**Wednesday, May 16, 2012**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 10:00 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

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

The prophet Isaiah declares:

“Those of steadfast mind keep you in peace -- in peace because they trust in you. Trust in the Lord forever, for in the Lord God you have an everlasting rock.” (Isaiah 26:3-4)

Friends, let us bow in prayer:

Glorious and loving God, by Your grace may each person who serves You here in the Senate of South Carolina realize the importance of keeping You as their “everlasting rock.” In this day and time it is so critically important for these leaders to remain solidly rooted in Your ways, to trust You, to remain grounded in those principles of justice and righteousness that have brought great blessings through the centuries. May those blessings, O God, shower upon all South Carolinians, and may this State emerge stronger and more vital as a result. And to You, dear Lord, be all the glory.

Amen.

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

**MESSAGE FROM THE GOVERNOR**

The following appointment was transmitted by the Honorable Nikki Randhawa Haley:

**Local Appointment**

Reappointment, Dorchester County Magistrate, with the term to commence April 30, 2011, and to expire April 30, 2015

Janice Y. Simmons, 262 Mallard Road, Summerville, SC 29483

**Doctor of the Day**

Senator LOURIE introduced Dr. Thomas Gibbons of Irmo, S.C., Doctor of the Day.

**Leave of Absence**

At 1:35 P.M., Senator CLEARY requested a leave of absence from 5:30 - 9:00 P.M.

**Leave of Absence**

At 1:35 P.M., Senator VERDIN requested a leave of absence from 4:00 - 9:00 P.M.

**Leave of Absence**

At 1:35 P.M., Senator CAMPBELL requested a leave of absence from 4:00 - 5:00 P.M.

**CO-SPONSOR ADDED**

The following co-sponsor was added to the respective Bill:

S. 1408 Sen. Fair

**RECALLED**

H. 5027 -- Reps. Hodges, Bowers and R.L. Brown: A BILL TO AMEND SECTION 7‑7‑200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN COLLETON COUNTY, SO AS TO ADD THE “WALTERBORO NO. 5” PRECINCT, TO DESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

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

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

**Point of Quorum**

At 10:09 A.M., Senator PEELER made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Coleman Courson

Cromer Davis Elliott

Fair Gregory Grooms

Hayes Hutto Knotts

Leatherman Leventis Lourie

*Martin, Larry Martin, Shane* Massey

McGill Nicholson Peeler

Reese Rose Ryberg

Scott Setzler Shoopman

Thomas Verdin Williams

A quorum being present, the Senate resumed.

**Recorded Presence**

Senators O’DELL, MALLOY, SHEHEEN and LAND recorded their presence subsequent to the Call of the Senate.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 1534 -- Senators Campsen and L. Martin: A BILL TO AMEND SECTION 8-13-1356, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FILING OF A STATEMENT OF ECONOMIC INTERESTS BY A CANDIDATE, TO PROVIDE THAT A CANDIDATE WHO IS NOT A PUBLIC OFFICIAL AND A CANDIDATE WHO IS A PUBLIC OFFICIAL SHALL ELECTRONICALLY FILE OR UPDATE A STATEMENT OF ECONOMIC INTERESTS, AS APPLICABLE, PRIOR TO FILING A STATEMENT OF INTENTION OF CANDIDACY OR NOMINATION FOR PETITION; TO AMEND SECTIONS 7-11-15, 7-11-50 7-11-90, 7-11-210, 7-13-40, 7-13-45, 7-13-350, AND 7-13-370, RELATING TO THE QUALIFICATIONS TO RUN AS A CANDIDATE IN AN ELECTION, TO PROVIDE THAT THE COUNTY ELECTION COMMISSIONS AND STATE ELECTION COMMISSION ACCEPT CANDIDATE FILINGS AND BE RESPONSIBLE FOR CANDIDATE VERIFICATION AND CERTIFICATION; AND TO REPEAL SECTION 7-11-220.

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

S. 1535 -- Senator Scott: A SENATE RESOLUTION TO RECOGNIZE AND HONOR HENRY T. HOPKINS, EXECUTIVE DIRECTOR OF THE EAU CLAIRE COMMUNITY COUNCIL, FOR HIS YEARS OF DEVOTED SERVICE TO HIS COMMUNITY AND TO THE PALMETTO STATE.

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The Senate Resolution was adopted.

S. 1536 -- Senator Cleary: A SENATE RESOLUTION TO RECOGNIZE AND HONOR THE WACCAMAW HIGH SCHOOL VARSITY BOYS TENNIS TEAM, COACHES, AND SCHOOL OFFICIALS FOR AN OUTSTANDING SEASON, AND TO CONGRATULATE THEM FOR WINNING THE 2012 CLASS AA STATE CHAMPIONSHIP TITLE.

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The Senate Resolution was adopted.

S. 1537 -- Senator Hayes: A BILL TO AMEND SECTION 22-2-190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COUNTY JURY AREAS, SO AS TO PROVIDE FOR ONE JURY AREA COUNTYWIDE FOR THE YORK COUNTY CENTRALIZED DUI COURT.

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

**REPORTS OF STANDING COMMITTEE**

Senator COURSON from the Committee on Education polled out H. 4904 favorable:

H. 4904 -- Reps. Bingham, Allison, Anthony and G.R. Smith: A JOINT RESOLUTION TO SUSPEND THE REQUIREMENT THAT THE DEPARTMENT OF EDUCATION PROVIDE PRINTED COPIES OF 2012 DISTRICT AND SCHOOL REPORT CARDS; TO REQUIRE A SCHOOL DISTRICT OR SCHOOL WITHIN THE DISTRICT TO PROVIDE PARENTS WITH A LINK TO THE REPORT CARDS VIA EMAIL OR OTHER COMMUNICATION METHODS UPON CERTAIN CONDITIONS; TO SUSPEND THE REQUIREMENT THAT SCHOOLS ADVERTISE THE DISTRICT AND SCHOOL 2012 REPORT CARD, BUT TO REQUIRE RESULTS TO BE PROVIDED TO AN AREA NEWSPAPER OF GENERAL CIRCULATION; TO ALLOW HIGH SCHOOLS TO OFFER STATE‑FUNDED WORKKEY ASSESSMENTS TO CERTAIN STUDENTS USING SPECIFIED FUNDS APPROPRIATED FOR FISCAL YEAR 2012‑2013, OR FOR THESE PURPOSES IN PRIOR YEARS; TO PROVIDE FOR FISCAL YEAR 2012‑2013 A ONE‑YEAR GRACE PERIOD FOR CERTAIN RECIPIENTS OF A SOUTH CAROLINA TEACHER LOAN, AND TO REQUIRE THE SOUTH CAROLINA STUDENT LOAN CORPORATION TO DEVELOP FORMS AND PROCEDURES TO IMPLEMENT THE GRACE PERIOD; AND TO DIRECT SAVINGS FROM CERTAIN PROVISIONS OF THIS ACT.

**Poll of the Education Committee**

**Polled 17; Ayes 17; Nays 0; Not Voting 0**

**AYES**

Courson Setzler Matthews

Hayes Rankin Fair

Peeler Leventis Jackson

Anderson Ryberg Grooms

Davis Lourie Malloy

*Martin, Larry* Massey

**Total--17**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

Senator COURSON from the Committee on Education polled out H. 5051 favorable with amendment:

H. 5051 -- Reps. Limehouse, Barfield, Tribble, Sabb, Hosey, Southard, J.H. Neal, Crawford, Parker, Brantley, Neilson, Erickson, Clemmons, Hearn, Hardwick, Loftis, Murphy, Ryan, McCoy, Anderson, Butler Garrick, Whitmire, Williams, Sottile, Alexander, Allen, Bowen, Pinson, Brannon, Johnson, Huggins, Spires, Sellers, Agnew, Anthony, Atwater, Bales, Bannister, Battle, Bedingfield, Bingham, Bowers, Branham, G.A. Brown, H.B. Brown, R.L. Brown, Chumley, Clyburn, Cobb‑Hunter, Cole, Corbin, Crosby, Daning, Delleney, Dillard, Edge, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Harrell, Harrison, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Howard, Jefferson, King, Long, Lowe, Lucas, Mack, McEachern, McLeod, D.C. Moss, V.S. Moss, Munnerlyn, J.M. Neal, Norman, Ott, Parks, Patrick, Pitts, Pope, Putnam, Quinn, Rutherford, Sandifer, Simrill, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Stringer, Tallon, Taylor, Toole, Vick, Weeks, Whipper, White and Willis: A BILL TO AMEND SECTION 59‑103‑15, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HIGHER EDUCATION MISSION AND GOALS FOR ALL PUBLIC HIGHER EDUCATION INSTITUTIONS IN THIS STATE, SO AS TO INCLUDE IN THE MISSION OF FOUR YEAR COLLEGES AND UNIVERSITIES UNIQUE DOCTORAL DEGREE PROGRAMS THAT ARE NOT DUPLICATIVE OF ANY RESEARCH UNIVERSITY DOCTORAL PROGRAMS IN THAT REGION, AND TO DEFINE “THAT REGION”.

**Poll of the Education Committee**

**Polled 16; Ayes 16; Nays 0; Not Voting 0**

**AYES**

Courson Setzler Matthews

Hayes Rankin Fair

Peeler Leventis Jackson

Anderson Ryberg Grooms

Davis Lourie Malloy

*Martin, Larry*

**Total--16**

**NAYS**

**Total--0**

Ordered for consideration tomorrow.

**Message from the House**

Columbia, S.C., May 15, 2012

Mr. President and Senators:

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

H. 4761 -- Reps. Hiott, D.C. Moss, Agnew, Skelton, Frye, Spires, Owens, Atwater, Bowen, Gambrell, Corbin, Hardwick, Whitmire, Branham, Thayer, Crosby, Allison, Southard, J.R. Smith, Daning, Delleney, Harrison, Hayes, Hixon, V.S. Moss, Pitts, Putnam, Taylor, White and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑5‑225 SO AS TO DEFINE THE TERM “FARM TRUCK”; BY ADDING SECTION 56‑5‑363 SO AS TO PROVIDE THAT CERTAIN COMMERCIAL MOTOR VEHICLES AND FARM TRUCKS ARE EXEMPT FROM CERTAIN FEDERAL MOTOR CARRIER SAFETY LAWS AND REGULATIONS; TO AMEND SECTION 56‑3‑670, AS AMENDED, RELATING TO FEES FOR FARM TRUCK LICENSES, SO AS TO REVISE THE WEIGHT REQUIREMENTS FOR FARM TRUCKS THAT MAY BE USED FOR DOMESTIC PURPOSES AND GENERAL TRANSPORTATION BUT MAY NOT BE USED TO TRANSPORT PERSONS OR PROPERTY FOR HIRE; TO AMEND SECTION 56‑5‑4010, RELATING TO SIZE, WEIGHT, AND SPEED LIMITATIONS PLACED ON CERTAIN VEHICLES, SO AS TO PROVIDE THAT THE TRANSPORT POLICE DIVISION HAS THE EXCLUSIVE AUTHORITY TO ENFORCE THE COMMERCIAL MOTOR VEHICLE CARRIER LAWS; AND TO AMEND SECTION 56‑5‑4150, RELATING TO THE REGISTRATION OF CERTAIN VEHICLES, SO AS TO PROVIDE THAT CERTAIN “FARM TRUCKS” ARE NOT REQUIRED TO HAVE THE NAME OF THE REGISTERED OWNER, LESSOR, OR LESSEE MARKED ON THE VEHICLE.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., May 15, 2012

Mr. President and Senators:

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

H. 3730 -- Reps. Munnerlyn, Sabb, Vick, Hayes, Tribble and McLeod: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑9‑450 SO AS TO PROVIDE THAT A COMMERCIAL FUR LICENSE, IN ADDITION TO A STATE HUNTING LICENSE IS REQUIRED OF ALL PERSONS WHO SELL OR TAKE FURBEARING ANIMALS BY ANY MEANS, EXCEPT A PROCESSOR, MANUFACTURER, OR RETAILER, AND TO PROVIDE THAT A PERSON UNDER THE AGE OF SIXTEEN MAY PURCHASE A COMMERCIAL FUR LICENSE WITHOUT HAVING TO PURCHASE A STATE HUNTING LICENSE AFTER COMPLETING THE TRAPPERS EDUCATION COURSE; TO AMEND SECTION 50‑11‑40, RELATING TO THE UNLAWFUL USE OF RECORDED SOUNDS OR AMPLIFIED IMITATIONS OF CALLS OR SOUNDS BY A PERSON TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL OR ATTEMPT TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL BY USE OF THESE MEANS, SO AS TO DELETE THE PROVISION THAT MAKES IT UNLAWFUL TO CATCH OR KILL A GAME BIRD OR GAME ANIMAL OR ATTEMPT TO CATCH OR KILL A GAME BIRD OR GAME ANIMAL BY USE OF THESE MEANS AND TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO THE HUNTING AND TAKING OF COYOTES; TO AMEND SECTION 50‑11‑1080, RELATING TO THE DEPARTMENT OF NATURAL RESOURCES DECLARING OPEN SEASON ON COYOTES, SO AS TO PROVIDE THAT THERE IS NO CLOSED SEASON FOR HUNTING OR TAKING COYOTES WITH WEAPONS; TO AMEND SECTION 50‑11‑2400, RELATING TO DEFINITIONS OF CERTAIN TERMS THAT PERTAIN TO THE TRAPPING OF FURBEARING ANIMALS, SO AS TO REVISE THE DEFINITION OF THE TERMS “FURBEARING ANIMAL” AND “COMMERCIAL PURPOSES”, AND TO PROVIDE DEFINITIONS FOR THE TERMS “OWNER” AND “AGENT”; TO AMEND SECTION 50‑11‑2430, RELATING TO REQUIRING A FUR TRAPPER TO CARRY PROOF THAT HE IS THE OWNER OF THE PROPERTY ON WHICH HE SETS HIS TRAPS, OR HAS PERMISSION FROM THE OWNER OF THE PROPERTY UPON WHICH HIS TRAPS ARE SET, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 50‑11‑2440, RELATING TO REQUIRING A TRAPPER TO VISIT HIS TRAPS DAILY, SO AS TO MODIFY THE FREQUENCY THAT A TRAPPER MUST VISIT HIS TRAPS; TO AMEND SECTION 50‑11‑2445, RELATING TO THE REMOVAL OF TRAPPED WILDLIFE BY THE OWNERS OF TRAPS, SO AS TO ALLOW A TRAP OWNER’S DESIGNEE TO REMOVE WILDLIFE FROM HIS TRAPS, AND TO PROVIDE THAT A DESIGNEE MUST POSSESS WRITTEN PERMISSION FROM THE TRAP’S OWNER TO ACT ON HIS BEHALF AND MUST MEET ALL COMMERCIAL FUR LICENSING REQUIREMENTS OR BE LISTED ON A VALID DEPREDATION PERMIT; TO AMEND SECTION 50‑11‑2460, RELATING TO CERTAIN TRAPS THAT ARE ALLOWED FOR TRAPPING, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT RESTRICTS THE TYPES OF TRAPS THAT ARE ALLOWED TO THOSE THAT ARE IN ACCORDANCE WITH APPROVED COMMERCIAL FUR LICENSES, TO ALLOW FOR THE USE OF LIVE TRAPS TO CAPTURE CERTAIN FERAL ANIMALS, TO REVISE THE SIZE OF FOOT‑HOLD TRAPS THAT ARE ALLOWABLE, TO PROVIDE THAT SMALL SNAP, BOX, AND OTHER TRAPS ARE ALLOWED FOR TRAPPING; TO AMEND SECTION 50‑11‑2475, RELATING TO THE ISSUANCE OF A FUR PROCESSOR’S LICENSE, SO AS TO REVISE THE COST OF THE LICENSE, TO REQUIRE A TAXIDERMIST TO KEEP A DAILY REGISTER OF THE NAME AND ADDRESS OF EACH PERSON FROM WHOM A FURBEARING ANIMAL IS RECEIVED ALONG WITH OTHER INFORMATION ABOUT THE ANIMAL, AND TO MAKE TECHNICAL CHANGES; AND TO REPEAL SECTIONS 50‑11‑1060, 50‑11‑1070, AND 50-11-2420 RELATING TO THE ISSUANCE OF A COMMERCIAL FUR LICENSE, THE ISSUANCE OF A PERMIT TO POISON PREDATORY ANIMALS, AND THE KILLING OF BOBCATS.

Very respectfully,

Speaker of the House

Received as information.

**H. 3730--SENATE INSISTS ON THEIR AMENDMENTS**

**CONFERENCE COMMITTEE APPOINTED**

H. 3730 -- Reps. Munnerlyn, Sabb, Vick, Hayes, Tribble and McLeod: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50‑9‑450 SO AS TO PROVIDE THAT A COMMERCIAL FUR LICENSE, IN ADDITION TO A STATE HUNTING LICENSE IS REQUIRED OF ALL PERSONS WHO SELL OR TAKE FURBEARING ANIMALS BY ANY MEANS, EXCEPT A PROCESSOR, MANUFACTURER, OR RETAILER, AND TO PROVIDE THAT A PERSON UNDER THE AGE OF SIXTEEN MAY PURCHASE A COMMERCIAL FUR LICENSE WITHOUT HAVING TO PURCHASE A STATE HUNTING LICENSE AFTER COMPLETING THE TRAPPERS EDUCATION COURSE; TO AMEND SECTION 50‑11‑40, RELATING TO THE UNLAWFUL USE OF RECORDED SOUNDS OR AMPLIFIED IMITATIONS OF CALLS OR SOUNDS BY A PERSON TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL OR ATTEMPT TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL BY USE OF THESE MEANS, SO AS TO DELETE THE PROVISION THAT MAKES IT UNLAWFUL TO CATCH OR KILL A GAME BIRD OR GAME ANIMAL OR ATTEMPT TO CATCH OR KILL A GAME BIRD OR GAME ANIMAL BY USE OF THESE MEANS AND TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO THE HUNTING AND TAKING OF COYOTES; TO AMEND SECTION 50‑11‑1080, RELATING TO THE DEPARTMENT OF NATURAL RESOURCES DECLARING OPEN SEASON ON COYOTES, SO AS TO PROVIDE THAT THERE IS NO CLOSED SEASON FOR HUNTING OR TAKING COYOTES WITH WEAPONS; TO AMEND SECTION 50‑11‑2400, RELATING TO DEFINITIONS OF CERTAIN TERMS THAT PERTAIN TO THE TRAPPING OF FURBEARING ANIMALS, SO AS TO REVISE THE DEFINITION OF THE TERMS “FURBEARING ANIMAL” AND “COMMERCIAL PURPOSES”, AND TO PROVIDE DEFINITIONS FOR THE TERMS “OWNER” AND “AGENT”; TO AMEND SECTION 50‑11‑2430, RELATING TO REQUIRING A FUR TRAPPER TO CARRY PROOF THAT HE IS THE OWNER OF THE PROPERTY ON WHICH HE SETS HIS TRAPS, OR HAS PERMISSION FROM THE OWNER OF THE PROPERTY UPON WHICH HIS TRAPS ARE SET, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 50‑11‑2440, RELATING TO REQUIRING A TRAPPER TO VISIT HIS TRAPS DAILY, SO AS TO MODIFY THE FREQUENCY THAT A TRAPPER MUST VISIT HIS TRAPS; TO AMEND SECTION 50‑11‑2445, RELATING TO THE REMOVAL OF TRAPPED WILDLIFE BY THE OWNERS OF TRAPS, SO AS TO ALLOW A TRAP OWNER’S DESIGNEE TO REMOVE WILDLIFE FROM HIS TRAPS, AND TO PROVIDE THAT A DESIGNEE MUST POSSESS WRITTEN PERMISSION FROM THE TRAP’S OWNER TO ACT ON HIS BEHALF AND MUST MEET ALL COMMERCIAL FUR LICENSING REQUIREMENTS OR BE LISTED ON A VALID DEPREDATION PERMIT; TO AMEND SECTION 50‑11‑2460, RELATING TO CERTAIN TRAPS THAT ARE ALLOWED FOR TRAPPING, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT RESTRICTS THE TYPES OF TRAPS THAT ARE ALLOWED TO THOSE THAT ARE IN ACCORDANCE WITH APPROVED COMMERCIAL FUR LICENSES, TO ALLOW FOR THE USE OF LIVE TRAPS TO CAPTURE CERTAIN FERAL ANIMALS, TO REVISE THE SIZE OF FOOT‑HOLD TRAPS THAT ARE ALLOWABLE, TO PROVIDE THAT SMALL SNAP, BOX, AND OTHER TRAPS ARE ALLOWED FOR TRAPPING; TO AMEND SECTION 50‑11‑2475, RELATING TO THE ISSUANCE OF A FUR PROCESSOR’S LICENSE, SO AS TO REVISE THE COST OF THE LICENSE, TO REQUIRE A TAXIDERMIST TO KEEP A DAILY REGISTER OF THE NAME AND ADDRESS OF EACH PERSON FROM WHOM A FURBEARING ANIMAL IS RECEIVED ALONG WITH OTHER INFORMATION ABOUT THE ANIMAL, AND TO MAKE TECHNICAL CHANGES; AND TO REPEAL SECTIONS 50‑11‑1060, 50‑11‑1070, AND 50-11-2420 RELATING TO THE ISSUANCE OF A COMMERCIAL FUR LICENSE, THE ISSUANCE OF A PERMIT TO POISON PREDATORY ANIMALS, AND THE KILLING OF BOBCATS.

On motion of Senator CROMER, the Senate insisted upon its amendments to H. 3730 and asked for a Committee of Conference.

Whereupon, Senators HUTTO, CAMPSEN and SHANE MARTIN were appointed to the Committee of Conference on the part of the Senate and a message was sent to the House accordingly.

**HOUSE CONCURRENCES**

S. 1501 -- Senator Coleman: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 34 IN FAIRFIELD COUNTY FROM ITS INTERSECTION WITH DOUGLAS ROAD TO ITS INTERSECTION WITH CLARKE BRIDGE ROAD “EDWARD L. STEVENSON, JR. MEMORIAL HIGHWAY” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THE WORDS “EDWARD L. STEVENSON, JR. MEMORIAL HIGHWAY”.

Returned with concurrence.

Received as information.

S. 1525 -- Senator Courson: A CONCURRENT RESOLUTION TO EXPRESS APPRECIATION TO MR. GENE CLARK OF RICHLAND COUNTY FOR HIS MANY YEARS OF DEDICATED SERVICE TO THE INDIAN WATERS COUNCIL OF THE BOY SCOUTS OF AMERICA.

Returned with concurrence.

Received as information.

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

**ORDERED ENROLLED FOR RATIFICATION**

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

H. 5029 -- Reps. Thayer, Owens, Simrill, Brantley, Murphy, Gambrell, McCoy, Stavrinakis, Brannon, J.M. Neal, Agnew, Atwater, Daning, Long, Putnam, Erickson, Herbkersman, Patrick, Stringer, Ryan, Hamilton, Bedingfield, Anderson, Forrester, Sellers, Brady, Bowen, G.A. Brown, Clemmons and Toole: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56‑15‑315 SO AS TO PROVIDE FOR OFF‑SITE DISPLAYS OF AUTOMOBILES AND CERTAIN TRUCKS UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS PROVISION.

**HOUSE BILLS RETURNED**

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

H. 3400 -- Rep. Weeks: A BILL TO AMEND SECTION 63‑3‑530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JURISDICTION OF THE FAMILY COURT IN CERTAIN MATTERS, SO AS TO PROVIDE THAT A CHILD SUPPORT OBLIGATION AUTOMATICALLY TERMINATES WHEN THE CHILD TURNS EIGHTEEN OR GRADUATES FROM HIGH SCHOOL, WHICHEVER IS SOONER.

H. 3757 -- Reps. Hardwick, Hearn, Mitchell, Long, Erickson, Brady, Butler Garrick, Funderburk, Munnerlyn, Knight, Dillard, Cobb‑Hunter, Parks, Huggins, Allison, Tallon, Brannon, Atwater, Whipper, Patrick and J.R. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 19 TO CHAPTER 3, TITLE 16 SO AS TO DEFINE NECESSARY TERMS, PROVIDE FOR CERTAIN HUMAN TRAFFICKING OFFENSES AND PROVIDE PENALTIES, TO PROVIDE FOR CRIMINAL LIABILITY OF BUSINESS ENTITIES, TO PROVIDE RESTITUTION FOR VICTIMS OF HUMAN TRAFFICKING OFFENSES, TO ESTABLISH AN INTERAGENCY TASK FORCE TO DEVELOP AND IMPLEMENT A PLAN FOR THE PREVENTION OF TRAFFICKING IN PERSONS, TO REQUIRE THE COLLECTION AND DISSEMINATION OF DATA RELATED TO HUMAN TRAFFICKING BY THE STATE LAW ENFORCEMENT DIVISION (SLED), TO REQUIRE MANDATORY LAW ENFORCEMENT TRAINING ON HUMAN TRAFFICKING OFFENSES, TO PROVIDE FOR THE CREATION OF PUBLIC AWARENESS PROGRAMS REGARDING HUMAN TRAFFICKING IN THE STATE, TO ALLOW CIVIL ACTIONS BY VICTIMS OF HUMAN TRAFFICKING, TO PROVIDE THAT CERTAIN STANDARDS OF WORKING CONDITIONS APPLY WITHOUT REGARD TO IMMIGRATION STATUS, TO PROVIDE CERTAIN PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING PURSUANT TO THE VICTIMS’ BILL OF RIGHTS AND OTHER RELEVANT STATUTORY PROVISIONS, TO REQUIRE THE STATE TO DEVELOP PLANS FOR HOUSING AND COUNSELING, AMONG OTHER THINGS, OF VICTIMS OF HUMAN TRAFFICKING WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THE ACT, TO PROVIDE FOR CERTAIN RIGHTS OF MINOR VICTIMS OF HUMAN TRAFFICKING, TO ESTABLISH HUMAN TRAFFICKING VICTIM‑CASEWORKER PRIVILEGE, AND TO CREATE THE OFFENSE OF MALICIOUSLY OR WITH CRIMINAL NEGLIGENCE PUBLISHING, DISSEMINATING, OR OTHERWISE DISCLOSING THE LOCATION OF A HUMAN TRAFFICKING VICTIM, A TRAFFICKING SHELTER, OR A DOMESTIC VIOLENCE SHELTER AND TO PROVIDE A PENALTY; AND TO REPEAL SECTION 16‑3‑930 RELATING TO TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES.

H. 3710 -- Reps. J.E. Smith, Hayes, D.C. Moss and Sandifer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑1‑77 SO AS TO PROVIDE A BOARD OR COMMISSION THAT REGULATES THE LICENSURE OF A PROFESSION OR OCCUPATION UNDER TITLE 40 MAY ISSUE A TEMPORARY LICENSE FOR A PROFESSION OR OCCUPATION IT REGULATES TO THE SPOUSE OF AN ACTIVE DUTY MEMBER OF THE UNITED STATES ARMED FORCES IN CERTAIN CIRCUMSTANCES, TO PROVIDE REQUIREMENTS FOR OBTAINING THIS LICENSE, AND TO PROVIDE TIME LIMITS ON THE VALIDITY OF THIS LICENSE.

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.

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

There was no objection.

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

**THIRD READING BILLS**

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

S. 1469 -- Senator Malloy: A BILL TO AMEND ACT 748 OF 1978, AS AMENDED, RELATING TO THE BOARD OF EDUCATION OF DARLINGTON COUNTY, TO RESTRICT THE AUTHORITY OF THE BOARD TO INCREASE THE TAX LEVY WITHOUT THE APPROVAL OF A VOTE OF THE COUNTY ELECTORATE.

On motion of Senator MALLOY.

S. 390 -- Senators Lourie, Jackson, Reese, Knotts, Alexander, Matthews, Campsen, McConnell, Cleary, Cromer, Rose and Ford: A BILL TO AMEND SECTION 23‑3‑115, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO CLARIFY THE DEFINITION OF CHARITABLE ORGANIZATIONS WHICH PAY A REDUCED FEE TO INCLUDE LOCAL PARK AND RECREATION VOLUNTEERS THROUGH A COMMISSION, MUNICIPALITY, OR COUNTY.

**READ THE SECOND TIME**

S. 1526 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE BUILDING CODES COUNCIL, RELATING TO DUTIES AND RESPONSIBILITIES OF DEPARTMENT, AND MODULAR BUILDINGS CONSTRUCTION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4226, 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.

