The Insurance Reserve Fund and the State shall not be liable to any person or entity, including the insured, for any insufficiencies of coverage provided pursuant to this act.

SECTION 2. This joint resolution takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator ALEXANDER explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Resolution.

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

**Ayes 35; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leventis Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O'Dell Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Thomas

Verdin Williams

**Total--35**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

S. 1409 -- Senator Alexander: A BILL TO AMEND SECTION 6‑34‑40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAX CREDITS FOR REHABILITATION EXPENSES, SO AS TO CLARIFY THAT THE CREDIT MAY BE TAKEN AGAINST FRANCHISE TAXES ON BANKS; TO AMEND SECTION 12‑4‑320, AS AMENDED, RELATING TO POWERS AND DUTIES OF THE DEPARTMENT OF REVENUE, SO AS TO ALLOW THE DEPARTMENT TO GRANT RELIEF PERIODS GRANTED BY THE INTERNAL REVENUE SERVICE; TO AMEND SECTION 12‑6‑50, AS AMENDED, RELATING TO INTERNAL REVENUE CODE SECTIONS SPECIFICALLY NOT ADOPTED, SO AS TO NOT ADOPT SECTION 7508; TO AMEND SECTION 12‑6‑590, RELATING TO THE TREATMENT OF “S” CORPORATIONS FOR TAX PURPOSES, SO AS TO IMPOSE A TAX ON CERTAIN INCOME IF THE INTERNAL REVENUE CODE IMPOSES A SIMILAR TAX; TO AMEND SECTION 12‑6‑3360, AS AMENDED, RELATING TO THE JOBS TAX CREDIT, SO AS TO AMEND THE DEFINITION OF “NEW JOB”; TO AMEND SECTION 12‑6‑3535, AS AMENDED, RELATING TO THE INCOME TAX CREDIT FOR REHABILITATION EXPENSES, SO AS TO CLARIFY THAT THE CREDIT MAY BE TAKEN AGAINST FRANCHISE TAXES ON BANKS; TO AMEND SECTION 12‑6‑3630, RELATING TO INCOME TAX CREDITS FOR HYDROGEN RESEARCH CONTRIBUTIONS, SO AS TO CLARIFY THAT THE CREDIT MAY BE TAKEN AGAINST FRANCHISE TAXES ON BANKS; TO AMEND SECTION 12‑6‑4910, AS AMENDED, RELATING TO THE REQUIREMENT TO FILE AN INCOME TAX RETURN, SO AS TO INCREASE THE STANDARD DEDUCTION FOR INDIVIDUALS OVER SIXTY‑FIVE AS PROVIDED IN THE INTERNAL REVENUE CODE; TO AMEND SECTION 12‑37‑220, AS AMENDED, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO CORRECT A CROSS‑REFERENCE; TO AMEND SECTION 12‑43‑260, RELATING TO COUNTIES WILFUL FAILURE TO COMPLY WITH THE ASSESSMENT PROGRAM, SO AS TO PROVIDE THAT THE DEPARTMENT SHALL MAKE A DETERMINATION THAT IS SUBJECT TO REVIEW BY THE ADMINISTRATIVE LAW COURT; TO AMEND SECTION 12‑44‑110, AS AMENDED, RELATING TO FEE IN LIEU OF TAX, SO AS TO UPDATE A TERM; TO AMEND SECTION 12‑54‑240, AS AMENDED, RELATING TO THE DISCLOSURE OF RECORDS FILED WITH THE DEPARTMENT, SO AS TO PROVIDE THAT IN ORDER FOR A CONVICTION FOR UNLAWFULLY DIVULGING RECORDS, A PERSON MUST WILFULLY DIVULGE, AND TO PROVIDE THAT PRIOR TO DISMISSING AN EMPLOYEE FOR A VIOLATION, THE EMPLOYEE MUST BE CONVICTED; TO AMEND SECTION 12‑60‑50, AS AMENDED, RELATING TO THE OCCURRENCE OF A FILING PERIOD ENDING ON A HOLIDAY, SO AS TO RECOGNIZE A HOLIDAY RECOGNIZED BY THE INTERNAL REVENUE SERVICE; TO AMEND SECTION 12‑60‑90, AS AMENDED, RELATING TO THE ADMINISTRATIVE TAX PROCESS, SO AS TO CORRECT CROSS‑REFERENCES AND FURTHER DEFINE TERMS; TO AMEND SECTION 12‑65‑30, AS AMENDED, RELATING TO THE CREDIT FOR EXPENSES RELATED TO THE REHABILITATION OF A TEXTILE MILL, SO AS TO CLARIFY THAT THE CREDIT MAY BE TAKEN AGAINST FRANCHISE TAXES ON BANKS; AND TO AMEND SECTION 44‑43‑1360, AS AMENDED, RELATING TO ADMINISTRATIVE EXPENSES FOR DONATE LIFE SOUTH CAROLINA, SO AS TO CORRECT A CROSS‑REFERENCE.

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

Senator O’DELL explained the Bill.

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

**Ayes 35; Nays 1**

**AYES**

Alexander Anderson Bryant

Campsen Courson Cromer

Davis Fair Ford

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leventis Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O'Dell Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Thomas

Verdin Williams

**Total--35**

**NAYS**

Bright

**Total--1**

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

**READ THE SECOND TIME**

S. 1467 -- Senators Hutto, Campbell, Campsen and L. Martin: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-1-43, SO AS TO PROVIDE THAT THE ISSUANCE OF A LICENSE, ALONE, BY THE DIVISION OF PROFESSIONAL AND OCCUPATIONAL LICENSING OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION DOES NOT CREATE A COMMON LAW DUTY OF DUE CARE FOR THE LICENSE HOLDER, AND TO PROVIDE THAT THE LICENSE HOLDER CANNOT BE HELD PERSONALLY LIABLE IN TORT SOLELY BY REASON OF BEING A LICENSE HOLDER.

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

Senator HUTTO explained the Bill.

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

**Ayes 37; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Courson

Cromer Davis Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McGill Nicholson O'Dell

Peeler Pinckney Reese

Rose Ryberg Scott

Setzler Thomas Verdin

Williams

**Total--37**

**NAYS**

**Total--0**

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

**S. 1467--Ordered to a Third Reading**

On motion of Senator HUTTO, with unanimous consent, S. 1467 was ordered to receive a third reading on Friday, April 27, 2012.

**COMMITTEE AMENDMENT ADOPTED**

**READ THE SECOND TIME**

H. 3417 -- Rep. Funderburk: A BILL TO AMEND SECTION 6‑11‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUTHORITY TO ESTABLISH SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICTS, SO AS TO INCLUDE THE PROVISION OF EMERGENCY MEDICAL AND RESCUE RESPONSE SERVICES AS AN AUTHORIZED PURPOSE FOR WHICH A SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICT MAY BE ESTABLISHED.

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

The Committee on Judiciary proposed the following amendment (JUD3417.004), which was adopted:

Amend the bill, as and if amended, page 1, by striking lines 27 through 34, in Section 6‑11‑10, as contained in SECTION 1, and inserting therein the following:

/ “Section 6‑11‑10. In order to protect the public health, electric lighting districts, water supply districts, fire protection districts, and sewer districts may be established ~~as herein provided~~ pursuant to this section for the purpose of supplying lights, ~~and~~ water, ~~and~~ providing fire protection with or without rescue response services related to the provision of fire services, a sewerage collection system, and a sewage treatment plant to a portion of any county in this State which is not included in ~~any~~ an incorporated city or town.” /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 32; Nays 1**

**AYES**

Bryant Campsen Courson

Cromer Davis Fair

Ford Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McGill

Nicholson O'Dell Peeler

Reese Rose Ryberg

Scott Setzler Thomas

Verdin Williams

**Total--32**

**NAYS**

Bright

**Total--1**

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

**H. 3417--Objection**

Senator CAMPSEN asked unanimous consent to give the Bill a third reading on the next legislative day.

Senator BRIGHT objected.

**READ THE SECOND TIME**

H. 3558 -- Reps. J.E. Smith, Govan and Harrell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 25‑1‑2270 SO AS TO REQUIRE ALL STATE INSTITUTIONS OF HIGHER EDUCATION TO ALLOW STUDENTS TO COMPLETE ASSIGNMENTS OR TAKE MAKE‑UP EXAMINATIONS WHEN AN ABSENCE IS CAUSED BY ATTENDING OR PARTICIPATING IN MILITARY SERVICE, DUTY, TRAINING, OR DISASTER RELIEF EFFORTS.

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

Senator ALEXANDER explained the Bill.

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

**Ayes 35; Nays 0**

**AYES**

Alexander Bryant Campsen

Cromer Davis Fair

Ford Gregory Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

O'Dell Peeler Pinckney

Reese Rose Ryberg

Scott Setzler Thomas

Verdin Williams

**Total--35**

**NAYS**

**Total--0**

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

**COMMITTEE AMENDMENT ADOPTED**

**AMENDED, READ THE SECOND TIME**

S. 1267 -- Senators Hayes, Matthews, Courson, Setzler, Jackson, Hutto, Knotts and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 62 TO TITLE 59 SO AS TO ESTABLISH A SCHOOL DISTRICT CHOICE PROGRAM AND OPEN ENROLLMENT PROGRAM WITHIN THE PUBLIC SCHOOL SYSTEM OF THIS STATE, TO PROVIDE FOR A VOLUNTARY PILOT TESTING OF THE PROGRAM BEFORE FULL IMPLEMENTATION, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR AN APPLICATION PROCESS FOR STUDENTS WISHING TO TRANSFER, TO PROVIDE RESPONSIBILITIES OF AND STANDARDS AND CRITERIA FOR SENDING AND RECEIVING SCHOOLS AND SCHOOL DISTRICTS, TO PROVIDE STANDARDS OF APPROVAL, PRIORITIES FOR ACCEPTING STUDENTS, AND CRITERIA FOR DENYING STUDENTS, TO PROVIDE THAT WITH CERTAIN EXCEPTIONS THE PARENT IS RESPONSIBLE FOR TRANSPORTING THE STUDENT TO SCHOOL, TO PROVIDE THAT DISTRICTS SHALL RECEIVE ONE HUNDRED PERCENT OF THE BASE STUDENT COST FROM THE STATE FOR NONRESIDENT STUDENTS ENROLLED PURSUANT TO THIS CHAPTER, TO PROVIDE THAT A STUDENT WITH EXCEPTIONS MAY NOT PARTICIPATE IN INTERSCHOLASTIC ATHLETIC CONTESTS AND COMPETITIONS FOR ONE YEAR AFTER HIS DATE OF ENROLLMENT, TO PROVIDE THAT A RECEIVING DISTRICT SHALL ACCEPT CERTAIN CREDITS TOWARD A STUDENT’S REQUIREMENTS FOR GRADUATION, TO PROVIDE THAT A SCHOOL DISTRICT MAY CONTRACT WITH CERTAIN ENTITIES FOR THE PROVISION OF SERVICES, TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL PROVIDE CERTAIN REPORTS ON THE PROGRAM TO THE GENERAL ASSEMBLY, AND TO PROVIDE THAT IMPLEMENTATION OF THIS PROGRAM EACH FISCAL YEAR IS CONTINGENT UPON THE APPROPRIATION OF ADEQUATE FUNDING BY THE GENERAL ASSEMBLY.