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

**Ayes 36; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Coleman

Courson Cromer Davis

Fair Gregory Grooms

Hayes Hutto Knotts

Leatherman Leventis Lourie

Malloy *Martin, Larry Martin, Shane*

Massey Matthews McGill

Nicholson O'Dell Peeler

Reese Rose Ryberg

Scott Setzler Sheheen

Shoopman Verdin Williams

**Total--36**

**NAYS**

**Total--0**

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

**READ THE SECOND TIME**

H. 5181 -- Reps. White, Anderson and Gambrell: A BILL TO AMEND SECTION 7‑7‑80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN ANDERSON COUNTY, SO AS TO ADD THE “TOWN CREEK” PRECINCT, TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

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 35; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman Courson Cromer

Davis Fair Gregory

Grooms Hayes Hutto

Knotts Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McGill Nicholson

O'Dell Peeler Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Verdin Williams

**Total--35**

**NAYS**

**Total--0**

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

**MINORITY REPORT REMOVED**

**COMMITTEE AMENDMENT ADOPTED, AMENDED**

**READ THE SECOND TIME**

H. 4033 -- Reps. Patrick and Loftis: A BILL TO AMEND SECTIONS 5‑37‑40, 5‑37‑50, AND 5‑37‑100, ALL AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE MUNICIPAL IMPROVEMENT ACT, SO AS TO PROVIDE THAT THE WIDENING AND DREDGING OF CERTAIN WATERWAYS MAY BE INCLUDED WITHIN A MUNICIPAL IMPROVEMENT DISTRICT WHEN THE OWNER GIVES THE GOVERNING BODY WRITTEN PERMISSION TO INCLUDE THE PROPERTY AT THE TIME THE IMPROVEMENT DISTRICT IS CREATED.

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

There was no objection.

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

Senator DAVIS asked unanimous consent to remove the minority report from the Bill.

There was no objection and proper notation was made on the Bill.

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

The Committee on Judiciary proposed the following amendment (JUD4033.004), which was adopted:

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

/ A BILL

TO AMEND SECTION 4-10-330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, 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 INCLUDE DREDGING, DEWATERING, CONSTRUCTION OF SPOIL SITES, AND DISPOSAL OF SPOIL MATERIALS; TO AMEND SECTIONS 5‑37‑40, 5‑37‑50, AND 5‑37‑100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MUNICIPAL IMPROVEMENT ACT, SO AS TO PROVIDE THAT A MUNICIPAL IMPROVEMENT DISTRICT MAY BE CREATED FOR THE SOLE PURPOSE OF THE WIDENING AND DREDGING OF WATERWAYS WITHOUT PRIOR WRITTEN CONSENT OF OWNERS OF OWNER-OCCUPIED RESIDENTIAL PROPERTY AT THE TIME THE IMPROVEMENT DISTRICT IS CREATED.

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

SECTION 1. Section 4‑10‑330(A)(1) of the 1976 Code is amended to read:

“Section 4‑10‑330. (A) The sales and use tax authorized by this article is imposed by an enacting ordinance of the county governing body containing the ballot question formulated by the commission pursuant to Section 4‑10‑320(C), subject to referendum approval in the county. The ordinance must specify:

(1) the purpose for which the proceeds of the tax are to be used, which may include projects located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area, and may include the following types of projects:

(a) highways, roads, streets, bridges, and public parking garages and related facilities;

(b) courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, educational facilities under the direction of an area commission for technical education, or any combination of these projects;

(c) cultural, recreational, or historic facilities, or any combination of these facilities;

(d) water, sewer, or water and sewer projects;

(e) flood control projects and storm water management facilities;

(f) beach access and beach renourishment;

(g) dredging, dewatering, and constructing spoil sites, disposing of spoil materials, and other matters directly related to the act of dredging;

~~(g)~~(h) jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of those entities, for the projects delineated in subitems (a) through ~~(f)~~(g) of this item;

~~(h)~~(i) any combination of the projects described in subitems (a) through ~~(g)~~(h) of this item;”

SECTION 2. Section 5‑37‑40 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑40. (A) If the governing body finds that:

(1) improvements would be beneficial within a designated improvement district;

(2) the improvements would preserve or increase property values within the district;

(3) in the absence of the improvements, property values within the area would be likely to depreciate, or that the proposed improvements would be likely to encourage development in the improvement district;

(4) the general welfare and tax base of the city would be maintained or likely improved by creation of an improvement district in the city; and

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

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

SECTION 3. Section 5‑37‑50 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

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

SECTION 4. Section 5‑37‑100 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑100. ~~Not~~ No sooner than ten days nor more than one hundred twenty days following the conclusion of the public hearing provided in Section 5‑37‑50, the governing body, by ordinance, may provide for the creation of the improvement district as originally proposed or with the changes and modifications in it as the governing body may determine, and provide for the financing by assessment, bonds, or other revenues as provided in this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals or waterways, owner‑occupied residential property ~~which~~ that is taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner gives the governing body written permission to include the property within the improvement district. The ordinance may not become effective until at least seven days after it has been published in a newspaper of general circulation in the municipality. The ordinance may incorporate by reference plats and engineering reports and other data on file in the offices of the municipality. The place of filing and reasonable hours for inspection must be made available to all interested persons.”

SECTION 5. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator LARRY MARTIN explained the committee amendment.

The committee amendment was adopted.

Senators ELLIOTT, CLEARY and McGILL proposed the following amendment (GGS\22377ZW12), which was adopted:

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

/ SECTION 1. Section 4‑10‑330(A)(1) of the 1976 Code is amended to read:

“Section 4‑10‑330. (A) The sales and use tax authorized by this article is imposed by an enacting ordinance of the county governing body containing the ballot question formulated by the commission pursuant to Section 4‑10‑320(C), subject to referendum approval in the county. The ordinance must specify:

(1) the purpose for which the proceeds of the tax are to be used, which may include projects located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area, and may include the following types of projects:

(a) highways, roads, streets, bridges, and public parking garages and related facilities;

(b) courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, educational facilities under the direction of an area commission for technical education, or any combination of these projects;

(c) cultural, recreational, or historic facilities, or any combination of these facilities;

(d) water, sewer, or water and sewer projects;

(e) flood control projects and storm water management facilities;

(f) beach access and beach renourishment;

(g) dredging, dewatering, and constructing spoil sites, disposing of spoil materials, and other matters directly related to the act of dredging;

~~(g)~~(h) jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of those entities, for the projects delineated in subitems (a) through ~~(f)~~(g) of this item;

~~(h)~~(i) any combination of the projects described in subitems (a) through ~~(g)~~(h) of this item;”

SECTION 2. Section 5‑37‑40 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑40. (A) If the governing body finds that:

(1) improvements would be beneficial within a designated improvement district;

(2) the improvements would preserve or increase property values within the district;

(3) in the absence of the improvements, property values within the area would be likely to depreciate, or that the proposed improvements would be likely to encourage development in the improvement district;

(4) the general welfare and tax base of the city would be maintained or likely improved by creation of an improvement district in the city; and

(5) it would be fair and equitable to finance all or part of the cost of the improvements by an assessment upon the real property within the district, the governing body may establish the area as an improvement district and implement and finance, in whole or in part, an improvement plan in the district in accordance with the provisions of this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property ~~which~~ that is taxed, or will be taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district.

(B) If an improvement district is located in a redevelopment project area created pursuant to Chapter 6, Title 31, the improvement district being created under the provisions of this chapter must be considered to satisfy items (1) through (5) of subsection (A). The ordinance creating an improvement district may be adopted by a majority of council after a public hearing at which the plan is presented, including the proposed basis and amount of assessment, or upon written petition signed by a majority in number of the owners of real property within the district ~~which~~ that is not exempt from ad valorem taxation as provided by law. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property ~~which~~ that is taxed, or will be taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district.”

SECTION 3. Section 5‑37‑50 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑50. The governing body, by resolution adopted, shall describe the improvement district and the improvement plan to be effected, including a property within the improvement district to be acquired and improved, the projected time schedule for the accomplishment of the improvement plan, the estimated cost and the amount of the cost to be derived from assessments, bonds, or other general funds, together with the proposed basis and rates of assessments to be imposed within the improvement district. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property ~~which~~ that is taxed, or will be taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district. The resolution also shall establish the time and place of a public hearing to be held within the municipality not sooner than twenty days nor more than forty days following the adoption of the resolution, at which an interested person may attend and be heard, either in person or by attorney, on a matter in connection with the improvement district.”

SECTION 4. Section 5‑37‑100 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑100. ~~Not~~ No sooner than ten days nor more than one hundred twenty days following the conclusion of the public hearing provided in Section 5‑37‑50, the governing body, by ordinance, may provide for the creation of the improvement district as originally proposed or with the changes and modifications in it as the governing body may determine, and provide for the financing by assessment, bonds, or other revenues as provided in this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property ~~which~~ that is taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner gives the governing body written permission to include the property within the improvement district. The ordinance may not become effective until at least seven days after it has been published in a newspaper of general circulation in the municipality. The ordinance may incorporate by reference plats and engineering reports and other data on file in the offices of the municipality. The place of filing and reasonable hours for inspection must be made available to all interested persons.”

SECTION 5. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

The question then was second reading of the Bill.

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

**Ayes 31; Nays 9**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Elliott

Fair Gregory Hayes

Hutto Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Massey

Matthews McGill Nicholson

O'Dell Reese Ryberg

Scott Setzler Sheheen

Williams

**Total--31**

**NAYS**

Bright Bryant Davis

Grooms *Martin, Shane* Peeler

Rose Shoopman Verdin

**Total--9**

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

**AMENDED, READ THE SECOND TIME**

H. 5026 -- Rep. J.E. Smith: A BILL TO AMEND SECTION 1‑23‑600, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEARINGS AND PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW COURT, SO AS TO DELETE AN OBSOLETE REFERENCE EXEMPTING APPEALS FROM THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE TO THE COURT.

Senator HUTTO 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.

Senators HUTTO and SCOTT proposed the following amendment (JUD5026.002), which was adopted:

Amend the bill, as and if amended, after line 2, page 2, by striking SECTION 2 in its entirety and inserting appropriately numbered sections as follows:

/ SECTION \_. Section 56‑1‑286 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“Section 56‑1‑286. (A) The Department of Motor Vehicles must suspend the driver’s license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to a person under the age of twenty‑one who drives a motor vehicle and has an alcohol concentration of two one‑hundredths of one percent or more. In cases in which a law enforcement officer initiates suspension proceedings for a violation of this section, the officer has elected to pursue a violation of this section and is subsequently prohibited from prosecuting the person for a violation of Section 63‑19‑2440, 63‑19‑2450, 56‑5‑2930, or 56‑5‑2933, arising from the same incident.

(B) A person under the age of twenty‑one who drives a motor vehicle in this State is considered to have given consent to chemical tests of his breath or blood for the purpose of determining the presence of alcohol.

(C) A law enforcement officer who has arrested a person under the age of twenty‑one for a violation of Chapter 5 of this title (Uniform Act Regulating Traffic on Highways), or any other traffic offense established by a political subdivision of this State, and has reasonable suspicion that the person under the age of twenty‑one has consumed alcoholic beverages and driven a motor vehicle may order the testing of the person arrested to determine the person’s alcohol concentration.

A law enforcement officer may detain and order the testing of a person to determine the person’s alcohol concentration if the officer has reasonable suspicion that a motor vehicle is being driven by a person under the age of twenty‑one who has consumed alcoholic beverages.

(D) A test must be administered at the direction of the primary investigating law enforcement officer. At the direction of the officer, the person first must be offered a breath test to determine the person’s alcohol concentration. If the person physically is unable to provide an acceptable breath sample because he has an injured mouth or is unconscious or dead, or for any other reason considered acceptable by licensed medical personnel, a blood sample may be taken. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to SLED policies. The primary investigating officer may administer the test. Blood samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, or other medical personnel trained to obtain these samples in a licensed medical facility. Blood samples must be obtained and handled in accordance with procedures approved by the division. The division shall administer the provisions of this subsection and shall promulgate regulations necessary to carry out its provisions. The costs of the tests administered at the direction of the officer must be paid from the general fund of the State. However, if the person is subsequently convicted of violating Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, then, upon conviction, the person must pay twenty‑five dollars for the costs of the tests. The twenty‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

The person tested or giving samples for testing may have a qualified person of his choice conduct additional tests at the person’s expense and must be notified in writing of that right. A person’s request or failure to request additional blood tests is not admissible against the person in any proceeding. The failure or inability of the person tested to obtain additional tests does not preclude the admission of evidence relating to the tests or samples taken at the direction of the officer. The officer must provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance shall, at a minimum, include providing transportation for the person to the nearest medical facility which provides blood tests to determine a person’s alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood to determine the person’s alcohol concentration, SLED must test the blood and provide the result to the person and to the officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in any judicial or administrative proceeding.

(E) A qualified person and his employer who obtain samples or administer the tests or assist in obtaining samples or administering of tests at the direction of the primary investigating officer are immune from civil and criminal liability unless the obtaining of samples or the administering of tests is performed in a negligent, reckless, or fraudulent manner. A person may not be required by the officer ordering the tests to obtain or take any sample of blood or urine.

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

(1) six months; or

(2) 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 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 or has had a previous suspension imposed pursuant to Section 56‑1‑286, 56‑5‑2950, or 56‑5‑2951.

(G) 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 suspend his license, permit, or any nonresident operating privilege, or deny the issuance of a license or permit to him for:

(1) three months; or

(2) 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 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 or has had a previous suspension imposed pursuant to Section 56‑1‑286, 56‑5‑2950, or 56‑5‑2951.

(H) A person’s driver’s license, permit, or nonresident operating privilege must be restored when the person’s period of suspension under subsection (F) or (G) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program in which he is enrolled. After the person’s driving privilege is restored, he must continue to participate in the Alcohol and Drug Safety Action Program in which he is enrolled. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person’s license must be suspended until he completes the Alcohol and Drug Safety Action Program. A person must be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990 before his driving privilege can be restored at the conclusion of the suspension period.

(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 does not have to take the test or give the samples but that his privilege to drive must be suspended or denied for at least six months if he refuses to submit to the tests and that his refusal may be used against him in court;

(2) his privilege to drive must be suspended for at least three months if he takes the test or gives the samples and has an alcohol concentration of two one‑hundredths of one percent or more;

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

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

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

The primary investigating officer must notify promptly the department of the refusal of a person to submit to a test requested pursuant to this section as well as the test result of any 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.

(J) If the test registers an alcohol concentration of two one‑hundredths of one percent or more or if the person refuses to be tested, the primary investigating officer must issue a notice of suspension, and the suspension is effective beginning on the date of the alleged violation of this section. The person, within thirty days of the issuance of the notice of suspension, must enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990 if he does not request an administrative hearing. If the person does not request an administrative hearing and does not enroll in an Alcohol and Drug Safety Action Program within thirty days, the suspension remains in effect, and a temporary alcohol license must not be issued. If the person drives a motor vehicle during the period of suspension without a temporary alcohol license, the person must be penalized for driving while his license is suspended pursuant to Section 56‑1‑460.

(K) Within thirty days of the issuance of the notice of suspension the person may:

(1) obtain a temporary alcohol license by filing with the department a form for this purpose. A one‑hundred‑dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee must be retained by the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The temporary alcohol license allows the person to drive a motor vehicle without any restrictive conditions pending the outcome of the ~~administrative~~ contested case hearing provided for in this section or the final decision or disposition of the matter; and

(2) request ~~an administrative~~ a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure.

At the ~~administrative~~ contested case hearing if:

(a) the suspension is upheld, the person must enroll in an Alcohol and Drug Safety Action Program and his driver’s license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension periods provided for in subsections (F) and (G); or

(b) the suspension is overturned, the person must have his driver’s license, permit, or nonresident operating privilege reinstated.

(L) The periods of suspension provided for in subsections (F) and (G) begin on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continue until the person applies for a temporary alcohol license and requests an administrative hearing.

(M) If a person does not request ~~an administrative~~ a contested case hearing, he shall have waived his right to the hearing and his suspension must not be stayed but shall continue for the periods provided for in subsections (F) and (G).

(N) The notice of suspension must advise the person of the requirement to enroll in an Alcohol and Drug Safety Action Program and of his right to obtain a temporary alcohol license and to request ~~an administrative hearing~~ a contested case hearing. The notice of suspension also must advise the person that, if he does not request ~~an administrative~~ a contested case hearing within thirty days of the issuance of the notice of suspension, he must enroll in an Alcohol and Drug Safety Action Program, and he waives his right to the ~~administrative~~ contested case hearing, and the suspension continues for the periods provided for in subsections (F) and (G).

(O) ~~An administrative hearing~~ A contested case hearing must be held after the request for the hearing is received by the ~~Division~~ Office of Motor Vehicle Hearings. The scope of the hearing is limited to whether the person:

(1) was lawfully arrested or detained;

(2) was given a written copy of and verbally informed of the rights enumerated in subsection (I);

(3) refused to submit to a test pursuant to this section; or

(4) consented to taking a test pursuant to this section, and the:

(a) reported alcohol concentration at the time of testing was two one‑hundredths of one percent or more;

(b) individual who administered the test or took samples was qualified pursuant to this section;

(c) test administered and samples taken were conducted pursuant to this section; and

(d) the machine was operating properly.

Nothing in this section prohibits the introduction of evidence at the ~~administrative~~ contested case hearing on the issue of the accuracy of the breath test result.

The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person’s license, permit, or nonresident’s operating privilege regardless of whether the person requesting the contested case hearing or the person’s attorney appears at the contested case hearing.

A written order must be issued to all parties either reversing or upholding the suspension of the person’s license, permit, or nonresident’s operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days his license was suspended before he received a temporary alcohol license and requested the ~~administrative~~ contested case hearing.

(P) ~~An administrative~~ A contested case hearing is a contested proceeding under the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal shall stay the suspension until a final decision is issued.

(Q) A person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered to be informed and not to have withdrawn the consent provided for in subsection (B) of this section.

(R) When a nonresident’s privilege to drive a motor vehicle in this State has been suspended under the procedures of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person’s residence and of any state in which he has a license or permit.

(S) A person required to submit to a test must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of any additional tests to the officer before any trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

(T) A person whose driver’s license or permit is suspended under this section is not required to file proof of financial responsibility.

(U) The department shall administer the provisions of this section, not including subsection (D), and shall promulgate regulations necessary to carry out its provisions.

(V) Notwithstanding any other provision of law, no suspension imposed pursuant to this section is counted as a demerit or result in any insurance penalty for automobile insurance purposes if at the time he was stopped, the person whose license is suspended had an alcohol concentration that was less than eight one‑hundredths of one percent.”

SECTION \_. Section 56‑5‑2942(G) of the 1976 Code, as added by Act 61 of 2003, is amended to read:

“(G) The department may ~~conduct a hearing and receive testimony regarding the veracity of an affidavit submitted pursuant to subsection (F) or~~ issue ~~an agency decision to permit~~ a determination permitting or ~~deny~~ denying the release of the vehicle based on the affidavit submitted pursuant to subsection (F). A person may seek relief ~~pursuant to the provisions of the Administrative Procedures Act~~ from ~~an agency action~~ a department determination immobilizing a motor vehicle or denying the release of the motor vehicle 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.”

SECTION \_. Section 56‑5‑2951 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

“Section 56‑5‑2951. (A) The Department of Motor Vehicles must suspend the driver’s license, permit, or nonresident operating privilege of or deny the issuance of a license or permit to a person who drives a motor vehicle and refuses to submit to a test provided for in Section 56‑5‑2950 or has an alcohol concentration of fifteen one‑hundredths of one percent or more. The arresting officer must issue a notice of suspension which is effective beginning on the date of the alleged violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945.

(B) Within thirty days of the issuance of the notice of suspension, the person may:

(1) obtain a temporary alcohol license by filing with the Department of Motor Vehicles a form for this purpose. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty‑five dollars of the fee must be retained by the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy‑five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the ~~administrative~~ contested case hearing provided for in subsection (F) or the final decision or disposition of the matter. If the suspension is upheld at the ~~administrative~~ contested case hearing, the temporary alcohol license remains in effect until the ~~Department of Motor Vehicles~~ Office of Motor Vehicle Hearings issues the hearing officer’s decision and the Department of Motor Vehicles sends notice to the person that he is eligible to receive a restricted license pursuant to subsection (H); and

(2) request ~~an administrative~~ a contested case hearing before the Office of Motor Vehicle Hearings in accordance with its rules of procedure.

At the ~~administrative~~ contested case hearing if:

(a) the suspension is upheld, the person’s driver’s license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension period provided for in subsection (I). Within thirty days of the issuance of the notice that the suspension has been upheld, the person must enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990;

(b) the suspension is overturned, the person must have his driver’s license, permit, or nonresident operating privilege reinstated.

The provisions of this subsection do not affect the trial for a violation of Section 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945.

(C) The period of suspension provided for in subsection (I) begins on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continues until the person applies for a temporary alcohol license and requests ~~an administrative~~ a contested case hearing.

(D) If a person does not request ~~an administrative~~ a contested case hearing, he waives his right to the hearing, and his suspension must not be stayed but continues for the period provided for in subsection (I).

(E) The notice of suspension must advise the person of his right to obtain a temporary alcohol driver’s license and to request ~~an administrative~~ a contested case hearing before the Office of Motor Vehicle Hearings. The notice of suspension also must advise the person that, if he does not request ~~an administrative~~ a contested case hearing within thirty days of the issuance of the notice of suspension, he waives his right to the administrative hearing, and the suspension continues for the period provided for in subsection (I). The notice of suspension must also advise the person that if the suspension is upheld at the ~~administrative~~ contested case hearing or if he does not request ~~an administrative~~ a contested case hearing, he must enroll in an Alcohol and Drug Safety Action Program.

(F) ~~An administrative~~ A contested case hearing must be held after the request for the hearing is received by the ~~Division~~ Office of Motor Vehicle Hearings. The scope of the hearing is limited to whether the person:

(1) was lawfully arrested or detained;

(2) was given a written copy of and verbally informed of the rights enumerated in Section 56‑5‑2950;

(3) refused to submit to a test pursuant to Section 56‑5‑2950; or

(4) consented to taking a test pursuant to Section 56‑5‑2950, and the:

(a) reported alcohol concentration at the time of testing was fifteen one‑hundredths of one percent or more;

(b) individual who administered the test or took samples was qualified pursuant to Section 56‑5‑2950;

(c) tests administered and samples obtained were conducted pursuant to Section 56‑5‑2950; and

(d) machine was working properly.

Nothing in this section prohibits the introduction of evidence at the ~~administrative~~ contested case hearing on the issue of the accuracy of the breath test result.

A written order must be issued to all parties either reversing or upholding the suspension of the person’s license, permit, or nonresident’s operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days his license was suspended before he received a temporary alcohol license and requested the ~~administrative~~ contested case hearing.

The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person’s license, permit, or nonresident’s operating privilege regardless of whether the person requesting the contested case hearing or the person’s attorney appears at the contested case hearing.

(G) ~~An administrative~~ A contested case hearing is ~~a contested case proceeding under~~ governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal stays the suspension until a final decision is issued on appeal.

(H)(1) If the suspension is upheld at the ~~administrative~~ contested case hearing, the person must enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990 and may apply for a restricted license if he is employed or enrolled in a college or university. The restricted license permits him to drive only to and from work and his place of education and in the course of his employment or education during the period of suspension. The restricted license also permits him to drive to and from the Alcohol Drug Safety Action Program classes or to a court‑ordered drug program. The department may issue the restricted license only upon showing by the individual that he is employed or enrolled in a college or university, that he lives further than one mile from his place of employment, place of education, or location of his Alcohol and Drug Safety Action Program classes, or the location of his court‑ordered drug program, and that there is no adequate public transportation between his residence and his place of employment, his place of education, the location of his Alcohol and Drug Safety Action Program classes, or the location of his court‑ordered drug program.

(2) If the department issues a restricted license, it must designate reasonable restrictions on the times during which and routes on which the individual may drive a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance of Alcohol and Drug Safety Action Program classes, status of attendance of his court‑ordered drug program, or residence must be reported immediately to the department by the licensee.

(3) The fee for a restricted license is one hundred dollars, but no additional fee may be charged because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state general fund, and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

(4) Driving a motor vehicle outside the time limits and route imposed by a restricted license by the person issued that license is a violation of Section 56‑1‑460.

(I)(1) 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 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, and who has had no previous suspension imposed pursuant to Section 56‑5‑2950 or 56‑5‑2951 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 or 56‑5‑2951 within the ten years preceding a violation of this section is:

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

(J) A person’s driver’s license, permit, or nonresident operating privilege must be restored when the person’s period of suspension under subsection (I) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program in which he is enrolled. After the person’s driving privilege is restored, he must continue the services of the Alcohol and Drug Safety Action Program in which he is enrolled. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person’s license must be suspended until the completion of the Alcohol and Drug Safety Action Program. A person must be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56‑5‑2990 before his driving privilege can be restored at the conclusion of the suspension period.

(K) When a nonresident’s privilege to drive a motor vehicle in this State has been suspended under the provisions of this section, the department must give written notice of the action taken to the motor vehicle administrator of the state of the person’s residence and of any state in which he has a license or permit.

(L) The department must not suspend the privilege to drive of a person under the age of twenty‑one pursuant to Section 56‑1‑286 if the person’s privilege to drive has been suspended under this section arising from the same incident.

(M) A person whose driver’s license or permit is suspended pursuant to this section is not required to file proof of financial responsibility.

(N) An insurer may not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56‑1‑286, 56‑5‑2930, 56‑5‑2933, or 56‑5‑2945, or another 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 based solely on the violation unless he is convicted of the violation.

(O) The department must administer the provisions of this section and must promulgate regulations necessary to carry out its provisions.

(P) If a person does not request ~~an administrative~~ a contested case hearing within the thirty‑day period as authorized pursuant to this section, the person may file with the department a form after enrolling in a certified Alcohol and Drug Safety Action Program to apply for a restricted license. The restricted license permits him to drive only to and from work and his place of education and in the course of his employment or education during the period of suspension. The restricted license also permits him to drive to and from Alcohol and Drug Safety Action Program classes or a court‑ordered drug program. The department may issue the restricted license at any time following the suspension upon a showing by the individual that he is employed or enrolled in a college or university, that he lives further than one mile from his place of employment, place of education, the location of his Alcohol and Drug Safety Action Program classes, or the location of his court‑ordered drug program, and that there is no adequate public transportation between his residence and his place of employment, his place of education, the location of his Alcohol and Drug Safety Action Program classes, or the location of his court‑ordered drug program. The department must designate reasonable restrictions on the times during which and routes on which the individual may drive a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance of Alcohol and Drug Safety Action Program classes, status of his court‑ordered drug program, or residence must be reported immediately to the department by the licensee. The route restrictions, requirements, and fees imposed by the department for the issuance of the restricted license issued pursuant to this item are the same as those provided in this section had the person requested ~~an administrative~~ a contested case hearing. A restricted license is valid until the person successfully completes a certified Alcohol and Drug Safety Action Program, unless the person fails to complete or make satisfactory progress to complete the program.”

SECTION \_. Section 56‑5‑2952 of the 1976 Code, as last amended by Act 279 of 2008, is further amended to read:

“Section 56‑5‑2952. The filing fee to request ~~any~~ a contested case hearing before the Office of Motor Vehicle Hearings of the Administrative Law Court is ~~one~~ two hundred ~~fifty~~ dollars, or as otherwise prescribed by the rules of procedure for the ~~Administrative Law Court~~ Office of Motor Vehicle Hearings. Funds generated from the collection of this fee ~~shall~~ must be retained by the Administrative Law Court, provided, however, that these funds first must be used to meet the expenses of the Office of Motor Vehicle Hearings, including the salaries of its employees, as directed by the chief judge of the Administrative Law Court.”

SECTION \_. The 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 \_. This act takes effect upon approval by the Governor. /

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 39; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Cleary Courson Cromer

Davis Elliott 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

Shoopman Verdin Williams

**Total--39**

**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. 1516 -- Judiciary Committee: A BILL TO AMEND SECTION 7‑11‑15 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS TO RUN AS A CANDIDATE IN GENERAL ELECTIONS, TO PROVIDE FOR THE ENTITY THAT A CANDIDATE SEEKING NOMINATION FOR AN OFFICE BY POLITICAL PARTY PRIMARY OR POLITICAL PARTY CONVENTION MUST FILE A STATEMENT OF INTENTION OF CANDIDACY; AND TO AMEND SECTION 8‑13‑1356(B) TO ALLOW A CANDIDATE’S STATEMENT OF ECONOMIC INTERESTS TO BE FILED IN PAPER OR ELECTRONICALLY.

Senator CAMPSEN 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.

Senators CAMPSEN, KNOTTS, LARRY MARTIN, FAIR, ROSE, ANDERSON, SETZLER, COURSON, CROMER, LOURIE, SHEHEEN, CAMPBELL, RANKIN and NICHOLSON proposed the following amendment (JUD1516.004), which was adopted:

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

/ A BILL

TO AMEND SECTION 8‑13‑1356, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FILING OF A STATEMENT OF ECONOMIC INTERESTS BY A CANDIDATE, TO PROVIDE THAT A CANDIDATE WHO IS NOT A PUBLIC OFFICIAL AND A CANDIDATE WHO IS A PUBLIC OFFICIAL SHALL ELECTRONICALLY FILE OR UPDATE A STATEMENT OF ECONOMIC INTERESTS, AS APPLICABLE, PRIOR TO FILING A STATEMENT OF INTENTION OF CANDIDACY OR NOMINATION FOR PETITION; TO AMEND SECTIONS 7‑11‑15, 7‑11‑50 7‑11‑90, 7‑11‑210, 7‑13‑40, 7‑13‑45, 7‑13‑350, AND 7‑13‑370, RELATING TO THE QUALIFICATIONS TO RUN AS A CANDIDATE IN AN ELECTION, TO PROVIDE THAT THE COUNTY ELECTION COMMISSIONS AND STATE ELECTION COMMISSION ACCEPT CANDIDATE FILINGS AND BE RESPONSIBLE FOR CANDIDATE VERIFICATION AND CERTIFICATION; AND TO REPEAL SECTION 7‑11‑220.

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

SECTION 1. Section 8‑13‑1356 of the 1976 Code is amended to read:

“Section 8‑13‑1356. (A) ~~This section does not apply to a public official who has a current disclosure statement on file with the appropriate supervisory office pursuant to Sections 8‑13‑1110 or 8‑13‑1140.~~

~~(B)~~ A candidate must electronically file a statement of economic interests for the preceding calendar year ~~at the same time and with the same official with whom the candidate files~~ with the State Ethics Commission prior to filing a declaration of candidacy or petition for nomination. Notwithstanding the deadline for filing an updated statement of economic interests pursuant to Section 8‑13‑1140, a candidate who is a public official must electronically file an updated statement of economic interests for the preceding calendar year with the State Ethics Commission prior to filing a declaration of candidacy or petition for nomination.

~~(C)~~ ~~The official with whom the candidate files a declaration of candidacy or petition for nomination, no later than five business days after candidacy books close, must file a copy of the statement with the appropriate supervisory office.~~

(B)~~(D)~~ An individual who becomes a candidate other than by filing must, no later than fifteen business days after becoming a candidate, electronically file a statement of economic interests for the preceding calendar year with the ~~appropriate supervisory office~~ State Ethics Commission.

(C)~~(E)~~ An officer authorized to receive declarations of candidacy and petitions for nominations under the provisions of Chapter 11 of Title 7 may not accept a declaration of candidacy or petition for nomination unless the ~~declaration or petition is accompanied by a statement of economic interests~~ officer verifies that the candidate has complied with subsection (A). If the candidate’s name inadvertently appears on the ballot, the officer authorized to receive declarations of candidacy or petitions for nomination must not certify the candidate subsequent to the election.

~~(F) If the candidate files for office before January first of the year in which the election is held, he must file a supplementary statement covering the preceding calendar year no later than April first of the year in which the election is held.~~

(D)~~(G)~~ A candidate who is not a public official otherwise filing a statement has the same disclosure requirements as a public official with the exception of reporting gifts.

(E)~~(H)~~ The State Ethics Commission must furnish to each clerk of court in the State forms on which the statement of economic interests shall be filed.”

SECTION 2. Section 7‑11‑15 of the 1976 Code is amended to read:

“Section 7‑11‑15. In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy between noon on March sixteenth and noon on March thirtieth as provided in this section.

(1) Candidates seeking nomination for a statewide, congressional, ~~or~~ district office that includes more than one county, State Senate, or House of Representatives must file their statements of intention of candidacy with the ~~state executive committee of their respective party~~ election commission in the county of their residence. The county election commission must, within five days of accepting the statement of candidacy, transmit the statement along with the applicable filing fees to the State Election Commission. A county election commission must not accept a statement of intention of candidacy unless the election commission verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8-13-1356.

~~(2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy with the county executive committee of their respective party in the county of their residence. The county committees must, within five days of the receipt of the statements, transmit the statements along with the applicable filing fees to the respective state executive committees.~~  However, the county ~~committees~~ election commission must report all filings to the ~~state committees~~ State Election Commission no later than five p.m. on March thirtieth. The ~~state executive committees~~ State Election Commission must certify candidates pursuant to Section 7‑13‑40.

~~(3)~~(2) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy with the county ~~executive committee of their respective party~~ election commission in the county of their residence. The county election commission must not accept a statement of intention of candidacy unless the election commission verifies that the candidate filed an electronic statement of economic interests pursuant to Section 8‑13‑1356.

Upon submission and acceptance of all required information, the appropriate election commission must provide the candidate with written verification of the completed submission.

Except as provided herein, the county ~~executive committee of any political party~~ election commission with whom statements of intention of candidacy are filed must file, in turn, all statements of intention of candidacy with the county ~~election commission~~ or state executive committees of the appropriate political parties by noon on the tenth day following the deadline for filing statements by candidates. If the tenth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day. ~~The state executive committee of any political party with whom statements of intention of candidacy are filed must file, in turn, all the statements of intention of candidacy with the State Election Commission by noon on the tenth day following the deadline for filing statements by candidates. If the tenth day falls on Saturday, Sunday, or a legal holiday, the statements must be filed by noon the following day.~~ No candidate’s name may appear on a primary election ballot, convention slate of candidates, general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate’s statement of intention of candidacy has not been filed with the county election commission ~~or State Election Commission, as the case may be,~~ by the deadline, and (2) the candidate has not been certified ~~by the~~ ~~appropriate political party~~ as required by Sections 7‑13‑40 and 7‑13‑350, as applicable. The candidate’s name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy and written verification from the appropriate election commission of the candidate’s completed submission.

The statement of intention of candidacy required in this section and in Section 7‑13‑190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. It must be filed in ~~triplicate~~ multiple copies by the candidate, and the ~~political party committee~~ county election commission with whom it is filed must stamp it with the date and time received, sign it, keep one copy, return one copy to the candidate, and send one copy to ~~either the county election commission or the State Election Commission, as the case may be~~ appropriate political party committee, and the State Election Commission, if applicable.

If, after the closing of the time for filing statements of intention of candidacy, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved~~; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee~~.

The provisions of this section do not apply to nonpartisan school trustee elections in any school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.”

SECTION 3. Section 7‑11‑50 of the 1976 Code is amended to read:

“Section 7-11-50. If a party nominee who was nominated by a method other than party primary election dies, becomes disqualified after his nomination, or resigns his candidacy for a legitimate nonpolitical reason as defined in this section and sufficient time does not remain to hold a convention to fill the vacancy or to nominate a nominee to enter a special election, the respective state or county party executive committee may nominate a nominee for the office~~, who must be duly certified by the respective county or state chairman~~. A nominee for statewide, congressional, district office, the State Senate or the House of Representatives must be duly certified by the State Election Commission. A nominee for countywide or less than countywide office must be duly certified by the county election commission in the county of his residence.

‘Legitimate nonpolitical reason’ as used in this section is limited to:

(a) reasons of health, which include any health condition which, in the written opinion of a medical doctor, would be harmful to the health of the candidate if he continued;

(b) family crises, which include circumstances which would substantially alter the duties and responsibilities of the candidate to the family or to a family business;

(c) substantial business conflict, which includes the policy of an employer prohibiting employees being candidates for public offices and an employment change which would result in the ineligibility of the candidate or which would impair his capability to carry out properly the functions of the office being sought.

A candidate who withdraws based upon a legitimate nonpolitical reason which is not covered by the inclusions in (a), (b), or (c) has the strict burden of proof for his reason. A candidate who wishes to withdraw for a legitimate nonpolitical reason shall submit his reason by sworn affidavit.

This affidavit must be filed with the ~~state party chairman of the nominee’s party and also with the~~ election commission of the county ~~if the office concerned is countywide or less and with the State Election Commission if the office is statewide, multi‑county, or for a member of the General Assembly~~  in which the candidate resides. The county election commission must forward a copy of the affidavit to the state party chairman of the nominee’s party and the State Election Commission within five days after receipt of the affidavit. A substitution of candidates is not authorized, except for death or disqualification, unless the election commission to which the affidavit is submitted approves the affidavit as constituting a legitimate nonpolitical reason for the candidate’s resignation within ten days of the date the affidavit is submitted to the commission. However, where this party nominee is unopposed, each political party registered with the State Election Commission has the privilege of nominating a candidate for the office involved. If the nomination is certified two weeks or more before the date of the general election, that office is to be filled at the general election. If the nomination is certified less than two weeks before the date of the general election, that office must not be filled at the general election but must be filled in a special election to be held on the second Tuesday in the month following the election, provided that the date of the special election to be conducted after the general election may be combined with other necessary elections scheduled to occur within a twenty‑eight day period in the manner authorized by Section 7‑13‑190(D).”

SECTION 4. Section 7‑11‑90 of the 1976 Code is amended to read:

“Section 7-11-90. After the closing of entries if any candidates shall be unopposed, the state committee in the case of state offices and the county committees in the case of county offices shall declare such unopposed candidates as party nominees, and the names of unopposed candidates shall not be placed upon the primary election ballots but shall be certified by the appropriate election commission for the general election ballots.”

SECTION 5. Section 7‑11‑210 of the 1976 Code is amended to read:

“Section 7-11-210. Every candidate for selection as a nominee of any political party for any state office, United States Senator, member of Congress, district office that includes more than one county, or solicitor, to be voted for in any party primary election or political party convention, shall file with and place in the possession of ~~the treasurer of the state committee~~  the county election commission in the county which the candidate resides, by twelve o’clock noon on March thirtieth a notice or pledge in the following form, the blanks being properly filled in and the notice or pledge signed by the candidate: ‘I hereby file my notice as a candidate for the nomination as \_\_\_\_\_\_\_\_\_\_ in the primary election or convention to be held on \_\_\_\_\_\_\_\_\_\_. I affiliate with the \_\_\_\_\_\_\_\_\_\_ Party, and I hereby pledge myself to abide by the results of the primary or convention. I shall not authorize my name to be placed on the general election ballot by petition and will not offer or campaign as a write‑in candidate for this office or any other office for which the party has a nominee. I authorize the issuance of an injunction upon ex parte application by the party chairman, as provided by law, should I violate this pledge by offering or campaigning in the ensuing general election for election to this office or any other office for which a nominee has been elected in the party primary election, unless the nominee for the office has become deceased or otherwise disqualified for election in the ensuing general election. I hereby affirm that I meet, or will meet by the time of the general or special election, or as otherwise required by law, the qualifications for this office’. The county election commission must forward a copy of the affidavit to the state party chairman of the nominee’s party and the State Election Commission within five days after receipt of the affidavit.

Every candidate for selection in a primary election as the nominee of any political party for member of the Senate, member of the House of Representatives, and all countywide or less than countywide ~~and township~~ offices shall file with and place in the possession of the county election commission in the county ~~chairman or other officer as may be named by the county committee of the county~~ in which they reside by twelve o’clock noon on March thirtieth a like notice and pledge. The county election commission must forward a copy of the affidavit to the county party chairman of the nominee’s party and the State Election Commission within five days after receipt of the affidavit.

The notice of candidacy required by this section to be filed by a candidate in a primary must be signed personally by the candidate, and the signature of the candidate must be signed in the presence of ~~the county chairman or other officer as may be named by the county committee~~ a county election commissioner, or his designee, as applicable, with whom the candidate is filing, or a candidate must have his signature on the notice of the candidacy acknowledged and certified by any officer authorized to administer an oath. Any notice of candidacy of any candidate signed by an agent in behalf of a candidate shall not be valid.

In the event that a person who was defeated as a candidate for nomination to an office in a party’s primary election shall thereafter offer or campaign as a candidate against any nominee for election to any office in the ensuing general election, the state chairman of the party which held the primary (if the office involved is one voted for in the general election by the electors of more than one county), or the county chairman of the party which held the primary (in the case of all other offices), shall forthwith institute an action in a court of competent jurisdiction for an order enjoining the person from so offering or campaigning in the general election, and the court is hereby empowered upon proof of these facts to issue an order.”

SECTION 6. Section 7‑13‑40 of the 1976 Code is amended to read:

“Section 7-13-40. In the event that a party nominates candidates by party primary, a party primary must be held by the party and conducted by the State Election Commission and the respective county election commissions on the second Tuesday in June of each general election year, and a second and third primary each two weeks successively thereafter, if necessary. Written certification of the names of all candidates to be placed on primary ballots must be made by the ~~political party chairman, vice chairman, or secretary to the~~ State Election Commission or the county election commission, whichever is responsible under law for preparing the ballot, not later than twelve o’clock noon on April ninth, or if April ninth falls on a Saturday or Sunday, not later than twelve o’clock noon on the following Monday. A copy of the certification must be provided to the political party chairman or vice chairman. ~~Political parties nominating candidates by party primary must verify the qualifications of those candidates prior to certification to the appropriate election commission of the names of candidates to be placed on primary ballots.~~ The written verification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for office for which he has filed. ~~Political parties~~ The State Election Commission and county election commission must not accept the filing of any candidate who does not or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which the candidate desires to file, and such candidate’s name shall not be placed on a primary ballot. The filing fees for all candidates filing to run in all primaries, except municipal primaries, must be transmitted by the ~~respective political parties~~  county election commission to the State Election Commission and placed by the executive director of the commission in a special account designated for use in conducting primary elections and must be used for that purpose. The filing fee for each office is one percent of the total salary for the term of that office or one hundred dollars, whichever amount is greater.”

SECTION 7. Section 7‑13‑45 of the 1976 Code is amended to read:

“Section 7-13-45. In every general election year, the county chairman shall~~:~~

(1) ~~designate a specified place other than a private residence where persons may file a statement of intention of candidacy;~~

~~(2) designate a specified place other than a private residence where persons may file as candidates;~~

~~(3) establish regular hours of not less than four hours a day during the final seventy‑two hours of the filing period in which he or some person he designates must be present at the designated place to accept filings;~~

~~(4)~~ place an advertisement to appear two weeks before the filing period begins in a newspaper of general circulation in the county at least five by seven inches in size that notifies the public of the dates of the filing periods, the offices which may be filed for, the place and street address where filings may be made, and the hours that an authorized person will be present to receive filings.”

SECTION 8. Section 7‑13‑350 of the 1976 Code is amended to read:

“Section 7-13-350. (A) Except as otherwise provided in this section, the nominees in a party primary or party convention held under the provisions of this title by any political party certified by the commission for one or more of the offices, national, state, circuit, multi‑county district, countywide, less than countywide, or municipal to be voted on in the general election, held on the first Tuesday following the first Monday in November, must be placed upon the appropriate ballot for the election as candidates nominated by the party by the authority charged by law with preparing the ballot if the names of the nominees are certified, in writing, by the political party chairman, vice‑chairman, or secretary to the authority, for general elections held under Section 7‑13‑10, not later than twelve o’clock noon on August fifteenth or, if August fifteenth falls on Saturday or Sunday, not later than twelve o’clock noon on the following Monday; and for a special or municipal general election, by at least twelve o’clock noon on the sixtieth day prior to the date of holding the election, or if the sixtieth day falls on Sunday, by twelve o’clock noon on the following Monday. The county election commission or State Election Commission must verify the qualifications of ~~Political parties nominating candidates by primary or convention must verify the qualifications of those~~ candidates nominated by a party primary or convention prior to certification ~~to the authority charged by law with preparing the ballot~~, whichever is the authority charged by law to prepare the ballot. The written certification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office for which he has filed. Any candidate who does not, or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which he has filed shall not be nominated and certified, and such candidate’s name shall not be placed on a general, special, or municipal election ballot.

(B) Candidates for President and Vice President must be certified not later than twelve o’clock noon on September tenth to the State Election Commission, or if September tenth falls on Sunday, not later than twelve o’clock noon on the following Monday.”

SECTION 9. Section 7‑13‑370 of the 1976 Code is amended to read:

“Section 7-13-370. If any candidate dies, withdraws, or otherwise becomes disqualified after his name has been printed on an official election ballot and if any person is nominated, as authorized by law, to fill such vacancy, the name of the candidate so nominated to fill such vacancy need not be printed upon the ballots, but the name of such candidate so nominated shall be certified by the ~~party executive committee making the nomination to the officer, commissioners or other~~ authority charged with the duty of printing such ballots. ~~and a~~ A vote cast by a voter for the name of the candidate printed on the ballot who has either died, withdrawn, or otherwise become disqualified shall be counted as a vote for the candidate subsequently nominated to fill such vacancy whose name is on file with such officer, commissioners, or other authority.”

SECTION 10. Section 7‑11‑220 is repealed.

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 preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first. /

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN 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 38; Nays 0**

**AYES**

Alexander Bright Bryant

Campbell Campsen Cleary

Coleman Courson Cromer

Davis Fair Gregory

Grooms Hayes Hutto

Knotts Land Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey McGill

Nicholson O'Dell Peeler

Rankin Reese Rose

Ryberg Scott Setzler

Sheheen Shoopman Thomas

Verdin Williams

**Total--38**

**NAYS**

**Total--0**

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

**ADOPTED**

S. 1502 -- Senators Williams and Elliott: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE BRIDGE THAT CROSSES UNITED STATES HIGHWAY 501 IN MARION COUNTY ALONG SOUTH CAROLINA HIGHWAY 41 “EBBIE JAMES ‘E.J.’ ATKINSON BRIDGE” AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS BRIDGE THAT CONTAIN THE WORDS “EBBIE JAMES ‘E.J.’ ATKINSON BRIDGE”.

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

**AMENDED AND ADOPTED**

**RETURNED TO THE HOUSE**

H. 5130 -- Reps. Alexander, Branham and Williams: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF TV ROAD IN FLORENCE COUNTY FROM ITS INTERSECTION WITH MCIVER ROAD TO ITS INTERSECTION WITH WILSON ROAD “DR. WILLIAM P. DIGGS ROAD” AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS “DR. WILLIAM P. DIGGS ROAD”.

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

Senator WILLIAMS proposed the following amendment (5130R001.KMW), which was adopted:

Amend the resolution, as and if amended, page 1, by striking line 14 and inserting:

/ ASHBY ROAD TO ITS INTERSECTION WITH WILSON /

Amend the resolution further, as and if amended, page 2, by striking line 7 and inserting:

/ Florence County from its intersection with Ashby Road to its /

Renumber sections to conform.

Amend title to conform.

Senator WILLIAMS explained the amendment.

The amendment was adopted.

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

**CARRIED OVER**

H. 4814 -- Ways and Means Committee: A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2011‑2012, TO PROVIDE REPORTING REQUIREMENTS WITH RESPECT TO A SPECIFIC APPROPRIATION, AND TO ALLOW UNEXPENDED FUNDS APPROPRIATED TO BE CARRIED FORWARD TO SUCCEEDING FISCAL YEARS AND EXPENDED FOR THE SAME PURPOSES.

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

H. 3607 -- Reps. Harrison, Weeks and McLeod: A BILL TO AMEND SECTION 22‑5‑190, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENDORSEMENT AND EXECUTION OF WARRANTS ISSUED IN OTHER COUNTIES OR BY MUNICIPAL AUTHORITIES, SO AS TO PROVIDE A WARRANT IS NOT REQUIRED TO BE ENDORSED BY A MAGISTRATE IN THE COUNTY WHERE A PERSON CHARGED WITH A CRIME RESIDES OR WHERE HE IS LOCATED, TO PROVIDE PROCEDURES FOR SERVING A WARRANT, AND TO MAKE CONFORMING CHANGES.

Senator CAMPSEN explained the Bill.

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

H. 4513 -- Rep. Harrison: A BILL TO AMEND SECTION 43‑35‑310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MEMBERSHIP OF THE ADULT PROTECTION COORDINATING COUNCIL, SO AS TO REVISE THE MEMBERSHIP AND MAKE TECHNICAL CORRECTIONS; AND TO AMEND SECTION 43‑35‑330, RELATING TO THE DUTIES OF THE ADULT PROTECTION COORDINATING COUNCIL, SO AS TO REVISE THE DUTIES OF THE COUNCIL AND ADD THE REQUIREMENT THAT THE COUNCIL ANNUALLY PREPARE AND DISTRIBUTE TO THE MEMBERSHIP AND THE MEMBERS OF THE GENERAL ASSEMBLY A REPORT OF THE COUNCIL’S ACTIVITIES AND ACCOMPLISHMENTS FOR THE CALENDAR YEAR.

Senator CLEARY explained the Bill.

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

**AMENDED, CARRIED OVER**

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.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the previously proposed amendment, as follows:

Senators FAIR and HAYES proposed the following amendment (1267R004.MLF), 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’s 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)(1) Subject to item (2), 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.

(2) The requirements of item (1) do not apply to a school district that had a school choice plan in place during the 2011‑2012 school year that provided parents and students choice options within the district. A school district exempt from the provisions of item (1) must submit information to the department detailing the school choice plan in place during the 2011‑2012 school year.

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 March first 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, or shall use the manner in place in the school district in the previous school year.

(4) If a local school district superintendent or his designee, by the last day of March, 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 district superintendent or his designee 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 district superintendent or his designee 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 districts, 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 resident and nonresident school district by May fifteenth which school 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 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.

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 district superintendent or his designee of the receiving district shall take action no later than the last day of March of the school year preceding enrollment to approve or deny an application for admission in grades kindergarten through twelve. (C) The superintendent or his designee 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 superintendent or his designee of the receiving district shall notify the parent of the child and the superintendent of the district of residence in writing within five working days of the action taken. 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, 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.

(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)(1) The school board of trustees shall adopt specific policies regarding capacity standards, standards of approval, and priorities of acceptance. 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, income level, or 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 gender, previous academic achievement, and athletic, artistic, or other extracurricular ability, 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 as follows unless a district has a procedure in place and that procedure was implemented in the school year prior to implementation of this chapter:

(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.

(6) 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.

A nonresident student may appeal a district’s decision to deny enrollment to the district’s board of trustees. 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 within the sending district has transfer requests which exceed twenty percent of its enrollment resulting in the school being at least twenty percent below capacity, 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 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 February fifteenth 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) superintendent of the district of residence, the superintendent 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, and the number of denied applications. The department annually shall report these findings to the General Assembly 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 February 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 amendment.

The amendment was adopted.

On motion of Senator SHOOPMAN, the Bill was carried over, as amended.

**COMMITTEE AMENDMENT ADOPTED**

**CARRIED OVER**

H. 3111 -- Reps. Young, Sandifer, Hayes and D.C. Moss: A BILL TO AMEND SECTION 38‑73‑525, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT AN INSURER WRITING A WORKERS’ COMPENSATION POLICY SHALL FILE CERTAIN INFORMATION ON WHICH IT RELIES TO SUPPORT ITS RATE REQUEST, SO AS TO REQUIRE THE INSURER TO ADOPT THE MOST RECENT LOSS COST WITHIN ONE HUNDRED TWENTY DAYS OF APPROVAL OF THE LOSS COSTS; AND TO AMEND SECTION 38‑73‑1210, RELATING TO THE REQUIREMENT THAT ITS OBLIGATION TO MAKE CERTAIN FILINGS MAY BE SATISFIED BY MAKING FILINGS AS A MEMBER OF, OR SUBSCRIBER TO, A LICENSED RATING ORGANIZATION THAT MAKES FILINGS, SO AS TO REQUIRE THESE FILINGS BE RULE AND FORM FILINGS AND NOT LOSS COST ADOPTION FILINGS, AND REQUIRE THE INSURER TO FILE FOR CERTAIN APPROVAL IF THE RATING ORGANIZATION TO WHICH IT SUBSCRIBES HAS A RATE INCREASE WITHIN TWELVE MONTHS AFTER THE INSURER BECOMES A MEMBER.

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

The Committee on Banking and Insurance proposed the following amendment (AGM\19584AB12), which was adopted:

Amend the bill, as and if amended, Section 42‑15‑90, as contained in SECTION 1, by deleting the SECTION in its entirety and inserting:

/ SECTION 1. Section 42‑15‑90 of the 1976 Code is amended to read:

“Section 42‑15‑90. (A) ~~Fees for attorneys and physicians~~ Attorney fees, physician fees, and ~~charges of hospitals~~ hospital charges for services under this title ~~shall be~~ are subject to the approval of the commission~~;~~, but ~~no~~ a physician or hospital ~~shall be entitled to~~ may not collect ~~fees~~ a fee from an employer or insurance carrier until ~~he~~ the physician or hospital has made the reports required by the commission in connection with the case.

(B)(1) ~~Any person who receives any fee or other consideration or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the Commission or such court or who makes it a business to solicit employment for a lawyer or for himself in respect of any claim or award for compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall, for each offense, be punished by a fine of not more than five hundred dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment.~~ A person may not:

(a) receive a fee, gratuity, or other consideration for a service rendered pursuant to this title unless the fee, gratuity, or other consideration is approved by the commission or a court of competent jurisdiction; or

(b) make it a business to solicit employment for an attorney or himself with respect to a claim or award for compensation under this title.

(2) A violation of this section constitutes a misdemeanor and, upon conviction, each offense is subject to a fine of not more than five hundred dollars, imprisonment for not more than one year, or both.

(C)(1) The commission may adopt criteria to establish a new fee schedule or adjust an existing fee schedule to establish maximum allowable payments for medical services provided by medical practitioners exclusive of hospital inpatient services and hospital outpatient services and ambulatory surgery centers based in whole or in part on the requirements of a federally funded program, but if it adopts adjustments to an existing fee schedule, it must adopt these adjustments on an annual basis and the adjustments may not exceed the percentage change indicated by the federally funded program. The commission shall conduct an evidentiary hearing to review a proposed adjustment to increase or reduce these fees by more than ten percent annually to determine whether to:

(a) increase or reduce the proposed adjustment as the commission considers appropriate; or

(b) accept the proposed adjustment.

(2)(a) A decision of the commission to increase or reduce a fee schedule to establish maximum allowable payments for medical services provided by medical practitioners exclusive of hospital inpatient services and hospital outpatient services and ambulatory surgery centers by more than ten percent is reviewable by expedited appeal to the Administrative Law Court pursuant to the Administrative Procedures Act.

(b) On appeal, the court may:

(i) accept the increase or decrease;

(ii) impose a lesser increase or decrease;

(iii) revert the fee schedule to what it was immediately prior to the annual adjustment;

(iv) adjust the appropriate conversion factors as necessary; or

(v) make other adjustments the court considers reasonable.

(c) The court shall issue a decision within ninety days after it receives the appeal.

(d) During the pendency of this appeal, the portion of the fee schedule under review must remain the same as it was immediately prior to the proposed changes, but all other portions of the fee schedule or conversion factors are effective and remain unchanged.” /

Amend the bill further by adding an appropriately numbered SECTION at the end to read:

/ SECTION \_\_\_. Section 1‑23‑600(A)(4), as last amended by Act 334 of 2008, is further amended to read:

“(4) Workers’ Compensation Commission, except as provided in Section 42‑15‑90; or” /

Renumber sections to conform.

Amend title to conform.

Senator HAYES explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill.

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

**COMMITTEE AMENDMENT ADOPTED**

**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.

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

The Judiciary Committee proposed the following amendment (JUD4451.001), which was adopted:

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

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

“Section 56‑5‑3890. (A) For purposes of this section:

(1) ‘Hand-held wireless electronic communication device’ means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text messaging device, or a computer, that allows a person to wirelessly communicate with another person while holding the device in either hand.

(2) ‘Hands‑free wireless electronic communication device’ means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text messaging device, or a computer, that allows a person to wirelessly communicate with another person without holding the device in either hand by utilizing an internal feature or function of the device, an attachment, or an additional device. A hands‑free wireless electronic communication device may require the use of either hand to activate or deactivate an internal feature or function of the device.

(3) ‘Wireless electronic communication device’ means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text messaging device, or a computer, that allows a person to wirelessly communicate with another person.