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

There was no objection.

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

The Education Committee proposed the following amendment (DKA\4079SD12), which was adopted:

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

/ SECTION 1. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 62

South Carolina Public School Choice Programs

Section 59‑62‑10. (A) There is established a School District Choice Program and an Open Enrollment Program within the public school system of this State.

(B) In establishing these programs, it is the objective of the General Assembly to make the South Carolina public school system the most choice‑driven public school system in the nation by increasing student participation in, and student access to, public school educational opportunities both within and outside of their resident school district, regardless of where they may live or their socioeconomic status. It is therefore the intent of the General Assembly that this chapter be construed broadly to maximize parental choice options and student access to public school educational opportunities that are now not available to their children.

Section 59‑62‑20. As used in this chapter:

(1) ‘School District Choice Programs’ means a public education delivery system that requires school districts to provide for student programs of choice offered within the district, which may include, but not be limited to, public charter schools, virtual school programs, extended day or school year programs, flexible school scheduling programs, Montessori programs, single‑gender programs, learning team programs, magnet school programs, arts programs, and school‑within‑a‑school programs and to provide for school assignments to these programs using parents’ indicated preferential choice as a significant factor for assigning students within the district.

(2) ‘Open Enrollment’ means a public education delivery system that requires school districts to allow for school assignments of students outside of the students’ district of residence using parents’ indicated preferential choice as a significant factor.

(3) ‘Attendance zone’ means the geographic area used to determine a particular school assignment for students in the district of residence.

(4) ‘Capacity’ as established by the local board of trustees means individual school capacities to include any district projections per school for the school year impacted by a transfer pursuant to this chapter. However, when defining capacity, only permanent building structures may be included in the calculation of capacity and must not include transfers permitted by federal law.

(5) ‘District of residence’ means a school district in which the parent or guardian of a student resides.

(6) ‘Feeder pattern’ means the schools to which students are assigned upon the completion of the highest grade level of their previous school.

(7) ‘Good cause’ means a change in a child’s residence due to a change in parent or guardian’s residence, a change in a child’s parent’s marital status, a change caused by a guardianship or custody proceeding, placement of a child in foster care, adoption, participation by a child in an approved foreign exchange program, or participation by a child in a substance abuse or mental health treatment program, revocation of a charter school contract, or a set of circumstances consistent with this definition of ‘good cause’.

(8) ‘Parent’ means the parent or legal guardian of a student of the State.

(9) ‘Receiving district’ means a school district other than the district of residence in which a student seeks to enroll. Where the district of residence includes more than one school providing instruction at a given grade level, and a parent of a child entering the grade level applies to enroll his child in a public school in the district of residence other than the program in which the child would normally be assigned to attend based on the child’s place of residence, the district of residence also must be considered to be the receiving district for purposes of this chapter.

(10) ‘Siblings’ mean all children residing in the same household on a permanent basis who have the same mother or father or guardian.

(11) ‘Working days’ means working days as determined by a school district’s administrative calendar.

(12) ‘Department’ means the South Carolina Department of Education.

Section 59‑62‑30. (A) The department shall provide school districts with information on various school choice programs, best practice information, staff development, assistance in planning for transportation needs, and technical assistance for developing and implementing public school choice and open enrollment programs throughout the State.

(B) In conjunction with a series of town meetings held throughout the State, the department shall conduct a statewide inventory. The inventory shall be designed to determine the public’s knowledge and understanding of public school choice. Additionally, the inventory shall collect information on district growth projections, choice programs available in districts, and choice options parents would like to see implemented in their district of residence. With the information received from the statewide inventory, the department shall compile and disseminate the results to the school districts of the State and members of the General Assembly.

(C) In the 2012‑2013 school year, with funds appropriated by the General Assembly, the department shall establish a School District Choice and an Open Enrollment pilot program. Participation of districts shall be voluntary. The School District Choice pilot program shall be designed to pair districts currently offering multiple student choice options with districts where student choice options are limited or do not exist, for the purpose of offering guidance, technical assistance, and staff development. The Open Enrollment pilot program shall be designed to provide non‑tuition choice options for students between adjacent school districts. The department shall offer technical assistance to the pilot districts in developing and implementing Open Enrollment choice programs.

(D) Throughout the pilot year, the department shall provide information to all school districts regarding obstacles that have the potential of interfering with the implementation of quality school choice and open enrollment programs and shall make recommendations for overcoming and avoiding those obstacles. The information provided also shall include costs associated with the implementation of both pilot programs.

(E) The State Board of Education shall develop guidelines listing factors to be considered in determining school capacity. In developing these guidelines, a task force shall be established with membership to include, but not be limited to, school board members, superintendents, principals, parents, and business and community leaders. The membership of the task force shall reflect urban and rural areas of the State.

(F) During the 2012‑2013 school year, each school district of the State shall convene a School Choice Committee. The committee shall include, but not be limited to, members representing parents, community and business leaders, teachers, and students. The committee membership shall represent the ethnicity and geographic diversity of the district. With information obtained from the statewide survey, the School Choice Committee shall develop an action plan incorporated in the school renewal plan for providing parents and students choice options within the district and shall include a timeline and budget proposal for implementation of the identified options. Each district shall submit their plan to the department for review, and if necessary the department shall provide recommendations. Districts having plans currently in place also shall submit their plans.

Section 59‑62‑40. (A) Beginning in the 2013‑2014 school year and succeeding school years with innovation funds appropriated from the General Assembly, each school district of the State shall begin implementation of their school choice plans. At a minimum, each district shall begin by providing a choice option for students at the elementary, middle, and high school level. With approval from the department, districts may utilize technical assistance funds provided pursuant to Section 59‑18‑1590 to assist in the implementation of school choice plans.

(B) During the 2013‑2014 school year, the School Choice Committee, established pursuant to Section 59‑62‑30(F), and school district administration shall develop plans to implement an Open Enrollment choice program as outlined in this chapter. However, nothing in this chapter shall prohibit a school district from implementing the Open Enrollment choice program prior to the 2014‑2015 school year.

(C) Based on the findings obtained from the pilot programs established in Section 59‑62‑30(C) and the implementation of district choice programs, the department shall issue a report to the General Assembly by January 1, 2014. The report shall include, but not be limited to, districts participating in the pilot programs and number of students participating in new choice options, types of choice options being implemented in each school district, number of students participating in school district choice options, and recommended changes to this chapter to include the basis for such recommendations.

Section 59‑62‑50. (A) Beginning with the 2014‑2015 school year and each succeeding school year, a parent residing in this State may enroll his child in a public school in any school district without the requirement of payment of tuition in the manner provided in this chapter.

(B)(1) Each school district of the State shall participate in public school open enrollment consistent with this chapter.

(2) A parent of a school age child may apply to enroll his child in a school in a receiving district by submitting a written application, on a form provided to districts by the department, to the receiving district and to the district of residence postmarked not later than January fifteen for enrollment during the following school year for grades kindergarten through twelve. The application should identify the reason for seeking enrollment in the receiving district. The parent shall request a particular school or program as part of the application. However, the assignment of the student must be determined by the receiving school district based on capacity.

(3) If a parent desires to transfer a child to a school within the parent and child’s district of residence but not within the child’s attendance area or zone, the parent shall make application therefore in the same manner provided in this chapter for interdistrict transfers.

(4) If a local school board by the last day of February notifies an applicant that their application for enrollment in a particular school has been denied due to a lack of capacity in that school, the school board in the denial notice also shall notify the applicant of any remaining schools in the district with the capacity to accept additional students seeking to enroll under this chapter. In this case, the applicant has an additional fifteen days from receipt of the notice to reapply seeking enrollment in one of these schools with capacity and the local board within fifteen days after receipt of the new application must act thereon.

(C) If a parent of a school age child fails to file an application by the deadline, and good cause exists for the failure to meet the deadline, the receiving district and the district of residence may accept and consider the application in the same manner as if the deadline had been met.

(D) Upon agreement between the resident and the nonresident school boards, or between the affected schools within the resident district, the deadline for application may be waived.

(E) The parent or guardian of the student approved to enroll shall confirm in writing to the nonresident school district by April first whether the student intends to enroll. Notice of intent to enroll in the nonresident district obligates the student to attend the nonresident district during the following school year, unless the boards of the resident and nonresident school districts agree in writing to allow the student to transfer back to the district of residence, or good cause can be substantiated.

(F) A parent who applies under this chapter and whose child is approved to enroll in a school outside of his school attendance area of his resident district but whose child fails to attend the school is ineligible to apply again for enrollment for a period of one year absent good cause shown. Good cause shall be determined by the board of the local school district of the applicable school.

Section 59‑62‑60. (A) Within ten working days of receiving an application, the receiving district shall notify the district of residence that it has received application. This notification must include the grade level and school the student previously attended in the district of residence.

(B) The board of trustees of the receiving district shall take action no later than the last day of February of the school year preceding enrollment to approve or deny an application for admission in grades kindergarten through twelve.

(C) The board of the receiving district shall take action to approve or deny an application filed in accordance with Section 59‑62‑50(B) within forty‑five days of the receipt of the application.

(D) The board of the receiving district shall notify the parent of the child and the board of the district of residence in writing within five working days after board action. In the case of denial, a written explanation of the denial must be included in the notification.

Section 59‑62‑65. Students under this chapter, subject to capacity and the other requirements of this chapter, shall be permitted to transfer to a school outside their attendance area within their district or to a school outside their attendance area in another district. Where the provisions of this chapter refer to sending districts or receiving districts, or both, they shall be construed to mean sending schools or receiving schools as appropriate when the context requires.

Section 59‑62‑70. (A) In implementing the provisions of this chapter, a student who currently resides in the attendance zone of a school must not be displaced by students transferring from outside the attendance zone.

(B) A school district is not required to:

(1) accept students at a particular school residing outside the school’s attendance area in excess of three percent of the school’s highest average daily membership in any year over the preceding ten‑year period. Accepting students residing outside of the attendance area for a particular school must be phased in at a yearly increase of one percent of the school’s previous year’s average daily membership. Enrolled students residing outside of the school’s attendance zone must continue to be counted in the receiving school’s acceptance percentage until the student is no longer enrolled in a receiving school;

(2) make alterations in the structure of a requested school;

(3) establish and offer a particular program in a school if the program is not currently offered in the requested school; or

(4) alter or waive an established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, or required levels of performance.

(C) The school board of trustees shall adopt specific policies regarding capacity standards, standards of approval, and priorities of acceptance.