(B)(1) It is unlawful for a person under the age of eighteen to use a hand-held wireless electronic communication device while operating a motor vehicle on the public streets and highways of this State.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction:

(a) for a first offense, must be fined twenty dollars and pay a twenty‑five dollar Trauma Care Fund surcharge. The twenty dollar fine is subject to all applicable court costs, assessments, and surcharges, except as provided in subitem (B)(3)(e);

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

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

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

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

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

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

(e) If the judge determines that the person has successfully completed the program, the judge shall waive the fine, the Trauma Care Fund surcharge, and all applicable court costs, assessments, and surcharges, except ten dollars that shall be used exclusively by the court to offset the costs associated with administering the person’s compliance with this subsection. The court shall remit the records and audit copy of the traffic ticket to the Department of Motor Vehicles within ten days indicating a violation of this subsection. The Department of Motor Vehicles shall indicate a violation of this subsection on the person’s motor vehicle operating record.

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

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

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

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

(C)(1) It is unlawful for a person to use a wireless electronic communication device while operating a motor vehicle in a school zone area when the school zone’s warning lights are activated.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than 30 days, or both.

(3) The penalty imposed by this subsection applies only:

(a) if a sign is posted at the beginning of the school zone area that states ‘SCHOOL ZONE UP TO $500 FINE AND 30 DAYS IMPRISONMENT FOR USING A WIRELESS ELECTRONIC COMMUNCATION DEVICE’; and

(b) to the area between the posted sign and the ‘END SCHOOL ZONE’ sign.

(D)(1) It is unlawful for a person to use a wireless electronic communication device while operating a motor vehicle in a highway work zone area as described in Section 56-5-1535 when road maintenance or construction work is underway and workers are present.

(2) This subsection does not apply to:

(a) a highway work zone area when the work zone signs have been removed or covered with weather resistant material pursuant to Section 57-3-785(B); and

(b) a temporary work zone area as described in Section 56-5-1536.

(3) 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 30 days, or both.

(4) The penalty imposed by this subsection applies only:

(a) if a sign is posted at the beginning of the highway work zone area that states ‘WORK ZONE UP TO $500 FINE AND 30 DAYS IMPRISONMENT FOR USING A WIRELESS ELECTRONIC COMMUNCATION DEVICE’; and

(b) to the area between the posted sign and the ‘END CONSTRUCTION’ sign. Signs may be posted at the discretion of the Department of Transportation in the highway work zone areas designed to comply with work zone traffic control standards contained in the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration.

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

(1) lawfully parked or stopped;

(2) using a wireless electronic communication device in hands-free, voice-activated, or voice-operated mode, except a person using a wireless electronic communication device in a school zone area or highway work zone area;

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

(4) summoning or providing medical or other emergency assistance;

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

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

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

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

(G) A law enforcement officer must not:

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

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

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

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

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

(H) A person charged with a violation of this section may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person violated this section, the applicable penalty must be assessed. If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person violated this section, no penalty must be assessed. A person found to be in violation of this section may bring an appeal to the court of common pleas, pursuant to Section 18‑3‑10 or Section 14‑25‑95.

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

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

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

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

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

VIOLATION POINTS

Reckless driving …………6

Passing stopped school bus 6

Hit‑and‑run, property damages only 6

Driving too fast for conditions, or speeding:

(1) No more than 10 m.p.h. above the posted limits…… 2

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

the posted limits 4

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

Disobedience of any official traffic control device ….4

Disobedience to officer directing traffic 4

Failing to yield right of way 4

Driving on wrong side of road 4

Passing unlawfully 4

Turning unlawfully 4

Driving through or within safety zone 4

Failing to give signal or giving improper

signal for stopping, turning, or suddenly

decreased speed …………4

Shifting lanes without safety precaution 2

Improper dangerous parking 2

Following too closely 4

Failing to dim lights 2

Operating with improper lights 2

Operating with improper brakes 4

Operating a vehicle in unsafe condition 2

Driving in improper lane 2

Improper backing…. 2

A person under 18 using a hand-held wireless

electronic communication device while operating

a motor vehicle, second offense 2

A person under 18 using a hand-held wireless

electronic communication device while operating a

motor vehicle, third or subsequent offense 4.”

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

Renumber sections to conform.

Amend title to conform.

Senator CAMPSEN explained the committee amendment.

The committee amendment was adopted.

The question then was second reading of the Bill.

On motion of Senator SCOTT, the Bill was carried over, as amended.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**AMENDED, CARRIED OVER AS AMENDED**

H. 4763 -- Reps. Sandifer, King, Butler Garrick and Parks: A BILL TO AMEND SECTION 32‑7‑50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PRENEED FUNERAL CONTRACT LICENSES, SO AS TO FURTHER PROVIDE FOR THE TERM OF THE LICENSE AND FOR THE USE OF LICENSE RENEWAL FEES; AND TO AMEND SECTION 32‑7‑100, AS AMENDED, RELATING TO UNLAWFUL VIOLATIONS OF LAW PERTAINING TO PRENEED FUNERAL CONTRACTS, SO AS TO FURTHER PROVIDE FOR THE PENALTIES FOR VIOLATIONS BASED ON THE AMOUNT OF MONEY OBTAINED OR SOUGHT TO BE OBTAINED WITH CERTAIN OFFENSES DECLARED TO BE MISDEMEANORS AND CERTAIN OFFENSES DECLARED TO BE FELONIES.

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

Senators MALLOY and HUTTO proposed the following amendment (JUD4763.004), which was adopted:

Amend the committee report, as and if amended, page [4763-5], by striking lines 20-34 in their entirety and inserting the following:

/ “Section 32-7-100. (A) A person wilfully violating the provisions of this chapter is guilty of a:

(1) misdemeanor, if the value of money obtained or sought to be obtained is two thousand dollars or less and, upon conviction, the person must be fined not less than one thousand dollars ~~or more than five thousand dollars~~, or imprisoned for not ~~less than ten days or more than six months~~ more than thirty days, or both~~.~~; ~~In addition, this person may be prohibited from entering into further preneed funeral contracts if the department, in its discretion, finds that the offense is sufficiently grievous.~~

(2) felony, if the value of money obtained or sought to be obtained is more than two thousand dollars but less than ten thousand dollars, and, upon conviction, the person must be fined in the discretion of the court, or imprisoned for not more than five years, or both;

(3) felony, if the value of money obtained or sought to be obtained is ten thousand dollars or more, and, upon conviction, the person must be fined in the discretion of the court, or imprisoned for not more than ten years, or both. /

Renumber sections to conform.

Amend title to conform.

Senator MALLOY explained the amendment.

The amendment was adopted.

The Committee on Judiciary proposed the following amendment (JUD4763.003), which was adopted:

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

/ SECTION 1. Section 32‑7‑10 of the 1976 Code is amended to read:

“Section 32‑7‑10. As used in this chapter, unless the context requires otherwise:

(1) ‘Administrator’ means the Administrator of the South Carolina Department of Consumer Affairs.

(2) ‘At need’ means after the beneficiary is deceased, and ‘at preneed’ means before the beneficiary is deceased.

~~(2)~~(3) ‘Beneficiary’ means the person who is to be the subject of the disposition, services, facilities, or merchandise described in a preneed funeral contract.

~~(3)~~(4) ‘Common trust fund’ means a trust in which the proceeds of more than one funeral contract may be held by the trustee.

~~(4)~~(5) ‘Department’ means the South Carolina Department of Consumer Affairs.

~~(5)~~(6) ‘Financial institution’ means a bank, trust company, or savings and loan association authorized by law to do business in this State.

(7) ‘Funeral services’ or ‘funeral arrangements’ means any of the following:

(a) engaging in providing shelter, care, and custody of the human dead;

(b) preparing the human dead by embalming or other methods for burial or other disposition;

(c) making arrangements before the time of death, financial or otherwise, including arrangements for cremation, for providing these services, or the sale of funeral merchandise; or

(d) engaging in the practice or performing any functions of funeral directing or embalming as presently recognized by persons engaged in these functions.

~~(6)~~(8) ‘Preneed funeral contract’ means a contract which has for its purpose the furnishing or performance of funeral services or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, mausoleum, grave marker, or monument.

~~(7)~~(9) ‘Provider’ means a funeral home licensed in this State which is the entity providing services and merchandise pursuant to a preneed funeral contract and is designated trustee of all funds.

~~(8)~~(10) ‘Purchaser’ means the person who is obligated to make payments under a preneed funeral contract.

~~(9)~~(11) ‘Seller’ means a licensed funeral director in this State who is directly employed by the provider.

(12) ‘Trust account’ means a federally insured account where the funds shall be paid to a provider only when the provider furnishes the financial institution with a certified certificate of death and a certified statement that the services have been performed and the merchandise has been delivered.”

SECTION 2. Section 32‑7‑35 of the 1976 Code is amended to read:

“Section 32‑7‑35. (A) A preneed funeral contract may be transferred to another provider only upon the prior written request of the purchaser or the beneficiary of a deceased purchaser or pursuant to Section 32‑7‑45. The selling provider must be paid a fee equal to ten percent of the contract face amount. The selling provider also must be paid ten percent of the earnings in that portion of the final year before transfer.

(B) A preneed funeral contract, whether revocable or irrevocable, funded by an insurance policy may be transferred to another provider only upon the prior written request of the purchaser or the beneficiary of a deceased purchaser or pursuant to Section 32‑7‑45. The selling provider may not collect, charge, or receive a fee in connection with this transfer of a preneed funeral contract funded by an insurance policy. An irrevocable preneed funeral contract funded by an insurance policy may be transferred to another provider only upon the prior written request of the purchaser or the beneficiary of a deceased purchaser or pursuant to Section 32‑7‑45.

(C)(1) At preneed, a preneed funeral contract may be transferred only to a funeral home that is licensed to sell preneed funeral contracts. The receiving funeral home is not required to pay an additional service charge unless there are changes to the contract.

(2) At need, a preneed funeral contract may be transferred to any funeral home that is licensed by the Board of Funeral Directors.”

SECTION 3. Section 32‑7‑50 of the 1976 Code is amended to read:

“Section 32‑7‑50. (A) Without first securing a license from the department, no one, except a financial institution, may accept or hold payments made on a preneed funeral contract.

(1) The State Board of Funeral Service must revoke the license of a funeral home or funeral director, or both, if the funeral home or funeral director: (a) accepts funds for a preneed funeral contract or other prepayment of funeral expenses without a license to sell preneed funeral contracts, or (b) is licensed to sell preneed funeral contracts and fails to deposit the funds collected in trust in a federally insured account as required by Section 32‑7‑20(H).

(2) Application for a license must be in writing, signed by the applicant, and verified on forms furnished by the department. ~~Each~~ An application must contain at least the following: the full name and address, both residence and place of business, of the applicant and every member, officer, and director of it if the applicant is a firm, partnership, association, or corporation. A license issued pursuant to the application is valid only at the address stated in the application for the applicant or at a new address approved by the department.

(3) If a licensee cancels the license and later applies for a new license, the department shall investigate the applicant’s books, records, and accounts to determine if the applicant violated the provisions of this chapter during the time he did not have a license.

(B) Upon receipt of the application, a one‑time payment of a two hundred fifty dollar license fee, and the deposit in an amount to be determined by the department of the security or proof of financial responsibility as the department may determine, the department shall issue a license unless it determines that the applicant has made false statements or representations in the application, is insolvent, has conducted his business in a fraudulent manner, is not authorized to transact business in this State, or if, in the judgment of the department, the applicant should be denied a license for some other good and sufficient reason.

(C) A person selling a preneed funeral contract shall collect from each purchaser a service charge and all fees collected must be remitted by the person collecting them to the department at least once each month.

(1) With the fees collected, the person also must provide the department with a listing of each contract sold. If the listing or fees collected are not sent to the department within sixty days of the last day of the month when the contract was sold, the department shall assess a civil penalty of ten dollars for each contract not reported to the department. The monies collected as civil penalties must be deposited in the Preneed Funeral Loss Reimbursement Fund. Upon its own initiative or upon complaint or information received, the department shall investigate a person’s books, records, and accounts if the department has reason to believe that fees are collected and either not remitted or not timely remitted.

(2) The service charge for each contract may not exceed a total of thirty dollars, twenty-five dollars for the department to use in administering the provisions of this chapter and five dollars to be allocated to the Preneed Funeral Loss Reimbursement Fund.

(3) The department shall keep a record of each preneed funeral contract for which it receives a service charge.

(D) A license issued pursuant to this section expires on September thirtieth of each odd-numbered year unless otherwise revoked or canceled. A license must be renewed by filing a renewal application at least thirty days prior to expiration on forms prescribed by the department. A renewal application must be accompanied by a fee of two hundred dollars for the department to use in administering this chapter. The department shall deposit one hundred dollars of each renewal fee received into the Preneed Funeral Loss Reimbursement Fund. The department shall consider the factors in subsection (B) before issuing a license.”

SECTION 4. Section 32‑7‑60(B) of the 1976 Code, as last amended by Act 70 of 2009, is further amended to read:

“(B) From the service charge for each preneed contract as required by Section 32‑7‑50(C), the department shall deposit into the fund that portion of the charge as established by the department. The department may suspend or resume deposits into the fund at any time and for any period to ensure that a sufficient amount is available to meet likely disbursements and to maintain an adequate reserve. The maximum amount of the service charge to be allocated to the Preneed Funeral Loss Reimbursement Fund as required by Section 32‑7‑50(C)(2) may not exceed the amount of five dollars for each preneed contract. ~~The maximum amount of the fund is five hundred thousand dollars with a five percent adjustment compounded annually.~~”

SECTION 5. Section 32‑7‑100 of the 1976 Code is amended to read:

“Section 32‑7‑100. (A) A person wilfully violating the provisions of this chapter is guilty of a:

(1) misdemeanor, if the value of money obtained or sought to be obtained is less than five thousand dollars. ~~and,~~

~~upon~~ Upon conviction, the person must be fined not less than one thousand dollars or more than five thousand dollars, or imprisoned for not less than ten days or more than six months, or both. In addition, this person may be prohibited from entering into further preneed funeral contracts if the department, in its discretion, finds that the offense is sufficiently grievous; and

(2) felony, if the value of the money obtained or sought to be obtained is five thousand dollars or more. Upon conviction, the person must be fined not less than five thousand dollars nor more than twenty thousand dollars, imprisoned not more than ten years, or both, together with the costs of prosecution.

(3) In addition, a person convicted of a misdemeanor or a felony pursuant to this section may be prohibited from entering into further preneed funeral contracts, if the department, in its discretion, finds that the offense is sufficiently grievous.

(B) The determination of the degree of an offense under subsection (A) must be measured by the total value of all money obtained or sought to be obtained by the unlawful conduct.

~~(B)~~(C)(1) Before the suspension, revocation, or other action by the department involving a license to sell preneed funeral contracts becomes final, a licensee is entitled to request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act.

(2) Other action by the department may include a warning notice of deficiency, additional education requirements concerning the provisions of this chapter, a fine, or a cease and desist order for violation of a provision in this chapter.”

SECTION 6. 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 7. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted.

Senator HUTTO proposed the following amendment (JUD4763.006), which was adopted:

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

/ SECTION \_\_\_\_. Chapter 7, Title 32 of the 1976 Code of Laws is amended by adding the following:

“Section 32‑7‑115. (A) In addition to other remedies provided in this chapter, the failure of a funeral home, funeral director, individual, or business engaged in the sale of preneed funeral contracts without a license to comply with the provisions of this chapter gives rise to a civil cause of action in favor of an aggrieved consumer, a preneed funeral contract purchaser, or a preneed funeral contract guarantor. Upon entry of judgment for damages in favor of a plaintiff, a circuit court shall award punitive damages in the amount of three times the actual damages awarded in the judgment.

(B) The prevailing party, after judgment in circuit court and exhaustion of all appeals, if any, shall receive reasonable attorney’s fees and costs from the nonprevailing party.

(C) An attorney for a prevailing party shall submit a sworn affidavit of the time spent on the case and the costs incurred for all motions, hearings, and appeals to the chief administrative judge of the circuit where the initial trial occurred.

(D) The chief administrative judge shall award the prevailing party the sum of reasonable costs incurred in the action, plus a reasonable legal fee for the hours actually spent on the case as sworn to in an affidavit.

(E) An award of attorney’s fees or costs shall become part of the judgment and subject to execution as the law allows.” /

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.

On motion of Senator SHOOPMAN, the Bill was carried over, as amended.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED**

**READ THE SECOND TIME**

H. 4967 -- Ways and Means Committee: A BILL TO AMEND SECTION 9‑1‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS UNDER THE SOUTH CAROLINA RETIREMENT SYSTEM (SCRS), SO AS TO PROVIDE FOR “CLASS THREE” MEMBERS OF SCRS WITH “CLASS THREE” MEMBERS MEANING AN EMPLOYEE MEMBER OF SCRS WITH AN EFFECTIVE DATE OF MEMBERSHIP AFTER JUNE 30, 2012; TO AMEND SECTIONS 9‑1‑10 FURTHER AND 9‑1‑1550, RELATING TO RETIREMENT BENEFITS UNDER THE SCRS, SO AS TO REVISE THE MANNER IN WHICH RETIREMENT BENEFITS FOR SCRS MEMBERS ARE COMPUTED AFTER JUNE 30, 2012, AND TO PROVIDE FOR AN ALTERNATE CALCULATION OF BENEFITS FOR SCRS MEMBERS AS OF JUNE 30, 2012, WHICH APPLIES IF THE MEMBER’S BENEFIT CALCULATED ON RETIREMENT AFTER JUNE 30, 2012, WOULD RESULT IN A LESSER AMOUNT; BY ADDING SECTION 9‑1‑1815 SO AS TO PROVIDE FOR THE MANNER IN WHICH RETIRED SCRS MEMBERS AND THEIR SURVIVING ANNUITANTS MAY RECEIVE INCREASED ALLOWANCES AND THE METHOD OF CALCULATING THAT INCREASE; AND TO REPEAL SECTION 9‑1‑1810 RELATING TO INCREASES IN SCRS RETIREMENT ALLOWANCES BASED ON THE CONSUMER PRICE INDEX; TO AMEND SECTION 9‑1‑1020, AS AMENDED, RELATING TO DEDUCTIONS FROM THE COMPENSATION OF MEMBERS OF SCRS TO FUND BENEFITS, THE TAX TREATMENT THEREOF, AND OTHER RELATED PROVISIONS, SO AS TO INCREASE ON JULY 1, 2012, THE REQUIRED DEDUCTIONS OF CLASS ONE SCRS MEMBERS TO SIX PERCENT OF EARNABLE COMPENSATION FROM FIVE AND ONE‑HALF PERCENT AND THE REQUIRED DEDUCTIONS OF SCRS CLASS TWO AND CLASS THREE MEMBERS TO SEVEN PERCENT OF EARNABLE COMPENSATION FROM SIX AND ONE‑HALF PERCENT AND TO INCREASE SUCH CONTRIBUTIONS BY AN ADDITIONAL ONE-HALF OF ONE PERCENT EFFECTIVE JULY 1, 2013, AND MAKE CONFORMING CHANGES; TO AMEND SECTION 9‑1‑1080, RELATING TO EMPLOYER CONTRIBUTIONS FOR SCRS, SO AS TO PROVIDE FOR A MINIMUM EMPLOYER CONTRIBUTION RATE OF TEN AND SIX‑TENTHS PERCENT OF EARNABLE COMPENSATION WHILE AN ACCRUED LIABILITY CONTRIBUTION IS REQUIRED; TO AMEND SECTION 9‑1‑1140, AS AMENDED, RELATING TO THE PURCHASE OF ADDITIONAL SERVICE CREDIT UNDER SCRS, SO AS TO PROVIDE THAT THE REQUIRED COST IS THE GREATER OF AN ACTUARIALLY NEUTRAL PAYMENT BASED ON THE SCRS MEMBER’S CURRENT AGE AND CREDITABLE SERVICE OR A SET PERCENTAGE OF SALARY AND TO ELIMINATE THE ADDITION OF UNUSED SICK LEAVE IN THE CALCULATION OF CREDITABLE SERVICE AFTER JUNE 30, 2012; TO AMEND SECTION 9‑1‑1510, AS AMENDED, RELATING TO THE REQUIREMENTS FOR A SCRS RETIREMENT ALLOWANCE, SO AS TO PROVIDE THAT A SCRS CLASS THREE MEMBER MUST HAVE AT LEAST THIRTY YEARS OF CREDITABLE SERVICE TO BE ELIGIBLE TO RETIRE AT ANY AGE WITHOUT A BENEFIT REDUCTION; TO AMEND SECTION 9‑1‑1515, AS AMENDED, RELATING TO THE REQUIREMENTS FOR EARLY RETIREMENT IN SCRS, SO AS TO CONFORM THE REQUIREMENTS OF THAT SECTION AS IT APPLIES FOR SCRS CLASS THREE MEMBERS; TO AMEND SECTION 9‑1‑1660, AS AMENDED, RELATING TO THE REQUIREMENTS FOR A NOMINEE OF A DECEASED ACTIVE SCRS MEMBER TO RECEIVE A RETIREMENT ALLOWANCE, SO AS TO CONFORM THE REQUIREMENTS OF THAT SECTION AS IT APPLIES FOR SCRS CLASS THREE MEMBERS; TO AMEND SECTION 9‑1‑2210, AS AMENDED, RELATING TO THE TEACHER AND EMPLOYEE RETENTION INCENTIVE (TERI) PROGRAM, SO AS TO CLOSE THE PROGRAM FOR SCRS CLASS THREE MEMBERS AND TO CONFORM THE CALCULATION OF RETIREMENT BENEFITS FOR TERI PARTICIPANTS; TO AMEND SECTION 9‑9‑60, AS AMENDED, RELATING TO RETIREMENT AND RETIREMENT ALLOWANCES FOR MEMBERS OF THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY OF THE STATE OF SOUTH CAROLINA (GARS), SO AS PROSPECTIVELY TO ELIMINATE PROVISIONS ALLOWING MEMBERS OF THE GENERAL ASSEMBLY WHO MEET CERTAIN AGE OR CREDITED SERVICE REQUIREMENTS OR WITH AGE AND CREDITED SERVICE REQUIREMENTS TO RECEIVE A GARS RETIREMENT BENEFIT WHILE CONTINUING TO SERVE IN THE GENERAL ASSEMBLY; TO AMEND SECTIONS 9‑11‑10 AND 9‑11‑60, BOTH AS AMENDED, RELATING TO DEFINITIONS AND ELIGIBILITY FOR RETIREMENT UNDER THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM (SCPORS), SO AS TO REVISE THE MANNER IN WHICH RETIREMENT BENEFITS FOR SCPORS MEMBERS RETIRING AFTER JUNE 30, 2012, ARE COMPUTED AND TO PROVIDE FOR AN ALTERNATE CALCULATION OF BENEFITS FOR SCPORS MEMBERS AS OF JUNE 30, 2012, WHICH APPLIES IF THE SCPORS MEMBER’S BENEFIT CALCULATED ON RETIREMENT AFTER JUNE 30, 2012, WOULD RESULT IN A LESSER AMOUNT; BY ADDING SECTION 9‑11‑312 SO AS TO PROVIDE FOR THE MANNER IN WHICH SCPORS RETIRED MEMBERS AND THEIR SURVIVING ANNUITANTS MAY RECEIVE INCREASED ALLOWANCES AND THE METHOD OF CALCULATING THAT INCREASE; AND TO REPEAL SECTION 9‑11‑310 RELATING TO COST OF LIVING ADJUSTMENTS UNDER SCPORS BASED ON THE CONSUMER PRICE INDEX; TO AMEND SECTION 9‑11‑50, AS AMENDED, RELATING TO THE PURCHASE OF ADDITIONAL SERVICE CREDIT UNDER SCPORS, SO AS TO PROVIDE THAT THE REQUIRED COST MUST BE THE GREATER OF AN ACTUARIALLY NEUTRAL PAYMENT BASED ON THE MEMBERS CURRENT AGE AND CREDITABLE SERVICE OR A SET PERCENTAGE OF SALARY AND TO ELIMINATE THE ADDITION OF UNUSED SICK LEAVE IN THE CALCULATION OF CREDITABLE SERVICE AFTER JUNE 30, 2012; TO AMEND SECTION 9‑11‑210, AS AMENDED, RELATING TO DEDUCTIONS FROM THE COMPENSATION OF MEMBERS OF SCPORS TO FUND BENEFITS, THE TAX TREATMENT THEREOF, AND OTHER RELATED PROVISIONS, SO AS TO INCREASE ON JULY 1, 2012, THE REQUIRED DEDUCTIONS OF SCPORS CLASS TWO MEMBERS TO SEVEN PERCENT OF EARNABLE COMPENSATION FROM SIX AND ONE‑HALF PERCENT AND TO INCREASE SUCH CONTRIBUTIONS BY AN ADDITIONAL ONE-HALF OF ONE PERCENT EFFECTIVE JULY 1, 2013; TO AMEND SECTION 9‑11‑220, AS AMENDED, RELATING TO EMPLOYER CONTRIBUTIONS FOR SCPORS, SO AS TO PROVIDE FOR A MINIMUM EMPLOYER CONTRIBUTION RATE OF TWELVE AND THREE-TENTHS PERCENT OF EARNABLE COMPENSATION WHILE AN ACCRUED LIABILITY CONTRIBUTION IS REQUIRED; BY ADDING SECTION 9‑16‑335 SO AS TO PROVIDE THAT THE ASSUMED ANNUAL RATE OF RETURN ON THE INVESTMENTS OF THE RETIREMENT SYSTEM MUST BE ESTABLISHED BY THE GENERAL ASSEMBLY AND EFFECTIVE JULY 1, 2012, THE ASSUMED ANNUAL RATE OF RETURN ON RETIREMENT SYSTEM INVESTMENTS IS SEVEN AND ONE‑HALF PERCENT; AND TO AMEND SECTIONS 9‑1‑1135, 9‑8‑185, 9‑9‑175, AND 9‑11‑265, RELATING TO INTEREST ON MEMBER’S CONTRIBUTIONS IN SCRS, GARS, THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, AND SCPORS, SO AS TO PROVIDE THAT INTEREST IS NOT PAID ON INACTIVE ACCOUNTS, AND TO DEFINE “INACTIVE ACCOUNT”.

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

Senators RYBERG, SETZLER, ALEXANDER, LEVENTIS, JACKSON and VERDIN proposed the following amendment (BBM\  
10689HTC12), which was adopted:

Amend the report of the Senate Finance Committee, as and if amended, by striking Section 9‑1‑1020(D), as contained in SECTION 2.B, Part I, page [4967‑4] and inserting:

/ (D)(1) After June 30, 2015, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than ninety percent, then the board, effective on the following July first, may decrease the then current contribution rates upon making a finding that the decrease will not result in a funded ratio of less than ninety percent. Any decrease in contribution rates must maintain the 2.9 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.

(2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than ninety percent, then effective on the following July first, and annually thereafter as necessary, the board shall increase the then current contribution rates as provided pursuant to subsection (B) of this section until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than ninety percent. /

Amend the report further, as and if amended, by striking Section 9‑11‑225(D), as contained in SECTION 20.B, Part III, page [4967‑18] and inserting:

/ (D)(1) After June 30, 2015, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than ninety percent, then the board, effective on the following July first, may decrease the then current contribution rates upon making a finding that the decrease will not result in a funded ratio of less than ninety percent. Any decrease in contribution rates must maintain the 5.0 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.

(2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than ninety percent, then effective on the following July first, and annually thereafter as necessary, the board shall increase the then current contribution rates as provided pursuant to subsection (B) of this section until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than ninety percent. /

Amend the report further, as and if amended, by striking Section 9‑16‑315(A), as contained in SECTION 67, Subpart 3, Part IV, page [4967‑46] and inserting:

/ (A) There is established the ‘Retirement System Investment Commission’ (RSIC) consisting of ~~six~~ seven members as follows:

(1) one member appointed by the Governor;

(2) the State Treasurer, ex officio;

(3) one member appointed by the Comptroller General;

(4) one member appointed by the Chairman of the Senate Finance Committee;

(5) one member appointed by the Chairman of the Ways and Means Committee of the House of Representatives;

(6) one member who is a retired member of the retirement system ~~who shall serve without voting privileges~~. This representative member must be appointed by unanimous vote of the voting members of the commission, and

(7) the Executive Director of South Carolina Public Employee Benefit Authority, ex officio, without voting privileges. /

Amend the report further, as and if amended, by striking Section 9‑20‑30, as contained in Part IV, Subpart 2, SECTION 61, page [4967‑43] and inserting:

/ Section 9‑20‑30. The South Carolina Retirement System shall provide for the administration of the State Optional Retirement Program under this chapter. The Director ~~acting on behalf~~ of the South Carolina Retirement System acting on behalf of the Board of Directors of the South Carolina Public Employee Benefit Authority shall designate no fewer than four companies to provide annuity contracts, mutual fund accounts, or similar investment products offered through state or national banking institutions, or a combination of them, under the program. In making the designation, selection criteria must include:

(1) the nature and extent of the rights and benefits to be provided by the contracts or accounts, or both, of participants and their beneficiaries;

(2) the relation of the rights and benefits to the amount of contributions to be made;

(3) the suitability of these rights and benefits to the needs of the participants;

(4) the ability and experience of the designated companies in providing suitable rights and benefits under the contracts or accounts, or both;

(5) the ability and experience of the designated companies to provide suitable education and investment options.