(1) Standards of approval may include consideration of the capacity of a program, class, or grade level. Standards must not be based on ethnicity, national origin, gender, income level, or include an applicant’s athletic, artistic, or other extracurricular ability, disabling conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district, offenses committed that would result in expulsion, or suspensions from the previous school year that total ten days may be included. However, the school board may provide for provisional enrollment of students with prior behavior problems and may establish conditions under which enrollment of nonresident students would be permitted or continued. Standards may include an applicant’s previous academic achievement only if enrollment in that program or school is based upon specific levels of performance uniformly applied to all seeking enrollment to that program or school.

(2) In the assignment of students, priority must be given:

(a) first, to students residing within the district including students currently enrolled in private schools and home schools, but who desire to attend a school outside their attendance zone;

(b) second, to returning students who continue to meet the requirements for the program or school;

(c) third, to students who meet the requirements for the program or school and who seek to attend the designated school in the district’s feeder pattern;

(d) fourth, to the siblings of students residing in the same household already enrolled in the school, provided that any siblings seeking priority under this section meet the requirements for the program or school; and

(e) fifth, to students whose parent or legal guardian is assigned to the school as his or her primary place of employment.

The policies must not have the purpose or effect of causing racial segregation in a school or the school district.

(D) A receiving school only may deny resident students living outside the attendance zone or nonresident students permission to enroll for the following reasons:

(1) there is a lack of capacity in the school or program requested;

(2) the school requested does not offer the appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of a student;

(3) the student does not meet established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, or required levels of performance;

(4) a voluntary or court‑ordered desegregation plan is in effect for the school district, and the denial is necessary in order to enable compliance with the desegregation plan; or

(5) the student was suspended for ten days or more the previous school year, is expelled, has committed offenses that would result in expulsion, or is in the process of being suspended or expelled.

A denial of a request by the board of a receiving district is final.

(E) A sending school district only may deny resident students a transfer to a receiving school when the transfer would violate a voluntary or court‑ordered desegregation plan in effect for that district. However, if the percentage of students seeking to transfer to receiving schools exceeds twenty percent of the sending district’s enrollment, the sending district must concur with any additional students transferring from the school to attend a receiving school. If a school’s transfer requests exceed twenty percent of its enrollment, the State Board of Education shall appoint an external review team to study educational programs in the school, identify factors contributing to the transfer requests of students, and make recommendations to the district.

(F) A district may not take any action to prohibit or prevent application by resident students to attend school in a nonresident school district or to attend another school within the resident district.

(G) Each school board of trustees of the school district annually shall submit capacity figures for each of its schools to the department. Each district is responsible for annually posting school capacities on the district and school websites. Additionally, information regarding the current enrollment of the school and its percentage of capacity must be included. This information must be provided to the department and posted on the district and school websites by January first of each school year as it relates to capacity capabilities for the following school year.

Section 59‑62‑80. (A) A student approved for enrollment in a nonresident district school or program pursuant to this chapter is entitled to remain enrolled in that district until completion of the final grade within that school without being required to submit annual applications. Before completion of that final grade of the school, application for enrollment in the feeder school must be submitted pursuant to this chapter.

(B) A receiving district may terminate the enrollment of a nonresident student enrolled pursuant to this chapter at the end of a school year if the:

(1) student meets the definition of a habitual truant;

(2) student fails to comply with requirements for attending school or class;

(3) student has committed violations of the receiving district’s student code of conduct resulting in ten or more days of suspension; or

(4) board of the district of residence, the board of the receiving district, and the parent having submitted the application for enrollment agree for any reason to terminate the enrollment.

Section 59‑62‑90. (A) The parent is responsible for transporting the student to and from the school. However, nothing in this chapter shall be construed as prohibiting resident districts or the receiving districts from providing bus transportation on any approved route and districts are encouraged to collaborate in the development of transportation plans for students whose parents are unable to provide transportation.

(B) Parents or guardians of students attending a receiving school district, whose family income is one hundred eighty‑five percent or less of the federal poverty guidelines as promulgated annually by the United States Department of Health and Human Services, making them eligible for free or reduced‑price lunches, shall be eligible for transportation services provided by the school district or shall be eligible for transportation reimbursement from the district with funds appropriated by the General Assembly for that purpose. Should the General Assembly fail to appropriate funds for this purpose, receiving school districts shall be under no obligation.

(C) With funds appropriated by the General Assembly, the department shall reimburse receiving school districts for transportation expenses as provided in subsection (B) of this section. The rate of reimbursement shall be pursuant to State Board of Education regulations.

Section 59‑62‑100. (A) A student enrolled in a receiving district pursuant to this chapter must be included in the average daily membership of the receiving district for the purposes relating to the allocation of all state and federal education funding and must not be included in the average daily membership of the district of residence for these purposes.

(B) Districts shall receive one hundred percent of the base student cost from the State for nonresident students enrolled pursuant to this chapter.

Section 59‑62‑110. (A) A student enrolled in a receiving school pursuant to this chapter is ineligible to participate in interscholastic athletic contests and competitions for one calendar year after the student’s date of enrollment in the receiving school or, if the student makes subsequent transfers, for one calendar year from the date of each transfer. This restriction does not apply to a student’s initial transfer from his district of residence if the sport in which the student wishes to participate is not offered in the student’s previous school.

(B) A student may not gain eligibility to participate in extracurricular activities in violation of policies governing eligibility as a result of an enrollment transfer to another school.

Section 59‑62‑120. (A) A receiving district shall accept credits for a course completed in another accredited school and shall apply those credits toward the student’s requirements for graduation.

(B) The receiving district shall award a diploma to a nonresident student if the student meets all state requirements for graduation.

Section 59‑62‑130. Open enrollment does not preclude a school district from contracting with other school districts, educational service providers, or other state‑approved entities for the provision of services. A child with a disability receiving services from another district pursuant to contract due to lack of appropriate programming in his resident school district is not eligible to transfer as an open enrollment student into the district currently providing services, but is eligible to transfer as an open enrollment student into another district that has an appropriate program and has not reached enrollment capacity.

Section 59‑62‑135. (A) A school district may apply to the State Board of Education for a waiver to phase in the implementation of the ‘School District Choice and Open Enrollment Programs’ required by this chapter on an alternate schedule proposed by the district other than as required by this chapter. The State Board of Education may grant the waiver request upon good cause shown.

(B) A school district also may apply to the State Board of Education, separately from the waiver authorized by subsection (A), for a waiver of the requirement in Section 59‑62‑70 that the district accept students at a particular school residing outside the school’s attendance area not in excess of three percent of the school’s highest average daily membership in any year over the preceding ten‑year period with this requirement phased in at a yearly increase of one percent of the school’s previous year’s average daily membership. The State Board of Education may grant the waiver request upon good cause shown.

(C) In addition to the other waiver requests permitted by this section, a school district in the process of consolidation may request a waiver from all requirements of this chapter until the consolidation is completed. Thereafter, the provisions of this chapter then shall apply to the district in the manner specified in the waiver request. The State Board of Education may grant the waiver request upon good cause shown.

Section 59‑62‑140. The department shall conduct an annual survey of districts to determine the number of students participating in the Open Enrollment Program. The participants must be reported according to the number of resident students enrolling in a school other than the school in their attendance zone, the number of nonresident students enrolled, the number of denied applications, reasons for denial, and changes to the racial composition and poverty level of the districts and schools enrolling students. The department annually shall report these findings to the General Assembly annually by January first.

Section 59‑62‑150. Implementation of this chapter each fiscal year is contingent upon the appropriation of adequate funding as documented by a fiscal impact statement provided by the Office of State Budget of the State Budget and Control Board to the General Assembly and the department on or before April fifteenth of each year estimating the cost of implementation for the ensuing fiscal year; provided that for fiscal year 2012‑2013 the cost of implementation shall be as determined in the fiscal impact statement of the act enacting this chapter. There is no mandatory financial obligation to public schools or public school districts with respect to this chapter if state funding is not appropriated for each fiscal year of implementation as provided for in the annual fiscal impact statement of the Office of the State Budget of the State Budget and Control Board provided for above.

Section 59‑62‑160. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this chapter 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 chapter, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

Senator GROOMS proposed the following amendment (1267R001.LKG), which was adopted:

Amend the bill, as and if amended, page 8, by striking lines 4 ‑ 7 and inserting:

/ Section 59‑62‑70. (A) In implementing the provisions of this chapter, a student who currently resides in the attendance zone of a school, or who qualifies to attend schools within the attendance zone pursuant to Section 59‑63‑30, must not be displaced by students transferring from outside the attendance zone. /

Amend the bill further, as and if amended, page 9, by adding a new appropriately lettered subsection after line 36 to read:

/ ( ) A student who qualifies to attend a school in a school district pursuant to Section 59‑63‑30, including the requirement that the student own real estate in the district that has an assessed value of three hundred dollars or more, may attend the schools within the attendance zone where the property is located without having to apply for enrollment to schools in that attendance zone pursuant to this chapter and the receiving school may not deny the student permission to enroll at the school. /

Renumber sections to conform.

Amend title to conform.

Senator GROOMS 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 33; Nays 1**

**AYES**

Alexander Bright Bryant

Campsen Courson Cromer

Davis Fair Ford

Gregory Grooms Hayes

Hutto Knotts Land

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

Peeler Pinckney Rose

Ryberg Scott Setzler

Thomas Verdin Williams

**Total--33**

**NAYS**

Reese

**Total--1**

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

**COMMITTEE AMENDMENT ADOPTED**

**AMENDED, READ THE SECOND TIME**

S. 1015 -- Senators Hayes, Courson, Knotts, Lourie, Davis and Alexander: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑66‑75 SO AS TO REQUIRE A HEALTH CARE PROVIDER TO GIVE A PATIENT AN OPPORTUNITY TO AUTHORIZE DISCLOSURE OF CERTAIN INFORMATION TO DESIGNATED FAMILY MEMBERS OR OTHER PEOPLE AND TO AUTHORIZE THE INVOLVEMENT OF DESIGNATED FAMILY MEMBERS OR OTHER PEOPLE IN THE TREATMENT OF THE PATIENT, AND TO SPECIFY INFORMATION THAT MUST BE INCLUDED IN THE AUTHORIZATION, AMONG OTHER THINGS; AND TO AMEND SECTION 44‑66‑20, AS AMENDED, RELATING TO DEFINITIONS IN THE ADULT CARE CONSENT ACT, SO AS TO ADD DEFINITIONS.

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

The Committee on Medical Affairs proposed the following amendment (S-1015), which was adopted:

Amend the bill, as and if amended, page 2, by striking lines 6-7 and inserting:

/ (3) upon the written request to the provider from a family member of a patient receiving treatment. /

Amend the bill further, page 2, by striking lines 26-27 and inserting:

/ (4) must specify that the patient may revoke or modify any authority granted to any individual under the authorization, so long as any revocation or modification is in writing. /

Amend the bill further, page 2, by striking lines 40-42 and on page 3, by striking lines 1-2 and inserting:

/ disclosure is otherwise lawful or permissible;

(3) prohibit a provider from receiving and using information relevant to the safe and effective treatment of the patient from family members if the patient has not consented to a release of information by the provider; or

(4) conflict with an individual’s health care power of attorney pursuant to Section 62-5-504. /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the committee amendment.