Companies participating in the optional retirement program for publicly supported four‑year and postgraduate institutions of higher education as of July 1, 2002, or the optional retirement program for teachers and school administrators as of July 1, 2001, may continue to participate in this program and ~~this~~ participation is governed by their existing contracts. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the perfecting amendment.

The amendment was adopted.

The Committee on Finance proposed the following amendment (BBM\10656HTC12), which was adopted:

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

/ SECTION 1. (A) The General Assembly finds that the five retirement systems administered by the South Carolina Retirement System are of great value to the State of South Carolina. The citizens of the state benefit by attracting a quality workforce that delivers services through the various governmental entities at the state level, the school district level and the local government level. Public employers participating in the systems benefit by offering retirement programs that attract and retain employees. Public employees participating in the systems benefit as working members of public retirement systems that provide for stable retirement income.

(B) The General Assembly further finds that the financial stability and long‑term viability of the various systems are threatened by the following factors:

‑The funding ratio of South Carolina Retirement System has eroded over the past ten years and is currently in the lowest third of the state and local government defined benefit plans in the United States (126 plans as of July 1, 2011).

‑Unanticipated negative returns during the recession of 2008‑2009 and aggressive investment assumptions which have not materialized.

‑Demographic and economic actuarial assumptions which were overly optimistic.

‑Increases to member benefits and increased cost‑of‑living increases (COLAs) for retirees which were never funded.

Over a year‑long period of study by both Senate and House subcommittees, members of the General Assembly received testimony from active employees, system retirees, actuarial consultants, other experts, and the general public about the system and its long‑term viability. These hearings made clear that system stability and certainty of benefits to annuitants are paramount and that all parties must share the costs of assuring the financial sustainability of the system over the long term.

(C) The General Assembly further finds that addressing the threats to the long‑term sustainability of the system requires shared sacrifice by employers, employees and system retirees. Thus, employers and employees must pay more to fund the system, and system retirees must understand that future prospective benefit adjustment and other post‑retirement prospective benefits adjustments are not inevitable.

(D) The General Assembly further finds that, taken as a whole, the changes made by this act constitute the most reliable and efficient means of addressing the long‑term sustainability issues of the system. The changes made by this act are intended to satisfy the principle of intergenerational equity, that is, pension costs should be allocated among employees, employers and taxpayers on an equitable basis over time and not perpetually pushed into the future or immediately imposed on current taxpayers. In addition, the changes made by this act are intended to recognize and provide for a reasonable margin for adverse experience.

Part I

South Carolina Retirement System

SECTION 2. A. Article 13, Chapter 1, Title 9 of the 1976 Code is amended by adding:

“Section 9‑1‑1815. Effective beginning July 1, 2012, and annually thereafter, the retirement allowance received by retirees and their surviving annuitants inclusive of supplemental allowances payable pursuant to the provisions of Sections 9‑1‑1910, 9‑1‑1920, and 9‑1‑1930, must be increased by the lesser of one percent or five hundred dollars. Only those retirees and their surviving annuitants in receipt of an allowance on July first preceding the effective date of the increase are eligible to receive the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increase.”

B. Article 9, Chapter 1, Title 9 of the 1976 Code is amended by adding:

“Section 9‑1‑1085. (A) As provided in Sections 9‑1‑1020 and 9‑1‑1050, the employer and employee contribution rates for the system beginning in Fiscal Year 2012‑2013, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year Employer Contribution Employee Contribution

2012‑2013 10.60 7.00

2013‑2014 10.60 7.50

2014‑2015

and after 10.90 8.00

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan provided in Sections 9‑1‑1770 and 9‑1‑1775. The employer contribution rate for employers that do not participate in the incidental death benefit plan must be adjusted accordingly.

(B) After June 30, 2015, the board may increase the percentage rate in employer and employee contributions for the system on the basis of the actuarial valuation, but any such increase may not result in a differential between the employee and employer contribution rate for the system that exceeds 2.9 percent of earnable compensation. An increase in the contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one‑half of one percent of earnable compensation in any one year.

(C) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of the system, then the board shall increase the contribution rate as provided in subsection (A) or as last adopted by the board in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one‑half percent of earnable compensation provided pursuant to subsection (B), but the differential in the employer and employee contribution rates provided in subsection (A) or subsection (B), as applicable, of this section must be maintained at the rate provided in the schedule for the applicable fiscal year.

(D) If contribution rates have been increased pursuant to subsection (B) or subsection (C) beyond the scheduled contributions provided in subsection (A), the board may decrease the employee and employer contribution rates to the minimum rates provided in subsection (A) upon finding that the increased rates are no longer necessary to maintain a thirty-year amortization period. Any such decrease must maintain the 2.9 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.”

SECTION 3. A.1. Section 9‑1‑10 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item after item (18) to read:

“(18A) ‘Class Three member’ means an employee member of the system with an effective date of membership after June 30, 2012.”

2. Section 9‑1‑10 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item after item (28) to read:

“(28A) ‘Rule of ninety’ is a requirement that the total of the member’s age and the member’s creditable service equals at least ninety years.”

B. Section 9‑1‑10(4) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(4)(a) ‘Average final compensation’ with respect to Class One and Class Two ~~those~~ members retiring on or after July 1, 1986, means the average annual earnable compensation of a member during the twelve consecutive quarters of his creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty‑five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty‑six consecutive months before the expiration of the elected official’s term of office.

(b) ‘Average final compensation’ with respect to Class Three members means the average annual earnable compensation of a member during the twenty consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay for unused annual leave at retirement may not be added to the average final compensation.”

C. Section 9‑1‑10(8) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(8)(a) ‘Earnable compensation’ means the full rate of the compensation that would be payable to a member if the member worked the member’s full normal working time; when compensation includes maintenance, fees, and other things of value the board shall fix the value of that part of the compensation not paid in money directly by the employer.

(b) For work performed by a member after June 30, 2012, earnable compensation does not include any overtime pay not mandated by the employer.”

SECTION 4. Section 9‑1‑1020 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9‑1‑1020. The employee annuity savings fund shall be the account in which shall be recorded the contributions deducted from the earnable compensation of members to provide for their employee annuities. Each employer shall cause to be deducted from the compensation of each member on each and every payroll of such employer for each and every payroll period four percent of his earnable compensation. With respect to each member who is eligible for coverage under the Social Security Act in accordance with the agreement entered into during 1955 in accordance with the provisions of Chapter 7 of this Title; however, such deduction shall, commencing with the first day of the period of service with respect to which such agreement is effective, be at the rate of three percent of the part of his earnable compensation not in excess of four thousand eight hundred dollars, plus five percent of the part of his earnable compensation in excess of four thousand eight hundred dollars. In the case of any member so eligible and receiving compensation from two or more employers, such deductions may be adjusted under such rules as the board may establish so as to be as nearly equivalent as practicable to the deductions which would have been made had the member received all of such compensation from one employer. In determining the amount earnable by a member in a payroll period, the board may consider the rate of annual earnable compensation of such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deduction from earnable compensation for any period less than a full payroll period if a teacher or employee was not a member on the first day of the payroll period.

Each employer shall certify to the board on each and every payroll or in such other manner as the board may prescribe the amounts to be deducted and such amounts shall be deducted and, when deducted, shall be credited to said employee annuity savings fund, to the individual accounts of the members from whose compensation the deductions were made.

The rates of the deductions, without regard to a member’s coverage under the Social Security Act, must be the percentage of earnable compensation as provided ~~in the following schedule:~~ pursuant to Section 9‑1‑1085.

~~Class One~~  ~~Class Two~~

~~Before July 1, 2005~~ ~~5~~ ~~6~~

~~July 1, 2005 through June 30, 2006~~ ~~5.25~~ ~~6.25~~

~~After June 30, 2006~~ ~~5.50~~ ~~6.50’~~

Each department and political subdivision shall pick up the employee contributions required by this section for all compensation paid on or after July 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code. For this purpose, each department and political subdivision is deemed to have taken formal action on or before January 1, 2009, to provide that the contributions on behalf of its employees, although designated as employer contributions, shall be paid by the employer in lieu of employee contributions. The department and political subdivision shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The department and political subdivision may pick up these contributions by a reduction in the cash salary of the employee.

The employee, however, must not be given the option of choosing to receive the contributed amount of the pick ups directly instead of having them paid by the employer to the retirement system. Employee contributions picked up shall be treated for all purposes of this section in the same manner and to the extent as employee contributions made ~~prior to~~ before the date picked up.

Payments for unused sick leave, single special payments at retirement, bonus and incentive‑type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. Not including Class Three employees, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty‑five days’ pay for unused annual leave from the member’s last termination payment shall be included in a member’s average final compensation calculation for other than Class Three employees.”

SECTION 5. Section 9‑1‑1050 of the 1976 Code is amended to read:

“Section 9‑1‑1050. The employer annuity accumulation fund shall be the account:

(1) in which shall be recorded the reserves on all employee annuities in force and against which shall be charged all employee annuities and all benefits in lieu of employee annuities;

(2) in which must be recorded all reserves for the payment of all employer annuities and other benefits payable from contributions made by employers and against which is charged all employer annuities and other benefits on account of members with prior service credit; and

(3) in which shall be recorded the reserves on all employer annuities granted to members not entitled to prior service credit and against which such employer annuities and benefits in lieu thereof shall be charged.

There shall be paid to the system and credited to the employer annuity accumulation fund contributions by the employers in an amount equal to a certain percentage of the earnable compensation of each member employed by each employer to be known as the ‘normal contribution’ and an additional amount equal to a percentage of such earnable compensation to be known as the ‘accrued liability contribution’. The rate percent of such contributions shall be fixed on the basis of the liabilities of the system as shown by actuarial valuation but may not be less than those required pursuant to Section 9‑1‑1085.”

SECTION 6. Section 9‑1‑1080 of the 1976 Code is amended to read:

“Section 9‑1‑1080. The total amount payable in each year by each employer for credit to the employer annuity accumulation fund shall not be less than the sum of the rate per cent known as the normal contribution rate and the accrued liability contribution rate of the total earnable compensation of all members during the preceding year. ~~Subject to the provisions of Section 9‑1‑1070, the amount of each annual accrued liability contribution shall be at least three per cent greater than the preceding annual accrued liability payment, and~~ The aggregate payment by employers shall be sufficient, when combined with the amount in the fund, to provide the employer annuities and other benefits payable out of the fund during the year then current.”

SECTION 7. Section 9‑1‑1140 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9‑1‑1140. (A) An active member may establish service credit for any period of paid public service by making ~~a~~ an actuarially neutral payment to the system ~~to be~~ as determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(B) An active member may establish service credit for any period of paid educational service by making ~~a~~ an actuarially neutral payment to the system determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of educational service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for educational service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(C) An active member may establish up to six years of service credit for any period of military service, if the member was discharged or separated from military service under conditions other than dishonorable, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(D) An active member on an approved leave of absence from an employer that participates in the system who returns to covered employment within four years may purchase service credit for the period of the approved leave, but may not purchase more than two years of service credit for each separate leave period, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(E) An active member who has five or more years of earned service credit, or eight or more years of such service credit for a Class Three member, may establish up to five years of nonqualified service by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than thirty‑five percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board based on the member’s current age and service credit, but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member’s career highest fiscal year salary shall include the member’s salary while participating in the system or in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code. Service purchased under this subsection is ‘earned service’ and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned for periods purchased under this subsection while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education ~~shall~~ must be treated as earnable compensation and ~~shall~~ must be used in calculating a member’s average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA‑CREF Retirement Annuity contract ~~shall be~~ is eligible to make a plan to plan transfer in accordance with the terms of that contract.

(G) An active member who previously withdrew contributions from the system may reestablish the service credited to the member at the time of the withdrawal of contributions by repaying the amount of the contributions previously withdrawn, plus regular interest from the date of the withdrawal to the date of repayment to the system.

(H) An active member establishing retirement credit pursuant to this chapter may establish that credit by means of payroll deducted installment payments. Interest must be paid on the unpaid balance of the amount due at the rate of the prime rate plus two percent a year.

(I) An employer, at its discretion, may pay to the system all or a portion of the cost for an employee’s purchase of service credit under this chapter. Any amounts paid by the employer under this subsection for all purposes must be treated as employer contributions.

(J) Service credit purchased under this section is not ‘earned service’ and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

(1) earned service previously withdrawn and reestablished;

(2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

(3) service earned as a participant in the system, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(K) A member may purchase each type of service under this section once each fiscal year.

(L) The board shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

(M) At retirement, after March 31, 1991, a member, not including a Class Three member, shall receive credit for not more than ninety days of his unused sick leave from the member’s last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

(N) An employee drawing workers’ compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer.”

SECTION 8. Section 9‑1‑1510 of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

“Section 9‑1‑1510. (A) A Class One or Class Two member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

(1) five or more years of earned service;

(2) attained the age of sixty years or has twenty‑eight or more years of creditable service; and

(3) separated from service.

(B) A Class Three member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

(1) eight or more years of earned service;

(2) attained the age of sixty years or satisfied the rule of ninety requirement; and

(3) separated from service.

(C) A member who is an elected official whose annual compensation is less than the earnings limitation pursuant to Section 9‑1‑1790 and who is otherwise eligible for service retirement may retire for purposes of this section without a break in service.”

SECTION 9. Section 9‑1‑1515(A) of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

“(A) In addition to other types of retirement provided by this chapter, a Class One or Class Two member may elect early retirement if the member:

(1) has five or more years of earned service;

(2) has attained the age of fifty‑five years;

(3) has at least twenty‑five years of creditable service; and

(4) has separated from service.

A member electing early retirement shall apply in the manner provided in Section 9‑1‑1510.”

SECTION 10. The first paragraph of Section 9‑1‑1540 of the 1976 Code, as last amended by Act 162 of 2010, is further amended to read:

“Upon the application of a member in service or of ~~his~~ the member’s employer, a member in service on or after July 1, 1970, who has had five or more years of earned service or eight or more years of such service for a Class Three member, or a contributing member who is disabled as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership on or after July 1, 1985, may be retired by the board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days ~~prior to~~ before the date of filing.”

SECTION 11. Section 9‑1‑1550 of the 1976 Code, as last amended by Act 1 of 2001, is further amended by adding a new subsection at the end to read:

“(C) Upon retirement from service after June 30, 2012, a Class Three member shall receive a service retirement allowance computed as follows:

(1) If the member’s service retirement date occurs on or after his sixty‑fifth birthday or if the member has satisfied the rule of ninety requirement, the allowance must be equal to one and eighty‑two hundredths percent of the member’s average final compensation, multiplied by the number of years of the member’s creditable service.

(2) If the member’s service retirement date occurs before his sixty‑fifth birthday and before he satisfies the rule of ninety requirement the member’s service retirement allowance is computed as in item (1) of this subsection but is reduced by five‑twelfths of one percent thereof for each month, prorated for periods less than a month, by which his retirement date precedes the first day of the month coincident with or next following his sixty‑fifth birthday.”

SECTION 12. Section 9‑1‑1560(B) of the 1976 Code, as last amended by Act 166 of 1993, is further amended to read:

“(B) Upon retirement for disability on or after May 19, 1973, a Class Two or Class Three member shall receive a service retirement allowance if ~~he~~ the member has attained the age of sixty‑five years. Otherwise ~~he~~ the member shall receive a disability retirement allowance which ~~shall~~ must be computed as follows:

(1) ~~Such~~ The allowance ~~shall~~ must be equal to the service retirement allowance which would have been payable had ~~he~~ the member continued in service to age sixty‑five based on the average final compensation, minus the actuarial equivalent of the contribution the member would have made during such continued service, with an interest rate of four percent ~~per annum~~ a year.

(2) Notwithstanding the foregoing provisions, any Class Two member whose creditable service commenced ~~prior to~~ before July 1, 1964, shall receive not less than the benefit provided by subsection (A) of this section.”

SECTION 13. The first undesignated paragraph of Section 9‑1‑1650 of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“If a member ceases to be a teacher or employee except by death or retirement, the member must be paid within six months after the member’s demand for payment, but not less than ninety days after ceasing to be a teacher or employee, the sum of the member’s contributions and the accumulated regular interest on the contributions. If the member has five or more years of earned service or eight or more years of such service for a Class Three member, and before the time the member’s membership would otherwise terminate, elects to leave these contributions in the system, the member, unless these contributions are paid to him as provided by this section before the attainment of age sixty, remains a member of the system and is entitled to receive a deferred retirement allowance beginning at age sixty computed as a service retirement allowance in accordance with Section 9‑1‑1550(A) or (B) for Class One and Class Two members and Section 9‑1‑1550(C) for Class Three members. The employee annuity must be the actuarial equivalent at age sixty of the member’s contributions with the interest credits on the contributions, if any, as allowed by the board. If a member dies before retirement, the amount of the member’s accumulated contributions must be paid to the member’s estate or to the person the member nominated by written designation, duly acknowledged and filed with the board.”

SECTION 14. Section 9‑1‑1660(A) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(A) The person nominated by a member to receive the full amount of the member’s accumulated contributions if the member dies before retirement may, if the member:

(1) has five or more years of earned service or eight or more years of such service for a Class Three member;

(2) dies while in service; and

(3) has either attained the age of sixty years or has accumulated fifteen years or more of creditable service, elect to receive in lieu of the accumulated contributions an allowance for life in the same amount as if the deceased member had retired at the time of the member’s death and had named the person as beneficiary under an election of Option B of Section 9‑1‑1620(A).

For purposes of the benefit calculation, a member ~~under age sixty with less than twenty‑eight years’ credit~~ who is not yet eligible for service retirement is assumed to be sixty years of age.”

SECTION 15. Section 9‑1‑1790(A) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

“(A)(1) A retired member of the system who has been retired for at least fifteen consecutive calendar days may be hired and return to employment covered by this system or any other system provided in this title and earn up to ten thousand dollars without affecting the monthly retirement allowance ~~he~~ the member is receiving from the system. If the retired member continues in service after earning ten thousand dollars in a calendar year, the member’s allowance must be discontinued during his period of service in the remainder of the calendar year. If the employment continues for at least forty‑eight consecutive months, the provisions of Section 9‑1‑1590 apply. If a retired member of the system returns to employment covered by this system or any other system provided in this title sooner than fifteen days after retirement, the member’s retirement allowance is suspended while the member remains employed by the participating employer. If an employer fails to notify the system of the engagement of a retired member to perform services, the employer shall reimburse the system for all benefits wrongly paid to the retired member.

(2) The earnings limitation imposed pursuant to this item does not apply if the member meets at least one of the following qualifications:

(a) the member retired before July 1, 2012;

(b) the member has attained the age of sixty‑two years at retirement; or

(c) compensation received by the retired member from the covered employer is for service in a public office filled by the appointment of the Governor and with confirmation by the Senate, by appointment or election by the General Assembly, or by election of the qualified electors of the applicable jurisdiction.”

SECTION 16. Section 9‑1‑2210 of the 1976 Code, as last amended by Act 112 of 2007, is further amended by adding a new subsection at the end to read:

“(J) Notwithstanding any other provision of this section, a member who begins participation after June 30, 2012, shall end his participation no later than the fifth anniversary of the date the member commenced participation in the program, or June 30, 2018, whichever is earlier. A member’s participation may not continue after June 30, 2018, under any circumstance.”

SECTION 17. Section 9‑1‑1810 of the 1976 Code is repealed. Section 9‑1‑2210 of the 1976 Code is repealed effective July 1, 2018, for all purposes except the distribution of program accounts existing on that date.

Part II

Retirement System for Members of the General Assembly

of the State of South Carolina

SECTION 18. Chapter 9, Title 9 of the 1976 Code is amended by adding:

“Section 9‑9‑5. (A) Notwithstanding any other provision of law, the Retirement System for Members of the General Assembly of the State of South Carolina (GARS) established pursuant to this chapter is closed to nonmembers and persons who otherwise would have been required or eligible to become members of GARS, instead shall join the South Carolina Retirement System or the State Optional Retirement Program in the manner provided by law.

(B) For purposes of this section, a ‘nonmember’ is an individual first elected to serve in the General Assembly at or after the general election of 2012.

(C) Nothing in this section may be construed to alter or otherwise diminish the rights of persons who are active contributing members or special contributing members of the Retirement System for Members of the General Assembly of the State of South Carolina or who are retired members of that system or who are beneficiaries of deceased members of that system.”

SECTION 19. Section 9‑9‑120(2) of the 1976 Code is amended to read:

“(2) Each member of the System shall contribute ~~ten~~ eleven percent of earnable compensation in each calendar year, up to twenty‑two years of credited service, commencing with the calendar year ~~1976~~ 2013. Such contributions shall be made through payroll deductions in the case of members of the General Assembly or through direct remittance by contributing special members as set forth in Item (2)(ii) of Section 9‑9‑ 40. The twenty‑two year limitation provided for in this item shall not apply to any member of the General Assembly during periods of active service.”

Part III

South Carolina Police Officers Retirement System

SECTION 20. A. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

“Section 9‑11‑312. Effective July 1, 2012, and annually thereafter, the retirement allowance received by retirees and their surviving annuitants pursuant to the provisions of this chapter, inclusive of Section 9‑11‑140 must be increased by the lesser of one percent or five hundred dollars. Only those retirees and their surviving annuitants in receipt of an allowance on July first preceding the effective date of the increase are eligible to receive the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increase.”

B. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

“Section 9‑11‑225. (A) As provided in Sections 9‑11‑210 and 9‑11‑220, the employer and employee contribution rates for the system beginning in Fiscal Year 2012‑2013, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year Employer Contribution Employee Contribution

2012‑2013 12.30 7.00

2013‑2014 12.50 7.50

2014‑2015

and after 13.00 8.00

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan provided in Sections 9‑11‑120 and 9‑11‑125 and for participation in the accidental death benefit program provided in Section 9‑11‑140. The employer contribution rate for employers that do not participate in these programs must be adjusted accordingly.

(B) After June 30, 2015, the board may increase the percentage rate in employer and employee contributions for the system on the basis of the actuarial valuation, but any such increase may not result in a differential between the employee and employer contribution rate for that system that exceeds 5.00 percent of earnable compensation. An increase in the contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one‑half of one percent of earnable compensation in any one year.

(C) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of the system, then the board shall increase the contribution rate as provided in subsection (A) or as last adopted by the board in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one‑half percent of earnable compensation provided pursuant to subsection (B), but the differential in the employer and employee contribution rates provided in subsection (A) or subsection (B), as applicable, of this section must be maintained at the rate provided in the schedule for the applicable fiscal year.

(D) If contribution rates have been increased pursuant to subsection (B) or subsection (C) beyond the scheduled contributions provided in subsection (A), the board may decrease the employee and employer contribution rates to the minimum rates provided in subsection (A) upon finding that the increased rates are no longer necessary to maintain a thirty-year amortization period. Any such decrease must maintain the 5.00 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.”

SECTION 21. A. Section 9‑11‑10(7) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(7)(a) ‘Average final compensation’ after July 1, 1986, for Class One and Class Two members means the average annual compensation of a member during the twelve consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty‑five days’ termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty‑six consecutive months ~~prior to~~ before the expiration of his term of office.

(b) ‘Average final compensation’ for Class Three members means the average annual earnable compensation of a member during the twenty consecutive quarters of the member’s creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay for unused annual leave at retirement may not be added to the average final compensation.”

B. Section 9‑11‑10 of the 1976 Code, as last amended by Act 153 of 2005, is further amended by adding a new item after item (11) to read:

“(11A) ‘Class Three member’ means an employee member of the system with an effective date of membership after June 30, 2012.”

SECTION 22. Section 9‑11‑50 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

“Section 9‑11‑50 (A) An active member may establish service credit for any period of paid public service by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, ~~board,~~ but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(B) An active member may establish service credit for any period of paid educational service by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, ~~board,~~ but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of educational service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for educational service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(C) An active member may establish up to six years of service credit for any period of military service, if the member was discharged or separated from military service under conditions other than dishonorable, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, ~~board,~~ but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated.

(D) An active member on an approved leave of absence from an employer that participates in the system who returns to covered employment within four years may purchase service credit for the period of the approved leave, but may not purchase more than two years of service credit for each separate leave period, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, ~~board,~~ but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated.

(E) An active member who has five or more years of earned service credit, or eight or more years of such service credit for a Class Three member, may establish up to five years of nonqualified service by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit ~~board,~~ but not less than thirty‑five percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated.

(F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education, by making ~~a~~ an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member’s current age and service credit, ~~board,~~ but not less than sixteen percent of the member’s current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code. Service purchased under this subsection is ‘earned service’ and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education is not earnable compensation under the system and shall not be used in calculating a member’s average final compensation. A member purchasing service under this subsection who has funds invested in a TIAA Traditional account under a TIAA‑CREF Retirement Annuity contract shall be eligible to make a plan to plan transfer in accordance with the terms of that contract.

(G) An active member who previously withdrew contributions from the system may reestablish the service credited to the member at the time of the withdrawal of contributions by repaying the amount of the contributions previously withdrawn, plus regular interest from the date of the withdrawal to the date of repayment to the system.

(H) An active member establishing retirement credit pursuant to this chapter may establish that credit by means of payroll deducted installment payments. Interest must be paid on the unpaid balance of the amount due at the rate of the prime rate plus two percent a year.

(I) An employer, at its discretion, may pay to the system all or a portion of the cost for an employee’s purchase of service credit under this chapter. Amounts paid by the employer under this subsection for all purposes must be treated as employer contributions.

(J) Service credit purchased under this section is not ‘earned service’ and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

(1) earned service previously withdrawn and reestablished;

(2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four‑Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

(3) service earned as a participant in the system, the South Carolina Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(K) A member may purchase each type of service under this section once each fiscal year.

(L) At retirement, after March 31, 1991, a member, not including a Class Three member, shall receive credit for not more than ninety days of his unused sick leave from the member’s last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

(M) The board shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

(N) An employee drawing workers’ compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer.”

SECTION 23. Section 9‑11‑60 of the 1976 Code, as last amended by Act 387 of 2001, is further amended to read:

“Section 9‑11‑60. (1) A member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member’s service retirement has:

(a) five or more years of earned service or eight or more years of such service for a Class Three member;

(b) attained the age of fifty‑five years or has twenty‑five or more years of credited service, or twenty‑seven or more years of such service for a Class Three member; and

(c) separated from service.

(2) Upon service retirement on or after July 1, 1989, the member shall receive a service retirement allowance which is equal to the sum of (a), (b), and (c) below:

(a) a monthly retirement allowance equal to ten dollars and ninety‑seven cents multiplied by the number of years of his Class One service;

(b) a monthly retirement allowance equal to one‑twelfth of two and fourteen hundredths percent of his average final compensation multiplied by the number of years of his Class Two or Class Three service;

(c) an additional monthly retirement allowance which is the actuarial equivalent of the member’s accumulated additional contributions.

The sum of the retirement allowances computed under (a) and (b) above may not be less than the allowance which would have been provided under (a) if all of the member’s credited service were Class One service. For a police officer who became a member before July 1, 1974, and who was a participant in the Supplemental Allowance Program, the portion of his service retirement allowance not provided by his accumulated contributions may not be less than it would have been if the provisions of the System in effect on June 30, 1974, had continued in effect until his date of retirement.

~~(3)~~ ~~Reserved.~~”

SECTION 24. Section 9‑11‑120(F) of the 1976 Code, as last amended by Act 176 of 2010, is further amended to read:

“(F) Upon the death of a retired member on or after July 1, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty‑five or less than twenty‑seven for a Class Three member, and six thousand dollars if the retired member had at least twenty‑five years of creditable service or at lease twenty‑seven years of such service for a Class Three member, at the time of retirement, if the retired member’s most recent employer ~~prior to~~ before retirement is covered by the preretirement death benefit program.”

SECTION 25. Subsections (1) and (2) of Section 9‑11‑80, as last amended by Act 162 of 2010, are further amended to read:

“(1) On the application of a member in service or the member’s employer, a member who has five or more completed years of earned service or eight or more years of such service for a Class Three member or any contributing member who is disabled as a result of an injury arising out of and in the course of the performance of the member’s duties regardless of length of membership may be retired by the retirement board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days ~~prior to~~ before the date of filing.

The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the system. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by the system in accordance with Sections 9‑1‑1580, 9‑1‑1590, 9‑9‑60, and 9‑11‑90.

(2) Upon disability retirement, the member shall receive a disability retirement allowance which shall be equal to a service retirement allowance computed on the basis of his average final compensation, his years of credited service and ~~his~~ the member’s accumulated additional contributions at the date of ~~his~~ the member’s disability retirement.~~; provided,~~ However, ~~that,~~ at disability retirement, ~~his~~ the member’s disability retirement allowance ~~shall~~ must be determined on the basis of the number of years of credited service the member would have completed had ~~he~~ the member remained in service until attaining age fifty‑five and on the basis of the average final compensation. For the purpose of calculating the disability retirement allowance, the additional credited service so determined ~~shall~~ must be either Class One service or Class Two or Class Three service depending upon the classification of the member at time of retirement.”

SECTION 26. Section 9‑11‑90(4)(a) of the 1976 Code, as last amended by Act 356 of 2002, is further amended to read:

“(a)(i) Notwithstanding the provisions of subsections (1) and (2) of this section, a retired member of the system who has been retired for at least fifteen consecutive calendar days may be hired and return to employment covered by this system or any system provided in this title and may earn up to ten thousand dollars without affecting the monthly retirement allowance ~~he~~ the member is receiving from this system. If the retired member continues in service after having earned ten thousand dollars in a calendar year, the member’s retirement allowance must be discontinued during the member’s period of service in the remainder of the calendar year. If the employment continues for at least forty‑eight consecutive months, the provisions of Section 9‑11‑90(3) apply. If a retired member of the system returns to employment covered by the South Carolina Police Officers Retirement System or any other system provided in this title sooner than fifteen consecutive calendar days after retirement, the member’s retirement allowance is suspended while the member remains employed by a participating employer of any of these systems. If an employer fails to notify the system of the engagement of a retired member to perform services, the employer shall reimburse the system for all benefits wrongly paid to the retired member.

(ii) The earnings limitation imposed pursuant to this item does not apply if the member meets at least one of the following qualifications:

(A) the member retired before July 1, 2012;

(B) the member has attained the age of fifty‑seven years at retirement; or

(C) compensation received by the retired member from the covered employer is for service in a public office filled by the appointment of the Governor and with confirmation by the Senate, by appointment or election by the General Assembly, or by election of the qualified electors of the applicable jurisdiction.”

SECTION 27. Section 9‑11‑130(1) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(1) The person nominated by a member pursuant to Section 9‑11‑110 to receive a lump sum amount if the member dies before retirement may, if the member:

(a) has five or more years of earned service or eight or more years of such service for a Class Three member;

(b) dies in service; and

(c) has either attained age fifty‑five or has accumulated fifteen years of creditable service, elect to receive in lieu of the lump sum amount otherwise payable under Section 9‑11‑110(1)(a) an allowance for life in the same amount as if the deceased member had retired at the time of his death and had named the person as beneficiary under an election of Option B ~~under~~ pursuant to Section 9‑11‑150(A).

For purposes of the benefit calculation, a member ~~under age fifty with less than twenty‑five years’ credit~~ who is not yet eligible for service retirement is assumed to be ~~fifty~~ fifty‑five years of age.”

SECTION 28. Subsections (1) and (12) of Section 9‑11‑210 of the 1976 Code, as last amended by Act 424 of 1988 and Act 14 of 2005, respectively, are further amended to read:

“(1) Each Class One member shall contribute to the system twenty‑one dollars a month during his service after becoming a member. Each Class Two and Class Three member shall contribute to the system ~~six and one‑half percent of his compensation~~ a percentage of the member’s earnable compensation as provided pursuant to Section 9‑11‑225.

(12) Payments for unused sick leave, single special payments at retirement, bonus and incentive‑type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. This item does not apply to bonus payments paid to certain categories of employees annually during their work careers. Bonus or special payments applied only during the ‘Average Final Compensation’ period are excluded as compensation. Not including Class Three members, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty‑five days’ termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty‑five days’ pay for unused annual leave from the member’s last termination payment shall be included in a member’s average final compensation calculation for members eligible to have unused annual leave included in that calculation.”

SECTION 29. Section 9‑11‑220(1) of the 1976 Code is amended to read:

“(1) Commencing as of July 1, 1974, each employer shall contribute to the system seven and one‑half percent of the compensation of Class One members in its employ and ~~ten percent of compensation of Class Two members in its employ. Such rates of contribution shall be subject to adjustment from time to time on the basis of the annual actuarial valuations of the System~~ a percentage of compensation for all other members in its employ as provided pursuant to Section 9‑11‑225.”

SECTION 30. Sections 9‑11‑70, 9‑11‑75, and 9‑11‑310 of the 1976 Code are repealed.

Part IV

Subpart 1

South Carolina Public Employee Benefit Authority

SECTION 31. A. Title 9 of the 1976 Code is amended by adding:

“CHAPTER 4

South Carolina Public Employee Benefit Authority

Article 1

General Provisions

Section 9‑4‑10. (A) Effective July 1, 2012, there is created the South Carolina Public Employee Benefit Authority. The authority is comprised of the Insurance Reserve Fund, the employee insurance division and the retirement systems division. The governing body of the authority is a board of directors consisting of nine members. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective, efficient operation of the authority, including the hiring of an executive director of the authority. The executive director must be employed by the authority and compensation of the executive director may be fixed by the board in its judgment and as appropriated by the General Assembly.

(B) The board is composed of:

(1) three members appointed by the Governor;

(2) two representative members, appointed by the President Pro Tempore of the Senate, one who is either an active or retired member of the South Carolina Police Officers Retirement System and one who is a retired member of the South Carolina Retirement System;

(3) one member appointed by the Chairman of the Senate Finance Committee;

(4) two representative members appointed by the Speaker of the House of Representatives, one of whom must be a state employee who is an active contributing member of the South Carolina Retirement System and an employee of a public school district in South Carolina who is an active member of the South Carolina Retirement System;

(5) one member appointed by the Chairman of the House Ways and Means Committee.

(C)(1) A nonrepresentative member may not be appointed to the board unless the person possesses at least one of the following qualifications:

(a) at least twelve years of professional experience in the financial management of pensions or insurance plans;

(b) at least twelve years academic experience and holds a bachelor’s or higher degree from a college or university as classified by the Carnegie Foundation;

(c) at least twelve years of professional experience as a certified public accountant with financial management, pension, or insurance audit expertise;

(d) at least twelve years as a Certified Financial Planner credentialed by the Certified Financial Planner Board of Standards; or

(e) at least twelve years membership in the South Carolina Bar and extensive experience in one or more of the following areas of law:

(i) taxation;

(ii) insurance;

(iii) health care;

(iv) securities;

(v) corporate;

(vi) finance; or

(vii) the Employment Retirement Income Security Act

(ERISA).

(2) In addition to the requirements of subsections (B)(2) and (4) of this section, a representative member may not be appointed to the board unless the person:

(a) possesses one of the qualifications set forth in item (1); or

(b) has at least twelve years of public employment experience and holds a bachelor’s degree from a college or university as classified by the Carnegie Foundation.

(D) Representative members must be appointed from three nominations jointly made to the appointing official by membership organizations representative of the interests to be represented. The appointing official may request three additional nominations if the official elects not to appoint any of those nominated.

(E) Members of the board shall serve for terms of two years and until their successors are appointed and qualify. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Terms commence on July first of even numbered years. Upon a member’s appointment, the appointing official shall certify to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsections (B) and (C). No person appointed may qualify unless he first certifies that he meets or exceeds the qualifications applicable for their appointment. A member may be removed before the expiration of his term by the applicable appointing official only for the reasons specified in Section 1‑3‑240(C).

(F) The members shall select a nonrepresentative member to serve as chairman and shall select those other officers they determine necessary. Subject to the qualifications for chairman provided in this section, members may set their own policy related to the rotation of the selection of a chairman of the board.

(G)(1) Each member must receive an annual salary of twelve thousand dollars. This compensation must be paid from approved accounts of general funds and retirement system funds based on the proportionate amount of time the board devotes to its various functions. Members may receive the mileage and subsistence authorized by law for members of state boards, commissions, and committees paid from approved accounts funded by general funds and retirement system funds in the proportion that compensation is paid.

(2) Notwithstanding any other provision of law, membership on the board does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Any compensation paid on account of the member’s service on the board is not considered earnable compensation for purposes of any state retirement system.

(H) Minimally, the board shall meet monthly. If the chairman considers it more effective, the board may meet by teleconferencing or video conferencing. However, if the agenda of the meeting consists of items that are not exempt from disclosure or the meeting may not be closed to the public pursuant to Chapter 4, Title 30, the provisions of Chapter 4, Title 30 apply, and the meeting must be open to the public.

(I) Effective July 1, 2012, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, an administrative agency of state government to be known as the South Carolina Public Employee Benefit Authority:

(1) Employee Insurance Program;

(2) Retirement Division; and

(3) Insurance Reserve Fund.

Section 9‑4‑15. The South Carolina Public Employee Benefit Authority shall operate the Insurance Reserve Fund and may establish it as a division or other appropriate subdivision of the authority.

Section 9‑4‑20. (A) The South Carolina Public Employee Benefit Authority shall operate an employee insurance program division to administer insurance programs pursuant to Article 5, Chapter 11, Title 1.

(B) The board of directors of the authority shall appoint a State Health Plan Advisory Committee (committee) to review and make recommendations to the board on proposed changes to the State Health Plan. Representation on the committee must be equal among health care professionals, the insurance industry, and consumers. The board, by resolution, shall establish the committee, provide for its membership, and provide for its operations. Members shall serve without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions to be paid from approved accounts of the authority.

(C) Notwithstanding any other provision of law or policy to the contrary, the board shall allow the governing body of a participating political subdivision to allow a judicial appointee to participate in the program.

Section 9‑4‑30. (A)(1) The South Carolina Public Employee Benefit Authority shall operate a retirement division to administer the various retirement systems and retirement programs pursuant to Title 9 and, effective after December 31, 2013, to administer the deferred compensation program pursuant to Chapter 23, Title 8.

(2) Expenses incurred by the retirement division in administering, after December 31, 2013, the deferred compensation plans must be reimbursed to the retirement division from funds generated by the deferred compensation plans available to pay for administrative expenses.

(B) The South Carolina Public Employee Benefits Authority shall provide copies of annual actuarial valuations of all retirement systems requiring such annual valuations to the General Assembly by the second Tuesday in January of every year.

Section 9‑4‑40. Each year in the general appropriations act, the General Assembly shall appropriate sufficient funds to the Office of the State Inspector General to employ a private audit firm to perform a fiduciary audit on the South Carolina Public Employee Benefit Authority. The audit firm must be selected by the State Inspector General. The report from the previous fiscal year must be completed by January fifteenth. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.

Section 9‑4‑50. (A) The South Carolina Public Employee Benefit Authority shall maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the authority’s Internet website and made available for public viewing and downloading.

(1)(a) The register must include for each expenditure:

(i) the transaction amount;

(ii) the name of the payee;

(iii) the identification number of the transaction; and

(iv) a description of the expenditure, including the source of funds, a category title, and an object title for the expenditure.

(b) The register must include all reimbursements for expenses, but must not include an entry for:

(i) salary, wages, or other compensation paid to individual employees; and

(ii) retirement benefits, deferred compensation plan distributions, insurance reimbursements, or other payments paid to individual employees, members, or participants, as applicable, pursuant to programs administered by the board.

(c) The register must not include a social security number.

(d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

(e) The register may exclude any information that can be used to identify an individual employee or student.

(f) This section does not require the posting of any information that is not required to be disclosed under Chapter 4, Title 30.

(2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the Internet website for at least three years.

(B) Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.

(C) If the authority has a question or issue relating to technical aspects of complying with the requirements of this section or the disclosure of public information under this section, it shall consult with the Office of the Comptroller General, which may provide guidance to the authority.”

B. This SECTION takes effect July 1, 2012.

Subpart 2

Conforming Amendments for the South Carolina Public Employee Benefit Authority

SECTION 32. Section 1‑11‑140 of the 1976 Code is amended to read:

“Section 1‑11‑140. (A) The ~~State Budget and Control Board~~ Public Employee Benefits Authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is authorized to provide insurance for the State, its departments, agencies, institutions, commissions, boards, and the personnel employed by the State in its departments, agencies, institutions, commissions, and boards so as to protect the State against tort liability and to protect these personnel against tort liability arising in the course of their employment. The insurance also may be provided for physicians or dentists employed by the State, its departments, agencies, institutions, commissions, or boards against any tort liability arising out of the rendering of any professional services as a physician or dentist for which no fee is charged or professional services rendered of any type whatsoever so long as any fees received are directly payable to the employer of a covered physician or dentist, or to any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State; provided, any insurance coverage provided by the ~~Budget and Control Board~~ authority may be on the basis of claims made or upon occurrences. The insurance also may be provided for students of high schools, South Carolina Technical Schools, or state‑supported colleges and universities while these students are engaged in work study, distributive education, or apprentice programs on the premises of private companies. Premiums for the insurance must be paid from appropriations to or funds collected by the various entities, except that in the case of the above‑referenced students in which case the premiums must be paid from fees paid by students participating in these training programs. The ~~board~~ authority has the exclusive control over the investigation, settlement, and defense of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith.

(B)(1) Beginning on January 1, 2013, and biennially thereafter, the Insurance Reserve Fund must request applications, in a manner and form prescribed by the fund, from private attorneys and law firms to determine from the applicants those that will be authorized to defend litigation covered by fund policies. The fund shall authorize attorneys and law firms to defend litigation covered by fund policies based upon such factors as it determines relevant, including those necessary to maintain the appropriate level of qualification, experience, and expertise given geographical needs, case load, efficiencies, and other business requirements.

(2) Before submitting a request for applicants, the fund must submit the list of factors for authorizing attorneys and law firms to defend litigation covered by fund policies to the Chairman of the Senate Judiciary Committee and the Chairman of the House Judiciary Committee and receive comments and recommendations offered by the committees.

~~(B)~~(C) Any political subdivision of the State including, without limitations, municipalities, counties, and school districts, may procure the insurance for itself and for its employees in the same manner provided for the procurement of this insurance for the State, its entities, and its employees, or in a manner provided by Section 15‑78‑140.

~~(C)~~(D) The procurement of tort liability insurance in the manner provided is the exclusive means for the procurement of this insurance.

~~(D)~~(E) The ~~State Budget and Control Board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, also is authorized to offer insurance to governmental hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established; and chartered, nonprofit, eleemosynary hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established in this State so as to protect these hospitals against tort liability. Notwithstanding any other provision of this section, the procurement of tort liability insurance by a hospital and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established supported wholly or partially by public funds contributed by the State or any of its political subdivisions in the manner herein provided is not the exclusive means by which the hospital may procure tort liability insurance.

~~(E)~~(F) The ~~State Budget and Control Board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is authorized to provide insurance for duly appointed members of the boards and employees of health system agencies, and for members of the State Health Coordinating Council which are created pursuant to Public Law 93‑641.

~~(F)~~(G) The ~~board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is further authorized to provide insurance as prescribed in Sections 10‑7‑10 through 10‑7‑40, 59‑67‑710, and 59‑67‑790.

~~(G)~~(H) Documentary or other material prepared by or for the ~~Office of Insurance Services~~ Insurance Reserve Fund in providing any insurance coverage authorized by this section or any other provision of law which is contained in any claim file is subject to disclosure to the extent required by the Freedom of Information Act only after the claim is settled or finally concluded by a court of competent jurisdiction.

~~(H)~~(I) The ~~board~~ authority, through the ~~Office of Insurance Services~~ Insurance Reserve Fund, is further authorized to provide insurance for state constables, including volunteer state constables, to protect these personnel against tort liability arising in the course of their employment, whether or not for compensation, while serving in a law enforcement capacity.”

SECTION 33. Section 1‑11‑703(9) and (10) of the 1976 Code, as added by Act 195 of 2008, is amended to read:

“(9) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.

(10) ‘Employee insurance program’ or ‘EIP’ means the office of the ~~board~~ South Carolina Public Employee Benefit Authority designated by the board to operate insurance programs pursuant to this article.”

SECTION 34. Section 1‑11‑710(A) of the 1976 Code, as last amended by Act 195 of 2008, before the first item, is further amended to read:

“(A) The ~~State Budget and Control Board~~ board shall:”

SECTION 35. Section 1‑11‑720(B) of the 1976 Code is amended to read:

“(B) To be eligible to participate in the state health and dental insurance plans, the entities listed in subsection (A) shall comply with the requirements established by the ~~State Budget and Control Board~~ board, and the benefits provided must be the same benefits provided to state and school district employees. These entities must agree to participate for a minimum of four years and the board may adjust the premiums during the coverage period based on experience. An entity which withdraws from participation may not subsequently rejoin during the first four years after the withdrawal date.”

SECTION 36. Section 1‑11‑725 of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“Section 1‑11‑725. The ~~State Budget and Control Board’s~~ board’s experience rating of all local disabilities and special needs providers pursuant to Section 1‑11‑720(A)(3) must be rated as a single group when rating all optional groups participating in the state employee health insurance program.”

SECTION 37. Section 1‑11‑730(A)(2) of the 1976 Code, as last amended by Act 195 of 2008, is amended to read:

“(2) A member of the General Assembly who leaves office or retires with at least eight years’ credited service in the General Assembly Retirement System is eligible to participate in the state health and dental plans by paying the full premium as determined by the ~~State Budget and Control Board~~ board.”

SECTION 38. Sections 1‑11‑740 and 1‑11‑750 of the 1976 Code are amended to read:

“Section 1‑11‑740. The Division of Insurance Services of the ~~State Budget and Control Board~~ board may develop an optional long‑term care insurance program for active and retired members of the various state retirement systems depending on the availability of a qualified vendor. A program must require members to pay the full insurance premium.

Section 1‑11‑750. The ~~Budget and Control Board~~ board shall devise a method of withholding long‑term care insurance premiums offered under Section 1‑11‑740 for retirees if sufficient enrollment is obtained to make the deductions feasible.”

SECTION 39. Section 1‑11‑770(A) of the 1976 Code, before the first item, is amended to read:

“(A) Subject to appropriations, the General Assembly authorizes the ~~State Budget and Control Board~~ board to plan, develop, and implement a statewide South Carolina 211 Network, which must serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the South Carolina 211 Network are to:”

SECTION 40. A. Sections 8‑23‑20 and 8‑23‑30 of the 1976 Code, as last amended by Act 305 of 2008, are further amended to read:

“Section 8‑23‑20. ~~A Deferred Compensation Commission is established consisting of eight members including the director of the South Carolina Retirement System, chief investment officer of the State Retirement System Investment Commission, and the executive director of the State Employees’ Association, each of whom serve ex officio, and five other public employees to be appointed by the State Budget and Control Board, at least two of whom must be state employees and one must be a retired public employee. The appointed members shall serve for terms of three years and until their successors are appointed and qualify. The State Budget and Control Board shall designate the chairman.~~

The ~~commission~~ Board of Directors of the South Carolina Public Employee Benefit Authority shall establish such rules and regulations as it deems necessary to implement and administer the Deferred Compensation Program. The ~~commission~~ board shall make such administrative appointments and contracts as are necessary to carry out the purpose and intent of this chapter and in the administration of account assets. For purposes of administering this program, an individual account shall be maintained in the name of each employee.

The ~~commission~~ board shall select, through competitive bidding and contracts, plans for purchase of fixed and variable annuities, savings, mutual funds, insurance and such other investments as the ~~commission~~ board may approve which are not in conflict with the State Constitution and with the advice and approval of the State Treasurer.

Costs of administration may be paid from the interest earnings of the funds accrued as a result of deposits or as an assessment against each account.

Section 8‑23‑30. The State or any political subdivision of the State, by contract, may agree with an employee to defer, a portion of his compensation in an amount as provided for in a plan approved by the ~~commission~~ Board of Directors of the South Carolina Public Employee Benefit Authority and subsequently with the consent of the employee may contract for purchase or otherwise procure fixed or variable annuities, savings, mutual funds, insurance, or such other investments as the ~~commission~~ board may approve for the purpose of carrying out the objectives of the program with the advice and approval of the State Treasurer. The investments shall be underwritten and offered in compliance with applicable federal and state laws and regulations by persons who are authorized by the ~~commission~~ board in accordance with the provisions of this chapter.”

B. Section 8‑23‑70 of the 1976 Code is amended to read:

“Section 8‑23‑70. The Deferred Compensation Program established pursuant to this chapter shall be in addition to retirement, pension, or benefit systems established by the State, federal government, or political subdivision and no deferral of income under the Deferred Compensation Program shall affect a reduction of any retirement, pension, social security, or other benefit provided by law. Any sum deferred under the Deferred Compensation Program shall not be subject to taxation until distribution is actually made to the employee.

Nothing contained in this chapter shall be construed to prohibit counties, municipalities, school districts, and other political subdivisions of the State and their employees from participation in deferred compensation plans or programs offered independently of the ~~State Deferred Compensation Commission~~ Board of Directors of the South Carolina Public Employee Benefit Authority by building and loan or savings and loan associations, banks, trust companies, and credit unions chartered by the state or federal governments, and all such political subdivisions shall be empowered with such contractual authority as may be necessary or incident to such participation; provided, however, that (a) such deferred compensation plans or programs shall comply with applicable federal income tax law in providing income deferral, (b) all deferred amounts shall be held in accounts, certificates of deposit, or other forms of savings vehicles which are insured by the Federal Savings and Loan Insurance Corporation in the case of savings and loan associations, the Federal Deposit Insurance Corporation in the case of commercial banks, and the National Credit Union Administration in the case of credit unions.”

C. Section 8‑23‑110 of the 1976 Code, as added by Act 387 of 2000, is amended to read:

“Section 8‑23‑110. (A) The ~~commission~~ Board of Directors of the South Carolina Public Employee Benefit Authority shall ensure that plan documents governing deferred compensation plans administered by the ~~commission~~ board permit employer contributions to the extent allowed under the Internal Revenue Code.

(B) Political subdivisions of the State, including school districts, participating in deferred compensation plans administered by the ~~commission~~ board or such plans offered by other providers may make matching or other contributions on behalf of their participating employees.

(C) As an additional benefit for state employees, and to the extent funds are appropriated for this purpose, the State shall make matching or other contributions on behalf of state employees participating in the deferred compensation plans offered by the ~~commission~~ board or such plans offered by other providers in an amount and under the terms and conditions prescribed for such contributions by the ~~State Budget and Control Board~~ board.”

D. The amendments to Sections 8‑23‑20, 8‑23‑30, 8‑23‑70, and 8‑23‑110 of the 1976 Code contained in this SECTION take effect January 1, 2014.

SECTION 41. Section 9‑1‑10(6) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

“(6) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority which shall act under the provisions of this chapter through its Division of Retirement Systems.”

SECTION 42. Section 9‑1‑20 of the 1976 Code is amended to read:

“Section 9‑1‑20. A retirement system is hereby established and placed under the management of the ~~State Budget and Control Board~~ board for the purpose of providing retirement allowances and other benefits for teachers and employees of the State and political subdivisions or agencies or departments thereof. The system so created shall have the power and privileges of a corporation and shall be known as the ‘South Carolina Retirement System’, and by such name all of its business shall be transacted, all of its funds invested and all of its cash, securities, and other property held.”

SECTION 43. Section 9‑1‑210 of the 1976 Code is amended to read:

“Section 9‑1‑210. The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION 44. Section 9‑1‑310 of the 1976 Code, as last amended by Act 155 of 2005, is further amended to read:

“Section 9‑1‑310. The administrative cost of the South Carolina Retirement System, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly of the State of South Carolina, the Retirement System for Judges and Solicitors of the State of South Carolina, and the National Guard Retirement System must be funded from the interest earnings of the above systems. The allocation of the administrative costs of the systems must be made by the ~~State Budget and Control Board~~ board and must be based upon a proration of the cost in proportion to the assets that each system bears to the total assets of all of the systems for the most recently completed fiscal year.”

SECTION 45. Section 9‑1‑1515(D)(2) of the 1976 Code is amended to read:

“(2) A member taking early retirement may maintain coverage under the State Insurance Benefits Plan until the date his coverage is reinstated pursuant to item (1) of this subsection by paying the total premium cost, including the employer’s contribution, in the manner provided by the Division of Insurance Services of the ~~State Budget and Control Board~~ board.”

SECTION 46. Section 9‑1‑1830 of the 1976 Code is amended to read:

“Section 9‑1‑1830. Starting July 1, 1981, there must be paid to the system, and credited to the post‑retirement increase special fund, contributions by the employers in an amount equal to two‑tenths of one percent of the earnable compensation of each member employed by each employer. In addition, the ~~State Budget and Control Board shall~~ board, on the recommendation of the actuary, shall transfer a portion of the monies as are received pursuant to Section 9‑1‑1050 that are available due to actuarial gains in the system if the transfers do not adversely affect the funding status of the system. Starting July 1, 1986, all contributions previously credited to the post‑retirement increase special fund must be diverted and credited to the employer annuity accumulation fund.”

SECTION 47. Chapter 2, Title 9 of the 1976 Code is amended to read:

“CHAPTER 2

Retirement and Preretirement Advisory ~~Board~~ Panel

Section 9‑2‑10. There is ~~hereby~~ created the South Carolina Retirement and Preretirement Advisory ~~Board~~ Panel for the purpose of advising the Director of the South Carolina Retirement System and the Director of the State Personnel Division on matters relating to retirement and preretirement programs and policies.

Section 9‑2‑20.(a) The ~~board~~ panel shall consist of eight members appointed by the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority and must be constituted as follows:

(1) one member representing municipal employees;

(2) one member representing county employees;

(3) three members representing state employees, one of whom must be retired and one of whom must be an active or retired law enforcement officer who is contributing to or receiving benefits from the Police Officers Retirement System. If this law enforcement member is retired, the other two members representing state employees do not have to be retired;

(4) two members representing public school teachers, one of whom must be retired;

(5) one member representing the higher education teachers. The ~~Budget and Control Board~~ board of directors shall invite the appropriate associations, groups, and individuals to recommend persons to serve on the ~~board~~ panel.

(b) The terms of the members shall be for four years and until their successors have been appointed and qualify. No member shall serve more than two consecutive terms. After serving two consecutive terms a member shall be eligible to serve again, four years after the expiration of his second term. Provided that of those first appointed, four of the members shall serve for a term of two years. In the event of a vacancy, a successor shall be appointed in the same manner as the original appointment to serve the unexpired term.

(c) A chairman, vice chairman, and secretary shall be elected from among the membership to serve for terms of two years.

Section 9‑2‑30. The ~~board~~ panel shall meet once a year with the Director of the South Carolina Retirement System; once a year with the State Personnel Director; and once a year with the ~~State Budget and Control Board~~ Executive Director of the South Carolina Public Employee Benefit Authority. The chairman may call additional meetings of the ~~board~~ panel at such other times as ~~deemed~~ considered necessary and shall give timely notice of such meetings.

Section 9‑2‑40. The ~~board~~ panel shall review retirement and preretirement programs and policies, propose recommendations, and identify major issues for consideration.

Section 9‑2‑50. The ~~board~~ panel is authorized to seek reasonable staff assistance from the South Carolina Retirement System, the State Personnel Division, and other state agencies which may be concerned with a particular area of study. The ~~board~~ panel is also encouraged to use such resources as faculty and students at public universities, colleges, and technical education schools in South Carolina.”

SECTION 48. Section 9‑8‑10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 49. Section 9‑8‑30(1) of the 1976 Code is amended to read:

“(1) The administration and responsibility for the operation of the system and for making effective the provisions of this chapter are vested in the ~~State Budget and Control Board~~ board.”

SECTION 50. The last undesignated paragraph of Section 9‑8‑60(1) of the 1976 Code, as added by Act 164 of 1993, is amended to read:

“A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly, and ~~must~~ also must be a member of the ~~General Assembly Retirement System~~ retirement system unless the person files a statement with the ~~State Budget and Control Board~~ board on a form prescribed by the board electing not to participate in the ~~General Assembly Retirement System~~ the applicable system while a member of the General Assembly. A person making this election shall not make contributions to the ~~General Assembly Retirement System~~ applicable retirement system nor shall the State make contributions on the member’s behalf and the person is not entitled to benefits from the ~~General Assembly Retirement System~~ applicable retirement system after ceasing to be a member of the General Assembly.”