The committee amendment was adopted.

Senators HAYES and HUTTO proposed the following amendment (S-1015-3), which was adopted:

Amend the bill, as and if amended, page 2, by striking lines 4-5 and inserting:

/ (2) for an outpatient setting at a minimum of once a year and for an inpatient setting at a minimum of once a week; and /

Renumber sections to conform.

Amend title to conform.

Senator VERDIN explained the amendment.

The amendment was adopted.

Senators HAYES and CLEARY proposed the following amendment (AGM\19572AB12), which was adopted:

Amend the bill, as and if amended, Section 44‑66‑75(A), as contained in SECTION 1, page 1, line 31, by deleting /must/ and inserting /is strongly encouraged to/.

Amend the bill further, Section 44‑66‑75(B), as contained in SECTION 1, page 1, line 39, by deleting /must/ and inserting /is strongly encouraged to/.

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the amendment.

The question then was second reading of the Bill.

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

**Ayes 35; Nays 0**

**AYES**

Alexander Bright Bryant

Campsen Courson Cromer

Davis Fair Ford

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McGill Nicholson Peeler

Pinckney Reese Rose

Scott Setzler Thomas

Verdin Williams

**Total--35**

**NAYS**

**Total--0**

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

**S. 1015--Ordered to a Third Reading**

On motion of Senator HAYES, with unanimous consent, S. 1015 was ordered to receive a third reading on Friday, April 27, 2012.

**ADOPTED**

S. 1484 -- Senator Elliott: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 701 FROM ITS INTERSECTION WITH THE LIMITS OF THE CITY OF CONWAY TO ITS INTERSECTION WITH SOUTH CAROLINA HIGHWAY 22 “W. D. ‘BILLY’ WITHERSPOON HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THE WORDS “W. D. ‘BILLY’ WITHERSPOON HIGHWAY”.

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

H. 5154 -- Reps. Norman and J.M. Neal: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 215 IN FAIRFIELD COUNTY FROM ITS INTERSECTION WITH THE FAIRFIELD/CHESTER COUNTY LINE TO ITS INTERSECTION WITH COOL BRANCH ROAD (S-20-50) “SCHP PATROLMAN RALPH W. MCCRACKEN MEMORIAL HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS “SCHP PATROLMAN RALPH W. MCCRACKEN MEMORIAL HIGHWAY”.

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

**AMENDED, OBJECTION**

S. 566 -- Senators Leventis, Ford, Elliott, Reese, Ryberg, Setzler and Land: A BILL TO AMEND SECTION 59‑63‑120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF THE SAFE SCHOOL CLIMATE ACT, SO AS TO AMEND THE DEFINITION OF HARASSMENT TO INCLUDE MOTIVATIONS; TO AMEND SECTION 59‑63‑140, RELATING TO LOCAL DISTRICT POLICIES PROHIBITING HARASSMENT, SO AS TO INCLUDE PROCEDURES AND REPORTING REQUIREMENTS FOR ACTS OF HARASSMENT, AND TO REQUIRE LOCAL DISTRICTS TO POST A LINK TO THE POLICY ON THEIR WEBSITES; TO AMEND SECTION 59‑63‑150, RELATING TO AVAILABILITY OF CIVIL OR CRIMINAL REDRESS, SO AS TO INCLUDE PROVISIONS REGARDING THE CONSTRUCTION OF THE ARTICLE; AND BY ADDING SECTION 59‑63‑160 SO AS TO PROVIDE PROCEDURES FOR THE FILING OF REPORTS, NOTIFICATION TO THE DISTRICT SUPERINTENDENT AND TO THE DISTRICT BOARD OF TRUSTEES, TO PROVIDE A PROCESS FOR GRADING SCHOOLS AND DISTRICTS WITH REGARD TO HARASSMENT, INTIMIDATION, AND BULLYING, AND TO PROVIDE FOR PUBLICATION OF THE SCHOOL AND DISTRICT GRADE ON ITS WEBSITE.

Senator SHANE MARTIN 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 third reading of the Bill.

**Motion Under Rule 26B**

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

There was no objection.

Senator RYBERG proposed the following amendment (566R003.WGR), which was adopted:

Amend the bill, as and if amended, page 5, by striking lines 28-41 and inserting:

/ (C) The provisions of this article shall apply equally to an act of harassment, intimidation, or bullying by students, school administrators, teachers, employees, or volunteers.

(D) This article may not be construed to permit school officials to punish student expression or speech based on an undifferentiated fear or apprehension of disturbance or out of a desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.

(E) Nothing in this article may be construed to require an exhaustion of the administrative complaint process before civil or criminal law remedies may be pursued regarding bullying or harassing behavior.

(F) The provisions of this article are severable, and if any provision of this article is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of this article which can be given effect without the invalid provision.

(G) Nothing in this act may be construed to create any /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

The amendment was adopted.

Senator LEVENTIS proposed the following amendment (MS\  
7774AHB12), which was adopted:

Amend the bill, as and if amended, page 7, immediately after line 11, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_. A school district that has a policy which complies with the requirements of Section 59-63-140(B) and which is in effect on the effective date of this act is not required to adopt another policy pursuant to this act. /

Renumber sections to conform.

Amend title to conform.

Senator LEVENTIS explained the amendment.

The amendment was adopted.

Senator BRIGHT spoke on the Bill.

Senator ROSE objected to further consideration of the Bill, as amended.

**CARRIED OVER**

H. 3604 -- Reps. J.E. Smith, Brady, Agnew, R.L. Brown and Whipper: A CONCURRENT RESOLUTION TO ENCOURAGE THE SOUTH CAROLINA COUNCIL OF GOVERNMENTS TO ADOPT ORDINANCES INTENDED TO ENABLE THE RETROFITTING OF SHOPPING MALLS AND SHOPPING CENTERS INTO DENSE, WALKABLE, MIXED‑USE TOWN CENTERS, AND TO ENCOURAGE OTHER MEASURES TO PROMOTE A HUMAN HABITAT THAT IS HOSPITABLE AND ACCESSIBLE TO MORE SOUTH CAROLINIANS WHILE LESSENING ENVIRONMENTAL IMPACTS ON THE STATE.

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

H. 3934 -- Reps. Bingham, Lowe, Atwater, Huggins, Bales, Pinson, Toole, Barfield, Clemmons, Norman, Owens, Lucas, Delleney, Loftis, Corbin, Simrill, Hixon, Taylor, D.C. Moss, J.R. Smith, Limehouse, Sottile, Bikas, Hiott, Parker, Allison, Long, Erickson, Patrick, Herbkersman, Merrill, Cole, Sellers, Ott, Hardwick, Hearn, Tallon, Stringer, Ryan, White, Pope, Henderson, Nanney, Sandifer, V.S. Moss, Horne, Neilson, Edge, Crawford, Viers, Quinn, Tribble, Willis, Parks, King, Ballentine, Bannister, Butler Garrick, J.E. Smith, Brannon, Bowen and Mitchell: A BILL TO AMEND SECTION 12‑43‑224, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ASSESSMENT OF UNDEVELOPED ACREAGE SUBDIVIDED INTO LOTS, SO AS TO PROVIDE THAT THE DISCOUNT APPLIES TO A DEVELOPER THAT HAS FIVE LOTS INSTEAD OF TEN LOTS, AND TO PROVIDE THAT IF APPLICATION FOR THE DISCOUNTED RATE COMES AFTER MAY FIRST BUT BEFORE JUNE FIRST, THE OWNER SHALL RECEIVE THE DISCOUNTED RATE BUT THE DISCOUNT SHALL BE REDUCED; AND TO AMEND SECTION 12‑43‑225, AS AMENDED, RELATING TO MULTIPLE LOT DISCOUNTS, SO AS TO PROVIDE THAT THE DISCOUNT APPLIES TO A DEVELOPER THAT HAS FIVE LOTS INSTEAD OF TEN LOTS, TO PROVIDE THAT IF APPLICATION FOR THE DISCOUNTED RATES COMES AT A CERTAIN TIME AFTER MAY FIRST, THE ASSESSOR STILL SHALL GRANT THE DISCOUNT IF ALL OTHER REQUIREMENTS ARE MET, TO PROVIDE THAT APPLICATION FOR THE DISCOUNTED RATE ONLY MUST BE MADE IN THE FIRST YEAR, AND TO TOLL TIME LIMITATIONS FOR CERTAIN PROPERTY.

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

H. 4451 -- Reps. Bowen, Whipper, Bikas, Sottile, Herbkersman, D.C. Moss, Allison, Parker, Huggins, Bowers and Hearn: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 56‑5‑3890, 56‑5‑3895, AND 56‑5‑3897 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO USE AN ELECTRONIC COMMUNICATION DEVICE WHILE DRIVING A MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE A PENALTY, AND TO PROVIDE FOR THE DISTRIBUTION OF MONIES COLLECTED FROM FINES ASSOCIATED WITH VIOLATIONS OF THESE PROVISIONS; 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 POINTS MUST BE ASSESSED AGAINST THE DRIVING RECORD OF A PERSON CONVICTED OF IMPROPER USE OF AN ELECTRONIC COMMUNICATION DEVICE WHILE DRIVING A MOTOR VEHICLE.

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

H. 4703 -- Reps. Pitts, Herbkersman, Parker, Hardwick, White, Erickson, Henderson, Limehouse, Sandifer, G.R. Smith, Spires, Tribble and Ott: A CONCURRENT RESOLUTION TO AFFIRM THE AUTHORITY OF THE STATE OF SOUTH CAROLINA IN DETERMINING APPROPRIATE ACTIVITIES AND USES OF RESOURCES IN WATERS CONTROLLED BY THE STATE AND TO RECOGNIZE THE CRITICAL ROLE OF STATES IN FEDERAL OCEAN PLANNING, INCLUDING THE GATHERING OF COASTAL AND MARINE SPATIAL DATA.

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

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

**MOTION ADOPTED**

On motion of Senator COURSON, with unanimous consent, the Senate agreed that, when the Senate adjourned on Friday, April 27, 2012, the Senate would stand adjourned to meet on Tuesday, May 1, 2012, at 11:00 A.M.

**MOTION ADOPTED**

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

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

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ IN FULL**

**READ THE SECOND TIME, ‘AYES’ AND ‘NAYS’ TAKEN**

H. 3152 -- Reps. Young, Daning, Harrison, Allison, G.R. Smith, Stringer, Taylor, Forrester, Hamilton, Murphy, G.M. Smith, Bingham, Long, Patrick, Viers, Funderburk, Horne, Willis, Weeks, Pope, Simrill, Clemmons, Harrell, Bedingfield and Edge: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE FOR THE JOINT ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR.

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

**Amendment No. P5**

Senator LARRY MARTIN proposed the following amendment (3152R002.LAM), which was adopted:

Amend the committee amendment, as and if amended, [3152-3], by striking line 8 and inserting:

/ (E) It is proposed that Section 11, Article IV of the Constitution of this State be amended to read:

“Section 11. In the case of the removal of the Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Lieutenant Governor shall be Governor. In case the Governor be impeached, the Lieutenant Governor shall act in his stead and have his powers until judgment in the case shall have been pronounced. In the case of the temporary disability of the Governor and in the event of the temporary absence of the Governor from the State, the Lieutenant Governor shall have full authority to act in an emergency. In the case of the removal of the Lieutenant Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Governor shall appoint, with the advice and consent of the Senate, a successor to fulfill the unexpired term.”

(F) It is proposed that Section 12, Article IV of the /

Amend the committee amendment further, as and if amended, Page [3152-4], by striking SECTION 2 and inserting:

/ SECTION 2. The proposed amendment in SECTION 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 8 of Article IV of the Constitution of this State be amended to provide that the Lieutenant Governor must be elected jointly with the Governor in a manner prescribed by law; and upon the joint election to add Section 37 to Article III of the Constitution of this State to provide that the Senate shall elect from among the members thereof a President to preside over the Senate and to perform other duties as provided by law; to delete Sections 9 and 10 of Article IV of the Constitution of this State containing inconsistent provisions providing that the Lieutenant Governor is President of the Senate, ex officio, and while presiding in the Senate, has no vote, unless the Senate is equally divided; to amend Section 11 to provide that the Governor shall fill a vacancy in the Office of Lieutenant Governor by appointing a successor with the advice and consent of the Senate; and to amend Section 12 of Article IV of the Constitution of this State to conform appropriate references?

The proposed amendment must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the amendment.

The amendment was adopted.

**Amendment No. P6**

Senator HUTTO proposed the following amendment (JUD3152.006), which was ruled out of order:

Amend the committee report, as and if amended, page [3152-2], by striking in their entirety lines 13 through 30 as contained in SECTION 1(A), and inserting therein the following:

/ SECTION 1. (A) It is proposed that Section 8, Article IV of the Constitution of this State be amended to read:

“Section 8. (A) A Lieutenant Governor ~~shall~~ must be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the Governor.

(B) Beginning with the general election of 2014, a person seeking the office of Governor in any manner that a person’s name may appear on the ballot as a candidate for that office, and before that person’s name is certified to appear on the ballot for the general election, shall select qualified electors to serve as Lieutenant Governor and Superintendent of Education.

(C) All candidates for the offices of Governor, Lieutenant Governor, and Superintendent of Education must be elected jointly in a manner prescribed by law so that each voter casts a single vote to elect a candidate for the office of Governor, Lieutenant Governor, and Superintendent of Education.

(D) The General Assembly shall provide by law the manner in which candidates for Lieutenant Governor and Superintendent of Education are selected.” /

Amend the committee report further, as and if amended, page [3152-4], by striking in their entirety lines 5 though 17 as contained in SECTION 2, and inserting therein the following:

/ “Must Section 8 of Article IV of the Constitution of this State be amended so as to provide that the Lieutenant Governor and Superintendent of Education be elected jointly with the Governor in a manner prescribed by law; and upon the joint election to add Section 37 to Article III of the Constitution of this State so as to provide that the Senate shall elect from among the members thereof a President to preside over the Senate and to perform other duties as provided by law; to delete Sections 9 and 10 of Article IV of the Constitution of this State containing inconsistent provisions providing that the Lieutenant Governor is President of the Senate, ex officio, and while presiding in the Senate, has no vote, unless the Senate is equally divided; and to amend Section 12 of Article IV of the Constitution of this State to conform appropriate references? /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

**Point of Order**

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

Senator LARRY MARTIN spoke on the Point of Order.

The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

**Amendment No. P8**

Senator KNOTTS proposed the following amendment (JUD3152.008), which was adopted:

Amend the committee report, as and if amended, page [3152-2], by striking line 19, in SECTION 1(A), and inserting therein the following:

/ (B) Beginning with the general election of 2018, a person /

Amend the committee report further, as and if amended, page [3152-2], by striking line 34, in SECTION 1(B), and inserting therein the following:

/ convening of the General Assembly in 2019 and every four /

Amend the committee report further, as and if amended, page [3152-3], by striking line 42, in SECTION 1(E), and inserting therein the following:

/ Governor shall resume the powers and duties of his office.

(F) It is proposed that the amendments proposed to Article IV of the Constitution of this State become effective for the general election of 2018 and the organization of the Senate to take place following the general election of 2018.”

Amend the committee report, as and if amended, page [3152-4], by striking line 5, in SECTION 2 and inserting therein the following:

/ “Beginning with the general election of 2018, must Section 8 of Article IV of the Constitution of this State be /

Renumber sections to conform.

Amend title to conform.

Senator KNOTTS explained the amendment.

The amendment was adopted.

The Committee on Judiciary proposed the following amendment (JUD3152.002), which was adopted:

Amend the joint resolution, as and if amended, as and if amended, by striking the resolution in its entirety and inserting therein the following:

/ A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE THAT THE LIEUTENANT GOVERNOR MUST BE ELECTED JOINTLY WITH THE GOVERNOR IN A MANNER PRESCRIBED BY LAW; TO ADD SECTION 37 TO ARTICLE III OF THE CONSTITUTION OF THIS STATE, SO AS TO PROVIDE THAT THE SENATE SHALL ELECT FROM AMONG ITS MEMBERS A PRESIDENT TO PRESIDE OVER THE SENATE AND TO PERFORM OTHER DUTIES AS PROVIDED BY LAW; TO DELETE SECTIONS 9 AND 10 OF ARTICLE IV OF THE CONSTITUTION OF THIS STATE, RELATING TO THE LIEUTENANT GOVERNOR BEING PRESIDENT OF THE SENATE AND, WHILE PRESIDING IN THE SENATE, HAVING NO VOTE, UNLESS THE SENATE IS EQUALLY DIVIDED, SO AS TO REMOVE INCONSISTENT PROVISIONS; AND TO AMEND SECTION 12 OF ARTICLE IV OF THE CONSTITUTION OF THIS STATE, RELATING TO THE DISABILITY OF THE GOVERNOR, SO AS TO CONFORM APPROPRIATE REFERENCES.

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

SECTION 1. (A) It is proposed that Section 8, Article IV of the Constitution of this State be amended to read:

“Section 8. (A) A Lieutenant Governor ~~shall~~ must be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the Governor.

(B) Beginning with the general election of 2014, a person seeking the office of Governor in any manner that a person’s name may appear on the ballot as a candidate for that office, and before that person’s name is certified to appear on the ballot for the general election, shall select a qualified elector to serve as Lieutenant Governor.

(C) All candidates for the offices of Governor and Lieutenant Governor must be elected jointly in a manner prescribed by law so that each voter casts a single vote to elect a candidate for the office of Governor and Lieutenant Governor.

(D) The General Assembly shall provide by law the manner in which a candidate for Lieutenant Governor is selected.”

(B) It is proposed that Article III of the Constitution of this State be amended by adding:

“Section 37. The Senate shall, as soon as practicable after the convening of the General Assembly in 2015, 2017, and every four years thereafter, elect from among the members thereof a president to preside over the Senate and to perform other duties as provided by law.”

(C) It is proposed that Article IV of the Constitution of this State be amended by deleting Section 9 which reads:

“Section 9. The Senate shall as soon as practicable after the convening of the General Assembly choose a President Pro Tempore to act in the absence of the Lieutenant Governor. A member of the Senate acting as Lieutenant Governor shall thereupon vacate his seat and another person shall be elected in his stead.”

(D) It is proposed that Article IV of the Constitution of this State be amended by deleting Section 10, which reads:

“Section 10. The Lieutenant Governor shall be President of the Senate, ex officio, and while presiding in the Senate, shall have no vote, unless the Senate be equally divided.”

(E) It is proposed that Section 12, Article IV of the Constitution of this State be amended to read:

“Section 12. (1) Whenever the Governor transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as acting Governor.

(2) Whenever a majority of the Attorney General, the Secretary of State, the Comptroller General, and the State Treasurer, or of such other body as the General Assembly may provide, transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall forthwith assume the powers and duties of the office as acting Governor.

Thereafter, if the Governor transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives his written declaration that no such inability exists, he shall forthwith resume the powers and duties of his office unless a majority of the above members or of such other body, whichever the case may be, transmits within four days to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon, the General Assembly shall forthwith consider and decide the issue, and if not in session, it shall assemble within forty-eight hours for the sole purpose of deciding such issue. If the General Assembly, within twenty-one days, excluding Sundays, after the first day it meets to decide the issue, determines by two-thirds vote of each House that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office.”

SECTION 2. The proposed amendment in SECTION 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 8 of Article IV of the Constitution of this State be amended so as to provide that the Lieutenant Governor must be elected jointly with the Governor in a manner prescribed by law; and upon the joint election to add Section 37 to Article III of the Constitution of this State so as to provide that the Senate shall elect from among the members thereof a President to preside over the Senate and to perform other duties as provided by law; to delete Sections 9 and 10 of Article IV of the Constitution of this State containing inconsistent provisions providing that the Lieutenant Governor is President of the Senate, ex officio, and while presiding in the Senate, has no vote, unless the Senate is equally divided; and to amend Section 12 of Article IV of the Constitution of this State to conform appropriate references?

The proposed amendment must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

**Amendment No. 2**

Senator HUTTO proposed the following amendment (3152MW26), which was withdrawn:

Amend the joint resolution, as and if amended, by striking SECTION 1(A) and inserting the following:

/ “ SECTION 1. (A) It is proposed that Section 8, Article IV of the Constitution of this State be amended to read:

“Section 8. (A) A Lieutenant Governor ~~shall~~ must be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the Governor.

(B) Beginning with the general election of 2014, a person seeking the office of Governor in any manner that a person’s name may appear on the ballot as a candidate for that office, and before that person’s name is certified to appear on the ballot for the general election, shall select a qualified elector to serve as Lieutenant Governor and Superintendent of Education.

(C) All candidates for the offices of Governor, Lieutenant Governor, and Superintendent of Education must be elected jointly in a manner prescribed by law so that each voter casts a single vote to elect a candidate for the office of Governor, Lieutenant Governor, and Superintendent of Education.

(D) The General Assembly shall provide by law the manner in which a candidate for Lieutenant Governor and Superintendent of Education are selected.” /

Further amend the joint resolution , as and if amended, by striking SECTION 2 and inserting the following:

/ SECTION 2. The proposed amendment in SECTION 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 8 of Article IV of the Constitution of this State be amended so as to provide that the Lieutenant Governor and Superintendent of Education must be elected jointly with the Governor in a manner prescribed by law; and upon the joint election to add Section 37 to Article III of the Constitution of this State so as to provide that the Senate shall elect from among the members thereof a President to preside over the Senate and to perform other duties as provided by law; to delete Sections 9 and 10 of Article IV of the Constitution of this State containing inconsistent provisions providing that the Lieutenant Governor is President of the Senate, ex officio, and while presiding in the Senate, has no vote, unless the Senate is equally divided; and to amend Section 12 of Article IV of the Constitution of this State to conform appropriate references?