SECTION 51. Section 9‑9‑10(3) of the 1976 Code is amended to read:

“(3) ‘Board’ ~~shall mean~~ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 52. Section 9‑9‑30(1) of the 1976 Code is amended to read:

“(1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION 53. Section 9‑10‑10(1) of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“(1) ‘Board’ ~~or ‘board’~~ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority, acting pursuant to the provisions of this chapter through its Division of Retirement Systems.”

SECTION 54. Section 9‑10‑60(D) of the 1976 Code, as added by Act 155 of 2005, is amended to read:

“(D) The General Assembly annually shall appropriate sums sufficient to establish and maintain the National Guard Retirement System on a sound actuarial basis as determined by the ~~State Budget and Control Board~~ board.”

SECTION 55. Section 9‑11‑10(9) of the 1976 Code is amended to read:

“(9) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority acting through its Division of Retirement Systems.”

SECTION 56. Section 9‑11‑30(1) of the 1976 Code is amended to read:

“(1) The general administration and responsibility for the proper operation of the system and for making effective the provisions hereof are hereby vested in the ~~State Budget and Control Board~~ board.”

SECTION 57. Section 9‑12‑10(1) of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“(1) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority acting as trustee of the retirement systems and acting through its Division of Retirement Systems.”

SECTION 58. Items (3) and (9) of Section 9‑16‑10 of the 1976 Code, as added by Act 371 of 1998, are amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority acting as trustee of the retirement system.

(9) ‘Trustee’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 59. Section 9‑16‑55(F) of the 1976 Code, as added by Act 248 of 2008, is amended to read:

“(F) Present~~, future,~~ and former board members, officers, and employees of the State Budget and Control Board, present, future, and former directors, officers, and employees of the South Carolina Public Employee Benefit Authority, the Retirement System Investment Commission, and contract investment managers retained by the commission must be indemnified from the general fund of the State and held harmless by the State from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney’s fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this section.”

SECTION 60. Section 9‑18‑10(3) of the 1976 Code, as added by Act 38 of 1995, is amended to read:

“(3) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 61. Section 9‑20‑30 of the 1976 Code, as last amended by Act 54 of 2001, is further amended to read:

“Section 9‑20‑30. (A) The South Carolina Retirement System shall provide for the administration of the State Optional Retirement Program under this chapter. The Director ~~acting on behalf~~ of the South Carolina Retirement System acting on behalf of the Board of Directors of the South Carolina Public Employee Benefit Authority shall designate no fewer than ~~four companies~~ two entities to provide annuity contracts, mutual fund accounts, or similar investment products offered through state or national banking institutions, or a combination of them, under the program. In making the designation, selection criteria must include:

(1) the nature and extent of the rights and benefits to be provided by the contracts or accounts, or both, of participants and their beneficiaries;

(2) the relation of the rights and benefits to the amount of contributions to be made;

(3) the suitability of these rights and benefits to the needs of the participants;

(4) the ability and experience of the designated companies in providing suitable rights and benefits under the contracts or accounts, or both;

(5) the ability and experience of the designated companies to provide suitable education and investment options.

(B) If the board deselects a provider, vendor, plan administrator, or other entity, it shall ensure that the deselection and related transition are accomplished with minimal disruption to participants.

(C) Companies participating in the optional retirement program for publicly supported four‑year and postgraduate institutions of higher education as of July 1, 2002, or the optional retirement program for teachers and school administrators as of July 1, 2001, may continue to participate in this program and ~~this~~ participation is governed by their existing contracts.”

SECTION 62. Section 9‑21‑20(2) of the 1976 Code, as added by Act 12 of 2003, is amended to read:

“(2) ‘Board’ means the ~~State Budget and Control Board~~ Board of Directors of the South Carolina Public Employee Benefit Authority.”

SECTION 63. Section 15‑78‑140 of the 1976 Code is amended to read:

“Section 15‑78‑140. (a) (Reserved)

(b) The political subdivisions of this State, in regard to tort and automobile liability, property and casualty insurance shall procure insurance to cover these risks for which immunity has been waived by (1) the purchase of liability insurance pursuant to Section 1‑11‑140; or (2) the purchase of liability insurance from a private carrier; or (3) self‑insurance; or (4) establishing pooled self‑insurance liability funds, by intergovernmental agreement, which may not be construed as transacting the business of insurance or otherwise subject to state laws regulating insurance. A pooled self‑insurance liability pool is authorized to purchase specific and aggregate excess insurance. A pooled self‑insurance liability fund must provide liability coverage for all employees of a political subdivision applying for participation in the fund. If the insurance is obtained other than pursuant to Section 1‑11‑140, it must be obtained subject to the following conditions:

(1) If the political subdivision does not procure tort liability insurance pursuant to Section 1‑11‑140, it must also procure its automobile liability and property and casualty insurance from other sources and shall not procure these coverages through the ~~Budget and Control Board~~ Insurance Reserve Fund;

(2) If a political subdivision procures its tort liability insurance, automobile liability insurance, or property and casualty insurance through the ~~Budget and Control Board~~ Insurance Reserve Fund, all liability exposures of the political subdivision as well as its property and casualty insurance must be insured with the ~~Budget and Control Board~~ Insurance Reserve Fund;

(3) If the political subdivision, at any time, procures its tort liability, automobile liability, property, or casualty insurance other than through the ~~Budget and Control Board~~ Insurance Reserve Fund and then subsequently desires to obtain this coverage with the ~~Budget and Control Board~~ Insurance Reserve Fund, notice of its intention to so obtain this subsequent coverage must be provided the ~~Budget and Control Board~~ Insurance Reserve Fund at least ninety days ~~prior to~~ before the beginning of the coverage with the ~~State Budget and Control Board~~ Insurance Reserve Fund. The other lines of insurance that the political subdivision is required to procure from the ~~board~~ fund are not required to commence until the coverage for that line of insurance expires. Any political subdivision may cancel all lines of insurance with the ~~State Budget and Control Board~~ Insurance Reserve Fund if it gives ninety days’ notice to the ~~board~~ fund. The ~~Budget and Control Board~~ Insurance Reserve Fund may negotiate the insurance coverage for any political subdivision separate from the insurance coverage for other insureds.

(4) If any political subdivision cancels its insurance with the ~~Budget and Control Board~~ Insurance Reserve Fund, it is entitled to an appropriate refund of the premium, less reasonable administrative cost.

(c) For any claim filed under this chapter, the remedy provided in Section 15‑78‑120 is exclusive. The immunity of the State and its political subdivisions, with regard to the seizure, execution, or encumbrance of their properties is reaffirmed.”

SECTION 64. Section 59‑1‑470 of the 1976 Code is amended to read:

“Section 59‑1‑470. Funds appropriated by the General Assembly for a deferred compensation employer matching contribution must be distributed by the State Department of Education to school districts for the purpose of providing an employer matching contribution for eligible school district employees making contributions to deferred compensation plans offered by the South Carolina Deferred Compensation Commission or, after December 31, 2013, the South Carolina Public Employee Benefit Authority, or other approved and qualified plans of other providers. These funds must be distributed in a manner consistent with the provisions of Section 8‑23‑110. The employer matching contribution by the school district may not exceed three hundred dollars for each eligible employee a year. ~~Individuals eligible for the matching contribution must be classified as required in Section 9‑20‑20, the Optional Retirement Program for Teachers and School Administrators.~~”

SECTION 65. This subpart takes effect July 1, 2012.

Subpart 3

Transfer and Devolution

Retirement System Investment Commission

SECTION 66. Effective July 1, 2012, Section 9‑16‑310 of the 1976 Code, relating to the State Retirement Systems Investment Panel, is repealed. Effective after December 31, 2013, the Deferred Compensation Commission is abolished. All of the functions and duties of the Deferred Compensation Commission are devolved upon the Board of Directors of the South Carolina Public Employee Benefit Authority as of January 1, 2014.

SECTION 67. A. Section 9‑16‑315 of the 1976 Code, as added by Act 153 of 2005, is amended to read:

“Section 9‑16‑315. (A) There is established the ‘Retirement System Investment Commission’ (RSIC) consisting of six members as follows:

(1) one member appointed by the Governor;

(2) the State Treasurer, ex officio;

(3) one member appointed by the Comptroller General;

(4) one member appointed by the Chairman of the Senate Finance Committee;

(5) one member appointed by the Chairman of the Ways and Means Committee of the House of Representatives;

(6) one member who is a retired member of the retirement system who shall serve without voting privileges. This representative member must be appointed by unanimous vote of the voting members of the commission; and

(7) the Executive Director of South Carolina Public Employee Benefit Authority, ex officio, without voting privileges.

(B) The State Treasurer may appoint a member to serve in his stead. A member appointed by the State Treasurer shall serve for a term coterminous with the State Treasurer and must possess at least one of the qualifications provided in subsection (E). Once appointed, this member may not be removed except as provided in subsection (C).

(C) Except as provided in subsection (B), members shall serve for terms of five years and until their successors are appointed and qualify, except that of those first appointed, the appointees of the Comptroller General and the Chairman of the Senate Finance Committee shall serve for terms of three years and the appointee of the Chairman of the Committee on Ways and Means and the representative appointee shall serve for terms of one year. Terms are deemed to expire after June thirtieth of the year in which the term is due to expire. Members are appointed for a term and may be removed before the term expires only by the Governor for the reasons provided in Section 1‑3‑240(C).

(D) The commission shall select one of the voting members to serve as chairman and shall select those other officers it determines necessary, but the State Treasurer, may not serve as chairman.

(E) A person may not be appointed to the commission unless the person possesses at least one of the following qualifications:

(1) the Chartered Financial Analyst credential of the CFA Institute;

(2) the Certified Financial Planner credential of the Certified Financial Planner Board of Standards;

(3) ~~at least ten years professional securities broker experience;~~ reserved

(4) at least ~~ten~~ twenty years professional actuarial experience including at least ten as an Enrolled Actuary licensed by a Joint Board of the Department of the Treasury and the Department of Labor to perform a variety of actuarial tasks required of pension plans in the United States by the Employee Retirement Income Security Act of 1974;

(5) at least ~~ten~~ twenty years professional teaching experience in economics or finance, ten of which must have occurred at a doctorate‑granting university, master’s granting college or university, or a baccalaureate college as classified by the Carnegie Foundation; ~~or~~

(6) an earned Ph.D. in economics or finance from a doctorate‑granting institution as classified by the Carnegie Foundation; or

(7) the Certified Internal Auditor credential of The Institute of Internal Auditors.

(F) Not including the State Treasurer, no person may be appointed or continue to serve who is an elected or appointed officer or employee of the State or any of its political subdivisions, including school districts.

(G) The Retirement System Investment Commission is established to invest the funds of the retirement system. All of the powers and duties of the State Budget and Control Board as investor in equity securities and the State Treasurer’s function of investing in fixed income instruments are transferred to and devolved upon the Retirement System Investment Commission. To assist the commission in its investment function, it shall employ a chief investment officer, who under the direction and supervision of the commission, and as its agent, shall develop and maintain annual investment plans and invest and oversee the investment of retirement system funds. The chief investment officer serves at the pleasure of the commission and must receive the compensation the commission determines appropriate. The commission may employ the other professional, administrative, and clerical personnel it determines necessary and fix their compensation. All employees of the commission are employees at will. The compensation of the chief investment officer and other employees of the commission is not subject to the state compensation plan.

(H)(1) The administrative costs of the Retirement System Investment Commission must be paid from the earnings of the state retirement system in the manner provided in Section 9‑1‑1310.

(2) Effective beginning July 1, 2012, each commission member, not including the Executive Director of the South Carolina Public Employee Benefit Authority, must receive an annual salary of twenty thousand dollars plus mileage and subsistence as provided by law for members of state boards, committees, and commissions paid as provided pursuant to item (1) of this subsection. Notwithstanding any other provision of law, membership on the commission does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Compensation paid on account of the member’s service on the commission is not considered earnable compensation for purposes of any retirement system administered pursuant to this title.”

B. Article 3, Chapter 16, Title 9 of the 1976 Code is amended by adding:

“Section 9‑16‑380. Each year in the general appropriations act, the General Assembly shall appropriate sufficient funds to the Office of the State Inspector General to employ a private audit firm to perform a fiduciary audit on the Retirement System Investment Commission. The audit firm must be selected by the State Inspector General. The report from the previous fiscal year must be completed by January fifteenth. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.”

C. Notwithstanding the provision of Section 9‑16‑315(E) as amended in this SECTION, appointed members of the Retirement System Investment Commission serving on June 30, 2012, shall continue to serve for the remainder of their current and any succeeding terms for which they are appointed, after which their successors must have a qualification described in Section 9‑16‑315(E) as amended by this SECTION.

SECTION 68. (A) Where the provisions of this act transfer portions of the Budget and Control Board to the South Carolina Public Employee Benefit Authority, the employees, authorized appropriations, and assets and liabilities of the transferred portions of the Budget and Control Board are also transferred to and become part of the South Carolina Public Employee Benefit Authority. All classified or unclassified personnel employed by the transferred portions of the Budget and Control Board either by contract or by employment at will, shall become on July 1, 2012, employees of the South Carolina Public Employee Benefit Authority, with the same compensation, classification, and grade level, as applicable. Before its abolition, the Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations. Notwithstanding the provisions of Section 9‑4‑10(A) of the 1976 Code, as added by this act, on the effective date of this SECTION, the Governor and the Chairmen of the House Ways and Means Committee and the Senate Finance Committee jointly shall appoint the initial and any necessary succeeding Executive Director of the South Carolina Public Employee Benefit Authority to serve through December 31, 2013, after which the position must be filled by the appointment of the authority board. Notwithstanding the provisions of Section 9‑4‑10(F) of the 1976 Code, as added by this act, the Governor shall name a member of the Board of Directors of the South Carolina Public Employee Benefit Authority to serve as chairman of that board through December 31, 2013.

(B) Regulations promulgated by the transferred portions of the Budget and Control Board are continued and are considered to be promulgated by the South Carolina Public Employee Benefit Authority. Contracts entered into by the Budget and Control Board and the Deferred Compensation Commission are continued and are considered to be devolved upon the South Carolina Public Employee Benefit Authority at the time of the transfer.

(C) The Code Commissioner is directed to change or correct all references to the Insurance Reserve Fund, the Employee Insurance Program, the Retirement Division, and the Deferred Compensation Commission to reflect its transfer to the South Carolina Public Employee Benefit Authority. References to the name of the Insurance Reserve Fund, the Employee Insurance Program, the Retirement Division, and the Deferred Compensation Commission in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

Subpart 4

Effective Date of this Part

SECTION 69. Except where otherwise provided, this Part takes effect July 1, 2012.

Part V

Provisions Applying to More Than One Retirement System

SECTION 70. Article 3, Chapter 16, Title 9 of the 1976 Code is amended by adding:

“Section 9‑16‑335. For all purposes of this title, the assumed annual rate of return on the investments of the retirement system must be established by the General Assembly pursuant to this section. Effective July 1, 2012, the assumed annual rate of return on retirement system investments is seven and one‑half percent.”

SECTION 71. A. Section 9‑1‑1135 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑1‑1135. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

(B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

B. Section 9‑8‑185 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑8‑185. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

(B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

C. Section 9‑9‑175 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑9‑175. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

(B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

D. Section 9‑11‑265 of the 1976 Code, as added by Act 311 of 2008, is amended to read:

“Section 9‑11‑265. (A) Interest ~~shall~~ must be credited to the account of each member once each year as of June thirtieth, on the basis of the balance in the account of each member as of the previous June thirtieth. Upon the death, retirement, or termination of a member, interest ~~shall~~ must be figured to the end of the month immediately preceding the date of refund or retirement, interest being based on the balance in ~~such~~ the member’s account as of the June thirtieth immediately preceding the date of refund or retirement.

(B) Notwithstanding subsection (A), interest must not be credited to an inactive member account. For purposes of this subsection, a member account becomes inactive on July first if no contributions were made to the account in the preceding twelve months.”

Part VI

Miscellaneous, Effective Date

SECTION 72. Section 22‑1‑15(C) of the 1976 Code is amended to read:

“(C) The provisions of Section 22‑1‑10(B)(2)(b) do not apply to a magistrate serving on June 30, 2005, during his tenure in office, and do not apply to a magistrate serving after June 30, 2005 who retires and is reappointed within one year of the date of his retirement and during his tenure in office for the new appointment.”

SECTION 73. The Human Resources Division of the State Budget and Control Board, or its successor, shall conduct a study to determine an appropriate level of compensation for statewide constitutional officers and members of the General Assembly and make a report with any recommendations for salary adjustments to the General Assembly no later than January 15, 2013.

SECTION 74. The Public Employee Benefit Authority, through its Retirement Systems Division, shall conduct a study of the impact of the costs to SCRS and SCPORS of compensation “spiking” on the calculation of average final compensation for retirees of those retirement systems. The report and any accompanying recommendations must be completed and forwarded to the Governor and the General Assembly no later than April 15, 2013.

SECTION 75. If any part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every part, section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other parts, sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 76. 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 77. Except where otherwise stated, this act takes effect July 1, 2012. /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG 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 39; Nays 1**

**AYES**

Alexander Anderson Bright

Bryant Campbell Campsen

Coleman 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 Rankin Rose

Ryberg Scott Setzler

Shoopman Thomas Williams

**Total--39**

**NAYS**

Reese

**Total--1**

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

**OBJECTION**

H. 4996 -- Reps. Stringer, Bingham, Harrell, White, McCoy, Norman, Clemmons, Quinn, Ballentine, Ryan, Brannon, Bedingfield, Spires, Thayer, Parker, Taylor, Daning, Hearn, J.R. Smith, Patrick, Murphy, Bowen, Lowe, Nanney, Hiott, Sottile, Loftis, Allison, Atwater, Bannister, Chumley, Crosby, Delleney, Erickson, Hamilton, Hardwick, Henderson, Herbkersman, Hixon, Horne, Limehouse, Long, Merrill, D.C. Moss, V.S. Moss, Owens, Pinson, Pope, Sandifer, Simrill, G.M. Smith, G.R. Smith, Tallon, Willis, Young and Forrester: A BILL TO AMEND SECTION 12‑6‑545, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INCOME TAX RATES FOR PASS‑THROUGH TRADE AND BUSINESS INCOME, SO AS TO REDUCE THE TAX RATE FROM FIVE PERCENT TO THREE PERCENT.

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

Senator LEATHERMAN objected.

**RECESS**

At 12:15 P.M., on motion of Senator COURSON, the Senate receded from business until 1:30 P.M.

**AFTERNOON SESSION**

The Senate reassembled at 1:31 P.M. and was called to order by the PRESIDENT.

**Point of Quorum**

At 1:31 P.M., Senator KNOTTS made the point that a quorum was not present. It was ascertained that a quorum was not present.

**Call of the Senate**

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

Alexander Bright Bryant

Campbell Cleary Courson

Cromer Davis Fair

Gregory Hayes Hutto

Knotts Leatherman Leventis

Malloy *Martin, Larry Martin, Shane*

Massey McGill Nicholson

Peeler Rose Ryberg

Scott Setzler Shoopman

Thomas Verdin Williams

A quorum being present, the Senate resumed.

**Recorded Presence**

Senators ANDERSON, CAMPSEN, COLEMAN, GROOMS, LAND, LOURIE, MATTHEWS, SHEHEEN, REESE, O’DELL and RANKIN recorded their presence subsequent to the Call of the Senate.

**THE SENATE PROCEEDED TO A CONSIDERATION OF H. 4813, THE GENERAL APPROPRIATIONS BILL.**

**AMENDED, READ THE SECOND TIME**

**H. 4813--GENERAL APPROPRIATIONS BILL**

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

**Point of Order Withdrawn**

On motion of Senator MASSEY, with unanimous consent, the Point of Order raised on May 15, 2012, on Proviso 90.5 in Part 1B that it was violative of Rule 24A was withdrawn.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1.17 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1.19 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1.24 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 1.24 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1.33 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 1.33 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1A.13 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 1A.13 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1A.14 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 1A.14 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1A.40 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 1A.49 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 1A.49 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 6.13 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 6.13 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 6.18 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENTsustained the Point of Order.

Proviso 6.18 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 24.2 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 26.23 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 76.2 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 80B.1 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 80B.1 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 89.7 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator BRYANT on May 15, 2012, that Proviso 39.11 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 39.11 was ruled out of order.

**Point of Order**

Senator DAVIS raised a Point of Order under that Proviso 69.4 was out of order inasmuch as it was violative of Section 54-3-115, S. C. Code of Laws, 1976, as amended.

The PRESIDENT took the Point of Order under advisement.

**Point of Order**

Senator DAVIS raised a Point of Order under that Proviso 69.5 was out of order inasmuch as it was violative of Section 54-3-115, S. C. Code of Laws, 1976, as amended.

The PRESIDENT took the Point of Order under advisement.

**Amendment No. 24**

Senator PEELER proposed the following amendment (DAD JUDGES), which was tabled:

Amend the bill, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, lines 1-2, by striking opposite:

COLUMN 7 COLUMN 8

“CIRCUIT COURT JUDGE”/ 390,936 390,936

(3.00) (3.00)/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, lines 3-4, by striking opposite:

COLUMN 7 COLUMN 8

“ADMINISTRATIVE SPECIALIST”/ 73,914 73,914

(3.00) (3.00)/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, lines 5-6, by striking opposite:

COLUMN 7 COLUMN 8

“COURT REPORTER”/ 106,404 106,404

(3.00) (3.00)/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, lines 7-8, by striking opposite:

COLUMN 7 COLUMN 8

“LAW CLERK”/ 117,480 117,480

(3.00) (3.00)/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, line 12, opposite “OTHER OPERATING EXPENSES” by:

COLUMN 7 COLUMN 8

/ STRIKING: 1,825,058 1,465,058

and

INSERTING: 1,807,264 1,447,264/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, lines 29-30, by striking opposite:

COLUMN 7 COLUMN 8

“FAMILY COURT JUDGE”/ 761,299 761,299

(6.00) (6.00)/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, lines 31-32, by striking opposite:

COLUMN 7 COLUMN 8

“ADMINISTRATIVE SPECIALIST”/ 147,828 147,828

(6.00) (6.00)/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 177, lines 33-34, by striking opposite:

COLUMN 7 COLUMN 8

“COURT REPORTER”/ 212,808 212,808

(6.00) (6.00)/

Amend the bill further, as and if amended, Part IA, Section 44, JUDICIAL DEPARTMENT, page 179, line 36, opposite “EMPLOYER CONTRIBUTIONS” by:

COLUMN 7 COLUMN 8

/ STRIKING: 15,909,169 12,756,169

and

INSERTING: 14,743,943 11,590,943/

Amend the bill further, as and if amended, Part IA, Section 67, DEPARTMENT OF EMPLOYMENT AND WORKFORCE, page 243, line 3, opposite “SUTA TAX RELIEF” by:

COLUMN 7 COLUMN 8

/ STRIKING: 30,790,650 30,790,650

and

INSERTING: 33,784,339 33,784,339/

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator PEELER explained the amendment.

Senator MALLOY spoke on the amendment.

Senator LARRY MARTIN spoke on the amendment.

Senator COLEMAN spoke on the amendment.

Senator MALLOY moved to lay the amendment on the table.

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

**Ayes 35; Nays 5**

**AYES**

Alexander Anderson Campbell

Campsen Cleary Coleman

Courson Cromer Davis

Gregory Grooms Hayes

Hutto Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Massey

Matthews McGill Nicholson

O'Dell Rankin Reese

Rose Ryberg Scott

Setzler Sheheen Shoopman

Thomas Williams

**Total--35**

**NAYS**

Bright Bryant Fair

*Martin, Shane* Peeler

**Total--5**

Amendment No. 24 was laid on the table.

**Amendment No. 32**

Senators HAYES, SETZLER, KNOTTS, CROMER, ROSE and CAMPBELL proposed the following amendment (DAD TEACHER SALARY EIA), which was adopted (#5):

Amend the bill, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 4, line 28, opposite “AID SCHL DIST - DRVRS SLRY/F” by:

COLUMN 7 COLUMN 8

/ STRIKING: 14,693,553 14,693,553

and

INSERTING: 35,178,181 35,178,181/

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 6, lines 1-2, opposite “MODERNIZE VOCATIONAL EQUIPMENT” by:

COLUMN 7 COLUMN 8

/ STRIKING: 6,682,406

and

INSERTING: 6,359,609 /

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 8, line 29-30, opposite “TEACHER SALARY SUPPORT STATE SHARE - RECUR” by:

COLUMN 7 COLUMN 8

/ STRIKING: 17,817,585

and

INSERTING: 38,625,010 /

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 11, line 2, opposite “AID SCH DIST - DRIVER SLRY” by:

COLUMN 7 COLUMN 8

/ STRIKING: 20,484,628 /

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 12, lines 1-2, opposite “TEACHER SALARY SUPPORT STATE SHARE - RECUR” by:

COLUMN 7 COLUMN 8

/ STRIKING: 20,807,425 20,807,425/

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 12, line 9-10, opposite “MODERNIZE VOCATIONAL EQUIPMENT” by:

COLUMN 7 COLUMN 8

/ INSERTING: 322,797 322,797/

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HAYES explained the amendment.

The amendment was adopted.

**Amendment No. 35**

Senators SHEHEEN and KNOTTS proposed the following amendment (DAD REVERT ETV GF $), which was adopted (#6):

Amend the bill, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 4, line 28, opposite “AID SCHL DIST-DRVRS SLRY/F” by:

COLUMN 7 COLUMN 8

/ STRIKING: 14,693,553 14,693,553

and

INSERTING: 9,864,272 9,864,272/

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 10, lines 26-27, by striking opposite:

COLUMN 7 COLUMN 8

ETV - K-12 PUBLIC EDUCATION (H67) / 2,829,281 /

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 10, line 28, by striking opposite:

COLUMN 7 COLUMN 8

ETV - INFRASTRUCTURE (H67) / 2,000,000 /

Amend the bill further, as and if amended, Part IA, Section 1, DEPARTMENT OF EDUCATION, page 11, line 2, opposite “AID SCH DIST-DRIVER SLRY” by:

COLUMN 7 COLUMN 8

/ STRIKING: 20,484,628

and

INSERTING: 25,313,909 /

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, lines 3-4, opposite PRESIDENT & GENERAL MGR. by:

COLUMN 7 COLUMN 8

/ INSERTING: 117,000

(1.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, lines 5-6, opposite CLASSIFIED POSITIONS by:

COLUMN 7 COLUMN 8

/ INSERTING 875,000

(23.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, line 7, opposite OTHER PERSONAL SERVICES by:

COLUMN 7 COLUMN 8

/ INSERTING: 216,500/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, line 10, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING: 200,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, lines 18-19, opposite CLASSIFIED POSITIONS by:

COLUMN 7 COLUMN 8

/ INSERTING: 1,962,894

(42.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, line 23, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING: 1,019,118/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, lines 29-30, opposite CLASSIFIED POSITIONS by:

COLUMN 7 COLUMN 8

/ INSERTING: 168,500

(5.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 78, line 33, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING 50,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 79, line 5, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING: 10,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 79, lines 13-14, opposite CLASSIFIED POSITIONS by:

COLUMN 7 COLUMN 8

/ INSERTING: 585,297

(15.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 79, line 17, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING: 100,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 79, lines 27-28, opposite CLASSIFIED POSITIONS by:

COLUMN 7 COLUMN 8

/ INSERTING: 754,661

(17.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 79, line 29, opposite OTHER PERSONAL SERVICES by:

COLUMN 7 COLUMN 8

/ INSERTING: 16,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 79, line 32, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING: 75,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 79, lines 38-39, opposite CLASSIFIED POSITIONS by:

COLUMN 7 COLUMN 8

/ INSERTING: 423,247

(10.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 80, line 1, opposite OTHER PERSONAL SERVICES by:

COLUMN 7 COLUMN 8

/ INSERTING: 98,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 80, line 4, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING: 50,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 80, lines 10-11, opposite CLASSIFIED POSITIONS by:

COLUMN 7 COLUMN 8

/ INSERTING: 291,904

(6.00)/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 80, line 15, opposite OTHER OPERATING EXPENSES by:

COLUMN 7 COLUMN 8

/ INSERTING: 50,000/

Amend the bill further, as and if amended, Part IA, Section 19, EDUCATIONAL TELEVISION COMMISSION, page 80, line 25, opposite EMPLOYER CONTRIBUTIONS by:

COLUMN 7 COLUMN 8

/ INSERTING: 1,817,971/

Amend the bill further, as and if amended, Part IA, Section 50, LAW ENFORCEMENT TRAINING COUNCIL, page 198, line 12-13, by striking opposite:

COLUMN 7 COLUMN 8

ETV-STATE & LOCAL TRAINING OF LAW ENFORCEME/ 574,244 574,244/

Amend the bill further, as and if amended, Part IA, Section 80A, BUDGET AND CONTROL BOARD, page 286, line 18, by striking opposite:

COLUMN 7 COLUMN 8

ETV COVERAGE / 513,269 513,269/

Amend the bill further, as and if amended, Part IB, Section 89, GENERAL PROVISIONS, page 512, proviso 89.94, by striking the proviso in its entirety, lines 18 - 26 and inserting:

/ 89.94. (GP: Broadband Spectrum Lease) The General Assembly must approve any exercise of the Middle Band Segment Channel recapture provisions contained in the Educational Broadband Service Spectrum Lease Agreements if the exercise of the recapture provisions would result in a decrease in payments received by the State *for deposit into the State General Fund.*. ~~For Fiscal Year 2011-12, revenue received from the broadband spectrum lease shall be transferred from the Budget and Control Board to the Educational Television Commission on a monthly schedule, according to the current broadband lease agreement, which shall retain and expend such funds for agency operations.~~ The commission shall be authorized to carry forward unexpended funds from the prior fiscal year into the current fiscal year. /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator SHEHEEN explained the amendment.