The proposed amendment must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.” /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

**Point of Order**

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

The Point of Order was withdrawn.

**RECESS**

At 3:37 P.M., with Senator HUTTO retaining the floor, on motion of Senator HUTTO, the Senate receded from business not to exceed two minutes.

At 3:39 P.M., the Senate resumed.

On motion of Senator HUTTO, with unanimous consent, the amendment was withdrawn.

**Amendment No. 4**

Senator HUTTO proposed the following amendment (3152MW40), which was ruled out of order:

Amend the joint resolution, as and if amended, by adding appropriately numbered new SECTIONS to read:

/SECTION \_\_. It is proposed that Section 7, Article VI of the Constitution of this State be amended to read:

“Section 7. (A) There shall be elected by the qualified voters of the State a Secretary of State, an Attorney General, a Treasurer, ~~a Superintendent of Education,~~ Comptroller General, Commissioner of Agriculture, and an Adjutant General who shall hold their respective offices for a term of four years, coterminous with that of the Governor. The duties and compensation of such offices shall be prescribed by law and their compensation shall be neither increased nor diminished during the period for which they shall have been elected.

(B) The office of Superintendent of Education shall be appointed by the Governor with advice and consent of the Senate.

SECTION \_\_\_. The proposed amendment in SECTION\_\_ must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 7, Article VI of the Constitution of the State be amended by adding a provision to provide that the Supperintendent of Education must be appointed by the Governor?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

‑‑‑‑XX‑‑‑‑ /

Renumber sections to conform.

Amend title to conform.

Senator HUTTO explained the amendment.

**Point of Order**

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

The PRESIDENT sustained the Point of Order.

The amendment was ruled out of order.

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

Senator LARRY MARTIN moved that the text of the Joint Resolution, as amended, be printed upon the pages of the Journal and that the Joint Resolution be ordered to receive a second reading.

H. 3152 -- Reps. Young, Daning, Harrison, Allison, G.R. Smith, Stringer, Taylor, Forrester, Hamilton, Murphy, G.M. Smith, Bingham, Long, Patrick, Viers, Funderburk, Horne, Willis, Weeks, Pope, Simrill, Clemmons, Harrell, Bedingfield and Edge: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE THAT THE LIEUTENANT GOVERNOR MUST BE ELECTED JOINTLY WITH THE GOVERNOR IN A MANNER PRESCRIBED BY LAW; TO ADD SECTION 37 TO ARTICLE III OF THE CONSTITUTION OF THIS STATE, SO AS TO PROVIDE THAT THE SENATE SHALL ELECT FROM AMONG ITS MEMBERS A PRESIDENT TO PRESIDE OVER THE SENATE AND TO PERFORM OTHER DUTIES AS PROVIDED BY LAW; TO DELETE SECTIONS 9 AND 10 OF ARTICLE IV OF THE CONSTITUTION OF THIS STATE, RELATING TO THE LIEUTENANT GOVERNOR BEING PRESIDENT OF THE SENATE AND, WHILE PRESIDING IN THE SENATE, HAVING NO VOTE, UNLESS THE SENATE IS EQUALLY DIVIDED, SO AS TO REMOVE INCONSISTENT PROVISIONS; AND TO AMEND SECTION 12 OF ARTICLE IV OF THE CONSTITUTION OF THIS STATE, RELATING TO THE DISABILITY OF THE GOVERNOR, SO AS TO CONFORM APPROPRIATE REFERENCES.

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

SECTION 1. (A) It is proposed that Section 8, Article IV of the Constitution of this State be amended to read:

“Section 8. (A) A Lieutenant Governor ~~shall~~ must be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the Governor.

(B) Beginning with the general election of 2018, a person seeking the office of Governor in any manner that a person’s name may appear on the ballot as a candidate for that office, and before that person’s name is certified to appear on the ballot for the general election, shall select a qualified elector to serve as Lieutenant Governor.

(C) All candidates for the offices of Governor and Lieutenant Governor must be elected jointly in a manner prescribed by law so that each voter casts a single vote to elect a candidate for the office of Governor and Lieutenant Governor.

(D) The General Assembly shall provide by law the manner in which a candidate for Lieutenant Governor is selected.”

(B) It is proposed that Article III of the Constitution of this State be amended by adding:

“Section 37. The Senate shall, as soon as practicable after the convening of the General Assembly in 2019 and every four years thereafter, elect from among the members thereof a president to preside over the Senate and to perform other duties as provided by law.”

(C) It is proposed that Article IV of the Constitution of this State be amended by deleting Section 9 which reads:

“Section 9. The Senate shall as soon as practicable after the convening of the General Assembly choose a President Pro Tempore to act in the absence of the Lieutenant Governor. A member of the Senate acting as Lieutenant Governor shall thereupon vacate his seat and another person shall be elected in his stead.”

(D) It is proposed that Article IV of the Constitution of this State be amended by deleting Section 10, which reads:

“Section 10. The Lieutenant Governor shall be President of the Senate, ex officio, and while presiding in the Senate, shall have no vote, unless the Senate be equally divided.”

(E) It is proposed that Section 11, Article IV of the Constitution of this State be amended to read:

“Section 11. In the case of the removal of the Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Lieutenant Governor shall be Governor. In case the Governor be impeached, the Lieutenant Governor shall act in his stead and have his powers until judgment in the case shall have been pronounced. In the case of the temporary disability of the Governor and in the event of the temporary absence of the Governor from the State, the Lieutenant Governor shall have full authority to act in an emergency. In the case of the removal of the Lieutenant Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Governor shall appoint, with the advice and consent of the Senate, a successor to fulfill the unexpired term.”

(F) It is proposed that Section 12, Article IV of the Constitution of this State be amended to read:

“Section 12. (1) Whenever the Governor transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as acting Governor.

(2) Whenever a majority of the Attorney General, the Secretary of State, the Comptroller General, and the State Treasurer, or of such other body as the General Assembly may provide, transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall forthwith assume the powers and duties of the office as acting Governor.

Thereafter, if the Governor transmits to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives his written declaration that no such inability exists, he shall forthwith resume the powers and duties of his office unless a majority of the above members or of such other body, whichever the case may be, transmits within four days to the President ~~Pro Tempore~~ of the Senate and the Speaker of the House of Representatives their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon, the General Assembly shall forthwith consider and decide the issue, and if not in session, it shall assemble within forty-eight hours for the sole purpose of deciding such issue. If the General Assembly, within twenty-one days, excluding Sundays, after the first day it meets to decide the issue, determines by two-thirds vote of each House that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office.”

(G) It is proposed that the amendments proposed to Article IV of the Constitution of this State become effective for the general election of 2018 and the organization of the Senate to take place following the general election of 2018.”

SECTION 2. The proposed amendment in SECTION 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Beginning with the general election of 2018, must Section 8 of Article IV of the Constitution of this State be amended to provide that the Lieutenant Governor must be elected jointly with the Governor in a manner prescribed by law; and upon the joint election to add Section 37 to Article III of the Constitution of this State to provide that the Senate shall elect from among the members thereof a President to preside over the Senate and to perform other duties as provided by law; to delete Sections 9 and 10 of Article IV of the Constitution of this State containing inconsistent provisions providing that the Lieutenant Governor is President of the Senate, ex officio, and while presiding in the Senate, has no vote, unless the Senate is equally divided; to amend Section 11 to provide that the Governor shall fill a vacancy in the Office of Lieutenant Governor by appointing a successor with the advice and consent of the Senate; and to amend Section 12 of Article IV of the Constitution of this State to conform appropriate references?”

The proposed amendment must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

\* \* \*

**Parliamentary Inquiry**

Senator HUTTO made a Parliamentary Inquiry as to whether or not thirty votes would be required for passage.

The PRESIDENT stated that thirty votes would be required for passage of this Joint Resolution.

Senator SHEHEEN spoke on the Joint Resolution.

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

**Ayes 34; Nays 1**

**AYES**

Alexander Bright Bryant

Campsen Courson Cromer

Davis Fair Gregory

Grooms Hayes Hutto

Jackson Knotts Land

Leventis Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McGill Nicholson

Peeler Reese Rose

Ryberg Scott Setzler

Sheheen Thomas Verdin

Williams

**Total--34**

**NAYS**

Ford

**Total--1**

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

The Joint Resolution was returned to the category of Special Order.

**DEBATE INTERRUPTED**

H. 3508 -- Reps. Gambrell, Sandifer, Harrell, Erickson, Limehouse, Weeks, H.B. Brown, Agnew, Allison, Anthony, Bales, Bannister, Bedingfield, Bingham, Brady, Brannon, G.A. Brown, Cole, Crosby, Forrester, Hardwick, Harrison, Hayes, Hiott, Hixon, Horne, Lowe, Lucas, McCoy, D.C. Moss, Owens, Parker, Pinson, Pitts, Skelton, J.E. Smith, J.R. Smith, Sottile, Tallon, Vick, White, Taylor, Hamilton, Battle, Allen, Dillard, Alexander, Cooper, Mack and Bowen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO RETITLE ARTICLE 23, CHAPTER 9, TITLE 58, RELATING TO GOVERNMENT‑OWNED TELECOMMUNICATIONS SERVICE PROVIDERS AS “GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDERS”; BY ADDING SECTION 58‑9‑2660 SO AS TO PROVIDE A GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDER MAY PETITION THE PUBLIC SERVICE COMMISSION TO DESIGNATE ONE OR MORE AREAS AS AN “UNSERVED AREA”, TO SPECIFY THE PROCEDURE FOR MAKING AND PROTESTING THIS PETITION, TO PROVIDE FOR A HEARING OF A PROTEST TO A PETITION, TO PROVIDE FOR THE APPLICATION OF CERTAIN PROVISIONS OF LAW TO AN UNSERVED AREA, AND TO PROVIDE A PROCESS FOR PETITIONING FOR A DETERMINATION THAT AN AREA HAS CEASED TO BE AN UNSERVED AREA; TO AMEND SECTION 58‑9‑10, AS AMENDED, RELATING TO DEFINITIONS CONCERNING TELEPHONE COMPANIES, SO AS TO MODIFY THE DEFINITION OF “BROADBAND SERVICE”; TO AMEND SECTION 58‑9‑2600, RELATING TO THE PURPOSE OF ARTICLE 23, CHAPTER 9, TITLE 58, SO AS TO MAKE CONFORMING CHANGES AND CLARIFY THE SCOPE OF THE ARTICLE; TO AMEND SECTION 58‑9‑2610, RELATING TO DEFINITIONS CONCERNING GOVERNMENT‑OWNED TELECOMMUNICATIONS SERVICE PROVIDERS, SO AS TO MAKE CONFORMING CHANGES AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION 58‑9‑2620, AS AMENDED, RELATING TO DUTIES, RESTRICTIONS, RATE COMPUTATIONS, AND ACCOUNTING REQUIREMENTS OF GOVERNMENT‑OWNED TELECOMMUNICATIONS SERVICE PROVIDERS, SO AS TO MAKE CONFORMING CHANGES, TO GIVE THE OFFICE OF REGULATORY STAFF JURISDICTION TO INVESTIGATE THE COMPLIANCE OF A GOVERNMENT‑OWNED COMMUNICATIONS PROVIDER WITH THE PROVISIONS OF THIS CHAPTER, TO PROVIDE THE COMMISSION MAY ENFORCE THE COMPLIANCE OF A GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDER WITH THE PROVISIONS OF THIS CHAPTER, AND TO CLARIFY THAT THIS SECTION DOES NOT EXPAND OR LIMIT THE JURISDICTION OF THE COMMISSION OR OFFICE OF REGULATORY STAFF WITH RESPECT TO ANY SERVICE PROVIDER OTHER THAN A GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDER; TO AMEND SECTION 58‑9‑2630, RELATING TO CERTAIN TAX COLLECTIONS AND PAYMENTS, SO AS TO MAKE CONFORMING CHANGES; AND TO AMEND SECTION 58‑9‑2650, AS AMENDED, RELATING TO LIABILITY INSURANCE RATES FOR COMMUNICATIONS OPERATIONS, SO AS TO MAKE CONFORMING CHANGES.

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

On motion of Senator LARRY MARTIN, with unanimous consent, the following committee amendment (JUD3508.014) dated March 20, 2012, proposed by the Committee on Judiciary was withdrawn.

The Committee on Judiciary proposed the following amendment (JUD3508.014), which was withdrawn:

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

/ Whereas, the technology used to provide communications services has evolved and continues to evolve at an ever-increasing pace; and

Whereas, certain political subdivisions of the State have applied for and received federal grants to provide certain broadband projects in designated areas of the State; and

Whereas, the General Assembly finds that it is appropriate to update the existing statutes addressing government-owned telecommunications service providers in a manner that does not prevent those political subdivisions from complying with the terms and conditions of such federal grants. Now, therefore,

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

SECTION 1. Article 23, Chapter 9, Title 58 of the 1976 Code is re-titled “Government‑Owned Communications Service Providers”.

SECTION 2. Article 23, Chapter 9, Title 58 of the 1976 Code is amended by adding:

“Section 58‑9‑2660. (A) A government‑owned communications service provider may petition the commission to designate one or more areas as an unserved area. The petition must identify with specificity each 2010 Census tract within a persistent poverty county described in Section 58-9-2610(G) and each 2010 census block in any other county for which this designation is sought. The petition must also identify each county that contains any Census tract or block identified in the petition. If an objection is not filed pursuant to subsection (C), the commission must grant the petition and designate each 2010 Census tract or block identified in the petition as an unserved area.

(B) The commission shall maintain a list, by county, of all broadband service providers who have provided to the commission written notification that they wish to receive notice of petitions to designate unserved areas in a particular county or counties. The commission must serve electronic notice of the petition described in subsection (A) on all broadband service providers in the affected county or counties that requested notice of petitions within five working days of the petition’s filing. The commission must also post public notice of the filing of the petition on its website.

(C)(1) A broadband service provider that has not notified the commission of its wish to receive notice of petitions pursuant to subsection (B) or a resident of an area designated in a petition filed pursuant to subsection (A) may, within thirty days after the commission posts public notice of the filing of the petition on its website, file with the commission an objection to this designation on the ground that one or more areas designated in the petition is not an unserved area.

(2) A provider of broadband service in the area designated in a petition filed pursuant to subsection (A) that notified the commission of its wish to receive notice of petitions may, within thirty days after service of the notice required in subsection (B), file with the commission an objection to this designation on the ground that one or more areas designated in the petition is not an unserved area.

(3) Any provider or resident filing an objection must file testimony supporting the objection within thirty days after the objection is filed. If no testimony is filed in support of the objection, the petition must be granted.

(D) If an objection is filed pursuant to subsection (C), the commission must:

(1) give the petitioner an opportunity to submit prefiled testimony responding to the objection;

(2) hold a hearing on the dispute; and

(3) rule on the petition within ninety days after the objection is filed.

(E) Upon a commission designation that an area is an unserved area, the provisions of Sections 58‑9‑2620, 58‑9‑2630, and 58‑9‑2650 must not apply to a broadband service provided by the petitioner in that area until the later of:

(1) thirty-six months after the effective date of this act; or

(2) twelve months after the commission determines pursuant to subsection (F) that the area is no longer an unserved area.

(F) A provider of broadband service or a resident of an area designated as an unserved area may petition the commission to determine that the area is no longer an unserved area. After notice and an opportunity for a hearing, the commission must grant the petition if, considering only broadband service that is available from providers other than the government-owned communications service provider that filed the petition resulting in the designation by the commission of the area as an unserved area, the commission determines that the area no longer satisfies the relevant definition of ‘unserved’ in Section 58-9-2610(G).”

SECTION 3. Section 58‑9‑10(17) of the 1976 Code, as added by Act 6 of 2003, is amended to read:

“(17) The term ‘broadband service’ means ~~any~~ a service that is used to deliver video or to provide access to the Internet or content and services similar to that accessible through the Internet, and that consists of the offering of:

(a) a capability to transmit information at a rate that is generally not less than one hundred ninety kilobits per second in at least one direction; or

(b) ~~any service that combines computer processing, information storage, and protocol conversion to enable users to access Internet content and services~~ a service that uses one or more of the following to provide this access:

(i) computer processing;

(ii) information storage; and

(iii) protocol conversion.”

SECTION 4. Section 58‑9‑2600 of the 1976 Code, as added by Act 360 of 2002, is amended to read:

“Section 58‑9‑2600. This article regulates the provision of ~~telecommunications~~ communications service by an agency ~~or~~, entity ~~of the State or~~, instrumentality, or a political subdivision of this State, excluding the State Budget and Control Board, for services provided as of ~~this article’s~~ the effective date of this article.”

SECTION 5. Section 58‑9‑2610 of the 1976 Code, as added by Act 360 of 2002, is amended to read:

“Section 58‑9‑2610. As used in this article:

(A)(1) ‘Government‑owned ~~telecommunications~~ communications service provider’ means a state or local political subdivision ~~or~~, instrumentality of the State, person, or entity providing ~~telecommunications~~ a communications service to the public for hire over a facility, operation, or system that is directly or indirectly owned by, operated by, or a financial benefit obtained by or derived from, an agency, instrumentality, or entity of the State or ~~any~~ local government. ‘Government‑owned ~~telecommunications~~ communications service provider’ does not include the State Budget and Control Board for services provided as of ~~this article’s~~ the effective date of this article.

(2) The term ‘government‑owned ~~telecommunications~~ communications service provider’ does not include ~~any~~ a state or local governmental entity, instrumentality, or agency that obtains or derives financial benefit solely from leasing or renting, to ~~any~~ a person or entity, property that is not, in and of itself, a facility used to provide ~~telecommunications~~ a communications service.

~~(2)~~(B) ‘Communications service’ means a telecommunications service, a broadband service, or both.

(C) ‘Telecommunications service’ ~~for the purpose of this section is~~ means a telecommunications service as defined in Section 58‑9‑2200(1).

(D) Broadband service means a service that meets the definition of ‘broadband service’ in Section 58-9-10(17) and that has transmission speeds that are equal to or greater than the requirements for basic broadband tier 1 service as defined by the Federal Communications Commission for broadband data gathering and reporting. This definition does not modify or otherwise affect the definition of ‘broadband services’ for the purposes of Section 58-9-280(G).

~~(3)~~(E) ‘Person’ as defined in Section 58‑9‑10(4) includes a ‘government‑owned ~~telecommunications~~ communications service provider’.

~~(4)~~(F) ‘Public’ means the public generally or ~~any~~ a limited portion of the public, including a person or corporation. The term ‘public’ excludes governmental agencies or entities when they receive ~~telecommunications~~ communications service from the State Budget and Control Board pursuant to its statutory authority or other legal requirements.

(G) ‘Unserved area’ means:

(1) within a county that is identified as a persistent poverty county by the United States Department of Agriculture, Economic Research Service pursuant to the most recent data from the Bureau of the Census, a nongovernment-owned communications service provider’s territory within a 2010 Census tract, as designated by the United States Census Bureau, in which at least seventy-five percent of households have either no access to broadband service or access to broadband service only from a satellite provider; and

(2) within any other county, a 2010 Census block, as designated by the United States Census Bureau, in which at least ninety percent of households have either no access to broadband service or access to broadband service only from a satellite provider.

For the purposes of this subsection, ‘household’ has the same meaning as prescribed by the United States Census Bureau.

(H) ‘Commission’ means the South Carolina Public Service Commission.”

SECTION 6. Section 58‑9‑2620 of the 1976 Code, as last amended by Act 318 of 2006, is further amended to read:

“Section 58‑9‑2620. Notwithstanding any other provision of law, a government‑owned ~~telecommunications~~ communications service provider ~~shall~~ must:

(1) be subject to the same local, state, and federal regulatory, statutory, and other legal requirements ~~that~~ to which nongovernment‑owned ~~telecommunications~~ communications service providers are subject ~~to~~, including regulation and other legal requirements by the ~~Public Service~~ commission and the Office of Regulatory Staff;

(2) not ~~be the recipient of any~~ receive a financial ~~benefits of any type that~~ benefit that is not available to a nongovernment‑owned ~~telecommunications~~ communications service ~~providers are~~ provider on the same terms and conditions as it is available to a government-owned communications service provider, including, but not limited to, tax exemptions and governmental subsidies of any type. Tax exempt capital financing may be used consistent with Sections 58‑9‑2620(4)(a) and 58‑9‑2630(C);

(3) not be permitted to subsidize the cost of providing ~~telecommunications~~ a communications service with funds from any other ~~nontelecommunications~~ noncommunications service, operation, or other revenue source. If a determination is made that a direct or indirect subsidy has occurred, the government‑owned ~~telecommunications~~ communications service provider immediately ~~shall~~ must increase prices for ~~telecommunications~~ communications service in a manner that ensures that the subsidy ~~shall~~ will not continue, and any amounts used directly or indirectly to subsidize the past operations ~~shall~~ will be reimbursed to the general treasury of the appropriate state or local government. This subsection does not prohibit a government-owned communications service provider from providing matching funds or in-kind contributions in order to comply with the terms of a federal grant as long as it imputes the matching funds and the value of the in-kind contributions in calculating the cost incurred and in the rates to be charged for the provision of a communications service;

(4) impute, in calculating the cost incurred and in the rates to be charged for the provision of ~~telecommunications services~~ a communications service, the following:

(a) cost of capital component that is the equivalent to the cost of capital available to nongovernment‑owned ~~telecommunications~~ communications service providers in the same state or locality; and

(b) an amount equal to all taxes, licenses, fees, and other assessments applicable to a nongovernment‑owned ~~telecommunications~~ communications provider including, but not limited to, federal, state, and local taxes, rights‑of‑way franchise consent, or administrative fees, and pole attachment fees;

(5) keep separate books and separately account for the revenues, expenses, property, and source of investment dollars associated with the provision of ~~telecommunications~~ communications service; and

(6) be required to prepare and publish an independent annual audit in accordance with generally accepted accounting principles that reflects the full cost of providing the service, including all direct and indirect costs. The indirect costs ~~shall~~ must include, but are not limited to, amounts for rights‑of‑way franchise, consent, or administrative fees, regulatory fees, occupation taxes, pole attachment fees, and ad valorem taxes. The annual accounting must reflect any direct or indirect subsidies received by the government‑owned ~~telecommunications~~ communications service provider.