The amendment was adopted.

**MOTION ADOPTED**

On motion of Senator COURSON, with unanimous consent, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet tomorrow at 10:00 A.M.

There was no objection and the motion was adopted.

**Amendment No. 33**

Senator HAYES proposed the following amendment (GG 1.38SEVENTYPERCENT), which was adopted (#7):

Amend the bill, as and if amended, Part IB, Section 1, DEPARTMENT OF EDUCATION, page 336, paragraph 1.38, line 6, by striking /seventy/ and inserting /*seventy-five*/

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HAYES explained the amendment.

The amendment was adopted.

**Amendment No. 7**

Senator FAIR proposed the following amendment (DG COMMONCORE), which was tabled:

Amend the bill, as and if amended, Part IB, Section 1, DEPARTMENT OF EDUCATION, page 346, after line 24, by adding an appropriately numbered new proviso to read:

/ *1.\_\_\_(SDE: Prohibit Expenditures for Common Core) Whereas the General Assembly does not know the cost implications of participation in the Common Core State Standards Initiative and the Smarter Balanced Assessment Consortium (SBAC), and whereas SBAC (a new entity that has never created assessments) has not yet produced assessments that can be evaluated by the General Assembly and South Carolina citizens for quality and effectiveness, therefore, during the current fiscal year neither the Department of Education, the Education Oversight Committee, nor the State Board of Education shall expend any funds:*

*(1) on professional development intended to prepare educators to implement the Common Core State Standards;*

*(2) on textbooks or other instructional materials aligned with the Common Core State Standards or SBAC assessments;*

*(3) on adoption or implementation of SBAC assessments; or*

*(4) on implementation or promotion of the Next Generation Science Standards, the National Curriculum Standards for Social Studies, or the National Health Education Standards.*  /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator FAIR explained the amendment.

Senator HUTTO spoke on the amendment.

**Point of Order**

Senator HUTTO raised a Point of Order under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill in that it amends Section 59-18-310 of the S. C. Code of Laws, 1976, as amended.

Senator FAIR spoke on the Point of Order.

The PRESIDENT overruled the Point of Order.

Senator HUTTO spoke on the amendment.

Senator HUTTO moved to lay the amendment on the table.

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

**Ayes 29; Nays 13**

**AYES**

Alexander Anderson Campbell

Cleary Coleman Courson

Cromer Ford Gregory

Hayes Hutto Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Massey Matthews McGill

Nicholson O'Dell Rankin

Reese Ryberg Scott

Sheheen Williams

**Total--29**

**NAYS**

Bright Bryant Campsen

Davis Fair Grooms

*Martin, Shane* Peeler Rose

Setzler Shoopman Thomas

Verdin

**Total--13**

The amendment was laid on the table.

**Amendment No. 34**

Senators HAYES, KNOTTS, SETZLER, CROMER, ROSE and CAMPBELL proposed the following amendment (GG 1A21SEVENTYPERCENT), which was adopted (#8):

Amend the bill, as and if amended, Part IB, Section 1A, DEPARTMENT OF EDUCATION - EIA, page 354, paragraph 1A.21, line 15, by striking /seventy/ and inserting /*seventy-five*/

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HAYES explained the amendment.

The amendment was adopted.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator DAVIS on May 16, 2012, that Proviso 69.4 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator DAVIS on May 16, 2012, that Proviso 69.5 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Point of Order**

Senator SHANE MARTIN raised a Point of Order that Section 89.86 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

**89.86.** (GP: Transfer Division of Aeronautics) Effective July 1, 2009, or as soon as practicable, the duties, functions, responsibilities, personnel, equipment, supplies, appropriated and authorized funds, carry forward funds and all other assets and resources of the Division of Aeronautics in the Department of Commerce are transferred to the Budget and Control Board.

The PRESIDENT took the Point of Order under advisement.

**Point of Order**

Senator SHANE MARTIN raised a Point of Order that Section 89.24 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

**89.24.** (GP: State Owned Aircraft - Maintenance Logs) Each agency having in its custody one or more aircraft shall maintain a continuing log on all flights, which in order to promote accountability and transparency shall be open for public inspection and shall also be posted online. Any and all aircraft owned or operated by agencies of the State Government shall be used only for official business. The Division of Aeronautics and other agencies owning and operating aircraft may furnish transportation to the Governor, Constitutional Officers, members of the General Assembly, members of state boards, commissions, and agencies and their invitees for official business only; no member of the General Assembly, no member of a state board, commission, or committee, and no state official shall use any aircraft of the Division of Aeronautics unless the member or official files within forty-eight hours after the time of departure of the flight with the Division of Aeronautics a sworn statement certifying and describing the official nature of his trip; and no member of the General Assembly, no member of a state board, commission or committee, and no state official shall be furnished air transportation by a state agency other than the Division of Aeronautics unless such agency prepares and maintains in its files a sworn statement from the highest ranking official of the agency certifying that the member’s or state official’s trip was in conjunction with the official business of the agency. Official business shall not include routine transportation to and from meetings of the General Assembly or committee meetings for which mileage is authorized. Official business also does not include attending a press conference, bill signing, or political function.

The PRESIDENT took the Point of Order under advisement.

**Point of Order Withdrawn**

On motion of Senator SHANE MARTIN, with unanimous consent, the Point of Order raised on Proviso 89.24 in Part 1B as it was violative of Rule 24A was withdrawn.

**Point of Order**

Senator SHANE MARTIN raised a Point of Order that Section 1.65 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

**1.65.** (SDE: High School Driver Education) For the current fiscal year, the requirement for high schools to provide a course in driver education is suspended however, high schools may continue to offer driver education courses if they choose to do so.

The PRESIDENT took the Point of Order under advisement.

**Point of Order**

Senator SHANE MARTIN raised a Point of Order that Section 21.3 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

**21.3.** (DHHS: Medical Assistance Audit Program Remittance) The Department of Health and Human Services shall remit to the State Auditor’s Office an amount representing fifty percent (allowable Federal Financial Participation) of the cost of the Medical Assistance Audit Program as established in the State Auditor’s Office of the Budget and Control Board Section 80B. Such amount shall also include appropriated salary adjustments and employer contributions allocable to the Medical Assistance Audit Program. Such remittance to the State Auditor’s Office shall be made monthly and based on invoices as provided by the State Auditor’s Office of the Budget and Control Board.

The PRESIDENT took the Point of Order under advisement.

**Point of Order**

Senator SHANE MARTIN raised a Point of Order that Section 35.7 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

**35.7.** (CU-PSA: Fertilizer Inspection Fee) For the current fiscal year Clemson Public Service Activities is authorized to charge an inspection fee of $1.50 per ton of commercial fertilizer sold or distributed in this State. Clemson University-PSA may retain, expend, and carry forward these funds to maintain its programs.

The PRESIDENT took the Point of Order under advisement.

**Point of Order Withdrawn**

On motion of Senator SHANE MARTIN, with unanimous consent, the Point of Order raised on Proviso 35.7 in Part 1B as it was violative of Rule 24A was withdrawn.

**Point of Order**

Senator SHANE MARTIN raised a Point of Order that Section 48.13 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

**48.13.** (SLED: Expungement Requests) The State Law Enforcement Division is authorized to collect a twenty-five dollar expungement fee for each request to expunge criminal records. These funds shall be used to offset the operational and research expenses associated with processing these expungement requests. SLED is authorized to collect, retain, expend, and carry forward these funds. Persons found not guilty by a court of competent jurisdiction or where charges have been dismissed or nolle prossed shall be excluded from the fee requirement.

The PRESIDENT took the Point of Order under advisement.

**Point of Order Withdrawn**

On motion of Senator SHANE MARTIN, with unanimous consent, the Point of Order raised on Proviso 48.13 in Part 1B that it was violative of Rule 24A was withdrawn.

**Amendment No. 28**

Senator HUTTO proposed the following amendment (DG PPP200K), which was adopted (#9):

Amend the bill, as and if amended, Part IB, Section 1a, DEPARTMENT OF EDUCATION - EIA, page 365, by striking paragraph 1A.44 in its entirety and inserting:

/ 1A.44. (SDE‑EIA: Carry Forward) EIA carry forward from the prior fiscal year and Fiscal Year ~~2011‑12~~ *2012‑13* and not otherwise appropriated or authorized must be carried forward and expended *to provide $200,000 to each school that was designated by the department as a Palmetto Priority School in the prior year but did not receive an allocation of EIA technical assistance funds in the prior fiscal year to improve teacher recruitment and retention, to reduce the district’s dropout rate, to improve student achievement in reading/literacy, or to train teachers in how to teach children of poverty as stipulated in the school’s renewal plan. If funds are not sufficient to provide $200,000 to each qualifying district, the $200,000 shall be reduced on a pro-rata basis. Any balance remaining must be expended* for school bus fuel costs. Any unexpended funds must be carried forward and expended for the same purpose. /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HUTTO explained the amendment.

Amendment No. 28 was adopted.

**Amendment No. 21**

Senators HAYES, SETZLER, KNOTTS, CROMER and ALEXANDER proposed the following amendment (DAD 31 MUSEUM ADMISSIONS TAX), which was adopted (#10):

Amend the bill, as and if amended, Part IB, Section 31, STATE MUSEUM, page 411, after line 15, by adding an appropriately numbered new proviso to read:

/ *(MUSM: State Museum Admissions Tax) For Fiscal Year 2012-13, up to fifty thousand dollars in admissions tax revenue collected annually from the State Museum must be rebated to the State Museum. The amount rebated shall be used for the purpose of museum operations.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HAYES explained the amendment.

Amendment No. 21 was adopted.

**Amendment No. 25**

Senator SCOTT proposed the following amendment (DG ECODEV), which was adopted (#11):

Amend the bill, as and if amended, Part IB, Section 70, LEGISLATIVE DEPARTMENT, page 459, after line 3, by adding an appropriately numbered paragraph to read:

/ *70.\_\_\_ (LEG: Economic Development Research) (A) From the funds appropriated to the Senate and the House of Representatives, there is created the Economic Development Research Committee. This committee shall review, examine, and make recommendations regarding steps that should be taken to improve the economy of this State and to restore a substantially greater sense of financial security to the citizens of this State.*

*(B) The twenty‑three member committee is composed of:*

*(1) one member appointed by the Lieutenant Governor;*

*(2) one member appointed by the Speaker of the House of Representatives;*

*(3) the Secretary of Commerce, or his designee;*

*(4) the Director of the Department of Parks, Recreation and Tourism, or his designee;*

*(5) a county economic development director from each Congressional district chosen by the economic development person or his designee from the office of the member of Congress representing each district;*

*(6) the Dean of the Moore School of Business at the University of South Carolina, the Dean of the Francis Marion University School of Business, the Dean of the South Carolina State University School of Business, the Dean of the College of Charleston School of Business and Economics, the Dean of the Clemson University College of Business, and the Dean of the Winthrop University College of Business Administration;*

*(7) the Chairman of the Board of Economic Advisors;*

*(8) the Secretary of Agriculture, or his designee;*

*(9) the Director of the Department of Employment and Workforce;*

*(10) the Chairman of the State Ports Authority, or his designee;*

*(11) the Director of the Office of Small and Minority Business Assistance;*

*(12) the President of the South Carolina Chamber of Commerce, or his designee; and*

*(13) the President of the South Carolina Manufacturers’ Alliance, or his designee.*

*(C) The Lieutenant Governor shall serve as the chairperson of the committee.*

*(D) A vacancy occurring on the committee must be filled in the same manner as the original appointment.*

*(E) The staffing for the committee must be provided by the appropriate committees of the Senate and House of Representatives that oversee legislation affecting economic development and finance in this State.*

*(F) The committee shall submit its report to the General Assembly and Governor before June 30, 2013, at which time the Economic Development Research Committee is abolished. /*

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator SCOTT explained the amendment.

Amendment No. 25 was adopted.

**Amendment No. 26A**

Senators SHEHEEN, ROSE, CROMER and SETZLER proposed the following amendment (4813SCHOOLDISTRICTEFFICIENCY2.DOCX), which was adopted (#12):

Amend the bill, as and if amended, Part IB, Section 70, LEGISLATIVE DEPARTMENT, page 459, after line 3, by adding an appropriately numbered new proviso to read:

/ *(EOC: Efficiency Review) Funds appropriated to the Education Oversight Committee for the School District Efficiency Review Pilot Program shall be used to review certain school districts’ central operations with a focus on non-instructional expenditures so as to identify opportunities to improve operational efficiencies and reduce costs for the district. The Education Oversight Committee shall make the school districts aware of the pilot program, and accept applications to participate in the program. In the current fiscal year, the Education Oversight Committee shall select at least three applicant school districts to participate. The Education Oversight Committee may contract with an independent entity to perform the review. The review shall include, but not be limited to, examinations of (i) overhead, (ii) human resources, (iii) procurement, (iv) facilities use and management, (v) financial management, (vi) transportation, (vii) technology planning, and (viii) energy management. The review shall not address the effectiveness of the educational services being delivered by the district. The review shall be completed no later than June 30, 2013. Upon completion, the Education Oversight Committee shall submit a report to the Chairman of the Senate Finance Committee, Chairman of the Senate Education Committee, Chairman of the House Ways and Means Committee, Chairman of the House Education and Public Works Committee, and the Governor detailing the findings of the review including the estimated savings that could be achieved, the manner in which the savings could be achieved and the districts’ plan for implementation of the recommendations. Unexpended funds appropriated for this purpose may be carried forward from the prior fiscal year into the current fiscal year and expended for the same purposes.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator SHEHEEN explained the amendment.

The amendment was adopted.

**Amendment No. 19**

Senator RYBERG proposed the following amendment (DAD INVESTMENT REVIEW), which was ruled out of order:

Amend the bill, as and if amended, Part IB, Section 77, RETIREMENT SYSTEM INVESTMENT COMMISSION, page 466, after line 29, by adding a new Section and an appropriately numbered new proviso to read:

/ SECTION 77 - E19-RETIREMENT SYSTEM INVESTMENT COMMISSION

*(RSIC: Investment Review) The Retirement System Investment Commission is directed to review the investments made on behalf of the South Carolina Retiree Health Insurance Trust Fund and the South Carolina Long Term Disability Insurance Trust Fund for the prior two fiscal years. A report on the findings of the review shall be submitted by November 1, 2012, to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee along with recommendations on future investments in order to maximize earnings on investments and on any statutory changes that would be necessary to accomplish these objectives. /*

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator RYBERG explained the amendment.

Senator THOMAS spoke on the amendment.

Senator THOMAS moved to lay the amendment on the table.

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

**Ayes 20; Nays 20**

**AYES**

Campbell Courson Cromer

Fair Hayes Knotts

Leventis Lourie Malloy

*Martin, Shane* Matthews McGill

Nicholson O'Dell Reese

Scott Setzler Shoopman

Thomas Williams

**Total--20**

**NAYS**

Alexander Anderson Bright

Bryant Campsen Cleary

Coleman Davis Ford

Gregory Grooms Hutto

Land Leatherman *Martin, Larry*

Massey Peeler Rankin

Rose Ryberg

**Total--20**

The PRESIDENT voted “no.”

The Senate refused to table the amendment. The question then was the adoption of the amendment.

Senator RYBERG spoke on the amendment.

Senator LEVENTIS spoke on the amendment.

Senator RYBERG spoke on the amendment.

**Objection**

Senator THOMAS asked unanimous consent to make a motion that the following language be added to the amendment: “This proviso shall not be enacted if there is a cost to the commission that cannot be sustained from its current operating budget.”

Senator MALLOY objected.

Senator RYBERG resumed speaking on the amendment.

Senator LEVENTIS spoke on the amendment.

**Point of Order**

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

Senator RYBERG spoke on the Point of Order.

The PRESIDENT sustained the Point of Order.

Amendment No. 19 was ruled out of order.

**Amendment No. 36**

Senator MASSEY proposed the following amendment (4813R013.ASM.DOCX), which was adopted (#13):

Amend the bill, as and if amended, Part IB, Section 80A, BUDGET AND CONTROL BOARD, page 478, after line 29, by adding an appropriately numbered new proviso to read:

*/ 80A.\_\_\_. (BCB: Agency Operating Deficit) Subsection (B) of Section 1-11-495 of the 1976 Code, relating to recognition of agency deficits, is suspended for the current fiscal year.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator MASSEY explained the amendment.

**Point of Order**

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

Senator MASSEY spoke on the Point of Order.

The PRESIDENT overruled the Point of Order.

Senator MASSEY resumed explaining the amendment.

The amendment was adopted.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator SHANE MARTIN that Proviso 89.86 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT sustained the Point of Order.

Proviso 89.86 was ruled out of order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator SHANE MARTIN that Proviso 1.65 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Decision of the PRESIDENT**

The PRESIDENT took up the Point of Order raised by Senator SHANE MARTIN that Proviso 21.3 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

The PRESIDENT overruled the Point of Order.

**Amendment No. 40**

Senator HUTTO proposed the following amendment (4813 EMPLOYEE BENEFITS 2.DOCX), which was adopted (#14):

Amend Amendment No. 20, bearing file path 4813R011.LB.DOCX, as and if amended, by striking the amendment in its entirety and inserting the following:

/ 80C.1. (BCB/EB: Funding Abortions Prohibited) No funds appropriated for employer contributions to the State Health Insurance Plan may be expended to reimburse the expenses of an abortion, except in cases of rape, incest or where the mother’s medical condition is one which, on the basis of the physician’s good faith judgment, so complicates the pregnancy as to necessitate an immediate abortion to avert the risk of her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function, and the State Health Plan may not offer coverage for abortion services, including ancillary services provided contemporaneously with abortion services. /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator HUTTO explained the amendment.

Senator BRYANT spoke on the amendment.

Senator LOURIE spoke on the amendment.

Senator BRIGHT spoke on the amendment.

Senator GROOMS spoke on the amendment.

Senator GROOMS moved to lay the amendment on the table.

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

**Ayes 18; Nays 21**

**AYES**

Bright Bryant Campbell

Campsen Davis Fair

Grooms Hayes Jackson

*Martin, Shane* Massey McGill

O'Dell Reese Rose

Shoopman Thomas Williams

**Total--18**

**NAYS**

Alexander Anderson Coleman

Courson Ford Gregory

Hutto Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Matthews

Nicholson Peeler Rankin

Ryberg Scott Setzler

**Total--21**

The Senate refused to table the amendment. The question then was the adoption of the amendment.

The amendment was adopted.

**Amendment No. 20**

Senator BRIGHT proposed the following amendment (4813R011.LB.DOCX), which was adopted (#15):

Amend the bill, as and if amended, Part IB, Section 80C, B&C BD-EMPLOYEE BENEFITS, page 479, by striking lines 16-21 and inserting:

80C.1. (BCB/EB: Funding Abortions Prohibited) No funds appropriated for employer contributions to the State Health Insurance Plan may be expended to reimburse the expenses of an abortion, ~~except in cases of rape, incest or where the mother’s medical condition is one which, on the basis of the physician’s good faith judgment, so complicates the pregnancy as to necessitate an immediate abortion to avert the risk of her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function, and the~~ In cases where the life of the mother is at risk and termination of the pregnancy is incidental to a lifesaving intervention, State Health Plan funds may be used, however, State Health Plan funds may not be expended in any case where a preborn child’s life is intentionally destroyed by procured abortion for any purpose. The State Health Plan may not offer coverage for abortion services~~, including ancillary services provided contemporaneously with abortion services~~ or services incidental to the abortion for any purpose. The physician shall make all medically necessary reasonable efforts to preserve both the life of the mother and the life of the pre-born child. /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator BRIGHT explained the amendment.

The amendment was adopted.

**Point of Order**

Senator THOMAS raised a Point of Order that Section 89.136 of Part 1B was out of order inasmuch as it was violative of Rule 24A.

***89.136.*** *(GP: Five-Year Investment Plans) The State Treasurer is directed to prepare a five-year investment plan that indicates how he plans to invest the funds he is statutorily required to invest for the benefit of the state of South Carolina. The five-year investment plan must include, but is not limited to, the following components:*

*(1) general operational and investment policies;*

*(2) investment objectives and performance standards;*

*(3) investment strategies, which may include indexed or enhanced indexed strategies as the preferred or exc*l*usive strategies for equity investing, and an explanation of the reasons for the selection of each strategy;*

*(4) industry sector, market sector, issuer, and other allocations of assets that provide diversification in accordance with prudent investment standards, including desired rates of return and acceptable levels of risks for each asset class;*

*(5) policies and procedures providing flexibility in responding to market contingencies;*

*(6) procedures and policies for selecting, monitoring, compensating, and terminating investment consultants, equity investment managers, and other necessary professional service providers; and*

*(7) methods for managing the costs of the investment activities.*

*The State Treasurer shall submit the five-year investment plan to the Senate Finance Committee and the House Ways and Means Committee by November 1, 2012.*

The PRESIDENT took the Point of Order under advisement.

**Amendment No. 16**

Senator LOURIE proposed the following amendment (NBD\  
12444DG12), which was previously carried over on May 15, 2012, and withdrawn:

Amend the bill, as and if amended, Part IB, Section 89, GENERAL PROVISIONS, page 522, after line 17, by adding an appropriately numbered new proviso to read:

*/89.\_\_ (GP: Privatization Approval) In the current fiscal year, without prior approval, by joint resolution, of the General Assembly, a state agency, department, board, or commission shall not contract to privatize a service or function performed by the entity and its employees in the previous fiscal year if:*

*(1) the entity expends $500,000 or more to perform the service or function over an eighteen month period; or*

*(2) the privatization results in a reduction of force affecting ten or more employees of the entity, in the aggregate, over an eighteen month period.*

*This paragraph does not apply to any public institution of higher learning, as defined in Section 59‑103‑5.* /

Renumber sections to conform.

Amend sections, totals and title to conform.

On motion of Senator LOURIE, with unanimous consent, Amendment No. 16 was withdrawn.

**Point of Order Moot**

The Point of Order raised by Senator SHANE MARTIN on May 15, 2012, under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill was rendered moot as Amendment No. 16 was withdrawn.

**Amendment No. 44**

Senator CLEARY proposed the following amendment (DG AMENDFEESTUDY), which was adopted (#16):

Amend Amendment No. 15, which was the fourth adopted amendment on 5/16/12, bearing Document Number N:\S-FINANC\  
AMEND\DG FEESTUDY.DOCX, by striking the amendment in its entirety and inserting:

/ Amend the bill, as and if amended, Part IB, Section 89, GENERAL PROVISIONS, page 522, after line 17, by adding an appropriately numbered new proviso to read:

/ 89.\_\_\_ (GP: Fee for Service Report) If a state agency, not including a public institution of higher learning as defined in Section 59‑103‑5, or a K-12 public school district, assesses a fee for the rendering of a service, then by June first of the current fiscal year, the agency must submit a report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee detailing the amount collected and the cost of performing the service in the first ten months of the fiscal year. In the portion of the report detailing the cost of performing the service, the agency must attempt to state:

(1) an approximation of the indirect costs of administration of the specific program that provides the service;

(2) the number of employees required to provide the service and the approximate costs associated therewith; and

(3) an approximation of the direct incremental costs of performing the service itself per individual transaction. / /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator CROMER explained the amendment.

The amendment was adopted.

**Objection**

Senator RYBERG asked unanimous consent to make a motion that the Bill be given a second reading with notice of general amendments on third reading, carrying over all amendments to third reading, with all members reserving the right to raise any Points of Order.

Senator SHANE MARTIN objected.

**Amendment No. 39**

Senator SHANE MARTIN proposed the following amendment (4813R018.SRM.DOCX), which was tabled:

Amend the bill, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 534, paragraph 90.20, by striking line 27 in its entirety which reads:

/ *(d) Voorhees College - Student Recruitment and Retention*

*Initiative $ 300,000* /

Amend the bill further, as and if amended, Part IB, Section 90, STATEWIDE REVENUE, page 535, paragraph 90.20, by striking lines 16-18 and inserting:

/ *(a) Charles Lea Center $300,000;*

*(b) Charles Lea Center - 1 to 1 Match $ 500,000;*

*(50.1) (Charles Lea Center Match) Each dollar of the $500,000 one to one Match for the Charles Lea Center must be matched with one dollar of private funds. /* /

Renumber sections to conform.

Amend sections, totals and title to conform.

Senator SHANE MARTIN explained the amendment.

Senator LEATHERMAN moved to lay the amendment on the table.

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

**Ayes 24; Nays 14**

**AYES**

Alexander Campbell Coleman

Courson Ford Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy Massey

Matthews McGill Nicholson

O'Dell Rankin Reese

Scott Sheheen Williams

**Total--24**

**NAYS**

Bright Bryant Campsen

Cromer Davis Fair

Gregory Grooms *Martin, Larry*

*Martin, Shane* Peeler Rose

Shoopman Thomas

**Total--14**

The amendment was laid on the table.

**MOTION ADOPTED**

Senator RYBERG asked unanimous consent to make a motion that the Senate proceed to a vote on second reading of the Bill, carrying over all amendments to third reading, with all members reserving the right to raise any Points of Order and to offer amendments on third reading.

There was no objection and the motion was adopted.

The question then was the second reading of the Bill.

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

**Ayes 27; Nays 12**

**AYES**

Alexander Campbell Courson

Cromer Ford Gregory

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Matthews McGill

Nicholson O'Dell Rankin

Reese Ryberg Scott

Setzler Sheheen Williams

**Total--27**

**NAYS**

Bright Bryant Campsen

Davis Fair Grooms

*Martin, Shane* Massey Peeler

Rose Shoopman Thomas

**Total--12**

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

**LOCAL APPOINTMENT**

**Confirmation**

Having received a favorable report from the Senate, the following appointment was confirmed in open session:

Reappointment, Dorchester County Magistrate, with the term to commence April 30, 2011, and to expire April 30, 2015

Janice Y. Simmons, 262 Mallard Road, Summerville, SC 29483

**MOTION ADOPTED**

On motion of Senator LARRY MARTIN, with unanimous consent, the Senate stood adjourned out of respect to the memory of the Honorable William A. “Bill” Carr of Spartanburg, S.C., Mayor of Easley from 1983-1999. He was the Head Coach at Liberty High School, Easley High School and Spartanburg High School from 1948-1980, National High School Coach of the Year (1978) and most importantly, beloved husband, father and grandfather. Mayor Carr passed away Monday, May 14, 2012.

and

**MOTION ADOPTED**

On motion of Senators CROMER and CAMPSEN, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. William D. “Bill” Cumalander of Edisto Beach, S.C., beloved husband of Mary Ann Wingard Cumalander, devoted father of two sons and doting grandfather of three grandsons. Retired from the U. S. Air Force, he went to work for Thompson Dental in Greenville for 26 years and later joined Patterson Dental and relocated to Edisto Island.

**ADJOURNMENT**

At 6:55 P.M., on motion of Senator COURSON, the Senate adjourned to meet tomorrow at 10:00 A.M.

\* \* \*