(7) Notwithstanding any other provision of law, the Office of Regulatory Staff has jurisdiction to investigate, and the commission has authority to enforce, a government‑owned communications service provider to comply with the provisions of this section.

Records demonstrating compliance with the provisions of this section ~~shall~~ must be filed with the ~~Public Service~~ commission ~~and~~, provided to the Office of Regulatory Staff and ~~be~~ made available for public inspection and copying. ~~The compliance shall be overseen by the Office of Regulatory Staff pursuant to and not inconsistent with its power and jurisdiction set forth by law.~~ Nothing in this article expands or restricts the existing jurisdiction of the commission or the Office of Regulatory Staff regarding a service or provider other than a government‑owned communications service provider.”

SECTION 7. Section 58‑9‑2630 of the 1976 Code, as added by Act 360 of 2002, is amended to read:

“Section 58‑9‑2630. (A) A government‑owned ~~telecommunications~~ communications service provider shall pay or collect taxes ~~each year~~ annually in a manner equivalent to taxes paid by a nongovernment‑owned ~~telecommunications~~ communications service ~~providers~~ provider through payment of the following:

(1) all state taxes, including corporate income taxes~~,~~ under Section 12‑6‑530, and utility license taxes under Section 12‑20‑100;

(2) all local taxes, including local business license taxes, under Section 58‑9‑2230, together with any franchise fees and other local taxes and fees, including impact, user, service, or permit fees, pole rental fees, and rights‑of‑way franchise, consent, or administrative fees; and

(3) all property taxes on otherwise exempt real and personal property that are directly used in the provision of ~~telecommunication services~~ a communications service.

(B) A government‑owned ~~telecommunications~~ communications service provider shall ~~be required to~~ compute, collect, and remit taxes in the same manner as a nongovernment‑owned ~~telecommunications~~ communications service provider and ~~shall~~ must be entitled to the same deductions.

(C) A government‑owned ~~telecommunications~~ communications service provider shall annually remit to the general fund of the government entity owning the ~~telecommunications~~ communications service provider an amount ~~equivalent~~ equal to ~~any and~~ all taxes or fees a private sector ~~telecommunications~~ communications service provider ~~would be required to~~ must pay.

(D) The taxpayer confidentiality provisions contained in Title 12 ~~shall~~ do not apply to the ~~filings~~ filing of a government‑owned ~~telecommunications~~ communications service ~~providers~~ provider. ~~Provided,~~ However, the Department of Revenue shall require an annual report of all ~~telecommunications~~ communications service providers. The report ~~shall~~ must require ~~any telecommunications~~ a communications company licensed in this State to report the total gross of retail ~~telecommunications,~~ communications to which the business license tax is applicable~~,~~ pursuant to Section 58‑9‑2220. This information ~~shall~~ must be available to any entity authorized to collect a tax on retail ~~telecommunications~~ communications or ~~their~~ its agent. Information provided to an entity or agent authorized to collect a tax ~~may~~ must not be disclosed or provided ~~in any manner~~ to ~~any other~~ another person. ~~Such~~ This information may only be used by an entity or agent of an entity authorized to collect a tax for purposes of determining the accuracy of tax returns, filings, and payment of taxes.”

SECTION 8. Section 58‑9‑2650 of the 1976 Code, as added by Act 360 of 2002, is amended to read:

“Section 58‑9‑2650. The Department of Insurance must determine the South Carolina average market rate for private sector liability insurance for ~~telecommunications~~ communications operations. ~~In order~~ To have government‑owned and nongovernment‑owned ~~telecommunications~~ communications service providers in the same competitive position, to the extent possible, the rate paid for liability insurance for government‑owned ~~telecommunications~~ communications operations must be equal to or greater than the average market rate for private sector liability insurance in South Carolina as determined by the Department of Insurance. To the extent that any government‑owned ~~telecommunications~~ communications service provider pays less than the average market rate for this insurance established by the Department of Insurance, the difference ~~shall~~ must be remitted by the government‑owned ~~telecommunications~~ communications service provider to the general fund of the government owning ~~the telecommunications~~ that communications service provider. ~~Provided,~~ However, nothing in this section ~~shall~~ may be construed to mean ~~that~~ a government‑owned ~~telecommunication providers are~~ communications provider is not covered by the South Carolina Tort Claims Act.”

SECTION 9. Article 23, Chapter 9, Title 58 of the 1976 Code of Laws is amended by adding:

“Section 58-9-2670. (A) For any government-owned communications service provider that, on or before the effective date of this act, was awarded funding for a Comprehensive Community Infrastructure middle-mile project pursuant to the Broadband Technology Opportunities Program administered by the United States Department of Commerce’s National Telecommunications and Information Administration:

(1) the provisions of Section 58-9-2630 do not apply;

(2) the provisions of Sections 58-9-2620, 58-9-2650, and 58-9-2660 do not apply to the provision of communications services by a government-owned communications service provider to the government entity that owns the communications facility, operation, or system; and

(3) the provisions of Section 58-9-2620, 58-9-2650, and 58-9-2660 do not apply to the extent that the middle-mile services it offers are used to actually provide communications services to end users in unserved areas. The provider may use any reasonable methodology to comply with this provision. On an annual basis, the provider must file with the commission and provide to the Office of Regulatory Staff a detailed explanation of the methodology it uses to comply with this section, along with supporting documentation, and the explanation and documentation must be made available for public inspection and copying.

(B) The provisions of Sections 58-9-2620, 58-9-2630, 58-9-2650, and 58-9-2660 do not apply to any government-owned communications service provider, that, on or before the effective date of this act, was awarded a grant for a last mile project pursuant to the Broadband Initiatives Program administered by the United States Department of Agriculture’s Rural Utilities Service, to the extent that the government-owned communications service provider provides communications services to addresses that are within the area set forth in its application for the grant, referenced above or to addresses that satisfy each of the following five criteria: (i) are within the border of the grant recipient’s county; (ii) are six miles or further from the center point of any incorporated area with a population in excess of 10,000 as determined by the 2010 census; (iii) are outside any area that, as of December 31, 2011, was served by a rural telephone company, as defined in 47 U.S.C. §153(37), that provided service to less than 15,000 access lines within its local exchange study area in the State; (iv) are outside the boundaries of any industrial or business park owned in whole or in part by the grant recipient’s county and occupied by one or more persons or entities as of the effective date of this act; and (v) are one mile or further from the center of any incorporated area or unincorporated community with a population of no more than 1,500 as long as the address is, as of December 31, 2011, within an exchange of a rural telephone company as defined in 47 U.S.C. §153(37). The provisions of Sections 58‑9‑2620, 58‑9‑2630, 58‑9‑2650, and 58‑9‑2660 apply to the extent that the government-owned communications service provider provides communications service to any other addresses. In order not to impede efficient network design, nothing in this subsection prohibits the incidental placement of the government-owned communications service provider’s facilities outside the borders of the grant recipient’s county as long as such facilities are not used to provide any communications services to any addresses outside the grant recipient’s county.

(C) For any government-owned communications service provider that, on or before the effective date of this act, was also a charter member institution of the South Carolina LightRail Consortium, the provisions of Sections 58‑9‑2620, 58‑9‑2630 and 58‑9‑2650 do not apply to the institution or any of its affiliated organizations in the provision of connection to national research and educational networks described in Section 59-151-110(A), provided that: (i) the institution and its affiliated organizations use such connection solely for research and education-related activities; (ii) under no circumstances will the institution or any of its affiliated organizations provide service that connects commercial sites or that carries commercial traffic, commercial Internet traffic or K-12 traffic originated in South Carolina; and (iii) neither such charter member institution of the South Carolina LightRail Consortium nor any affiliated organization is authorized to otherwise compete with the commercial communications or information offerings of private sector participants. As used in this subsection, ‘affiliated organization’ means an entity formed for the purpose of owning, leasing, providing, or operating the facilities used to provide service to the charter member institution and to related entities that support the mission of the charter member institution. For purposes of this subsection, occasional and incidental use of the connection by persons appropriately granted such access to the connection for purposes that are not directly related to the missions of the charter member institutions is not considered as competing with the commercial communications or information offerings of private sector participants.

(D) Nothing in this act is intended nor may be construed to prohibit the MUSC or the MUSC Authority from using the S.C. Lightrail, in furtherance of a documented research project, to transmit medical imaging between MUSC and the MUSC Authority and other hospital or healthcare facilities taking part in the project.

SECTION 10. The provisions of this act do not expand, diminish, or otherwise affect the provisions of Chapter 151, Title 59 regarding the South Carolina LightRail Consortium.

SECTION 11. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 12. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The committee amendment (JUD3508.014) was withdrawn.

Senator LARRY MARTIN explained Bill.

On motion of Senator COURSON, debate was interrupted by adjournment.

**MOTION ADOPTED**

On motion of Senator LEVENTIS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. William “Billy” Goodson, husband of Stella Weeks Goodson. Billy was born in Sumter in 1932. He served in the U.S. Air Force during the Korean War and retired from Carolina Furniture Works. In addition  to serving on numerous boards and civic organizations, Billy received the Greater Sumter Chamber of Commerce Outstanding Achievement Award and was recognized as the 1995 Business Person of the Year.  He was honored as the YMCA Humanitarian of the Year in 1977, and was awarded the Palmetto Rotary Paul Harris Fellow. It was also a source of great pride for him to have been named an honorary chief master sergeant at Shaw Air Force Base.  Billy will be deeply missed by his family and friends, and by all whose life he touched through his business and/or his community service.

and

**MOTION ADOPTED**

On motion of Senator FORD, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Thelma Stent Fielding, of Charleston, S.C., who entered into eternal rest on the morning of April 25, 2012. She was the beloved wife of former State Senator Herbert U. Fielding and devoted mother of Mr. Julius P.L. Fielding II (Gloria), Mr. Herbert S. Fielding (Ruby) and Mr. Frederick A. Fielding.

**ADJOURNMENT**

At 4:07 P.M., on motion of Senator COURSON, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

**Recorded Vote**

Senator SHANE MARTIN desired to be recorded as voting against the motion to adjourn.

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