**Thursday, June 28, 2012**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

The Senate assembled at 9:00 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 Lord God says of his people:

“ ‘I will refresh the weary and satisfy the faint’.” (Jeremiah 31:25)

Let us pray:

It is always encouraging, O God, to be reminded of Your promises of concern and care for Your people. As this Senate continues to do all it can to wrap things up soon, I pray that You will truly refresh every member of this body with Your Spirit’s grace. Satisfy their need for wisdom and strength. Allow each Senator and every staff member to celebrate Your loving embrace and Your offer of comfort. And may they find their energy renewed and their goal of achieving good results paying-off in positive ways for our State. In Your loving name we pray, Lord.

Amen.

**Point of Quorum**

At 9:03 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 PEELER moved that a Call of the Senate be made. The following Senators answered the Call:

Alexander Bright Bryant

Cleary Courson Davis

Grooms Hutto Land

Leventis *Martin, Larry* Massey

Matthews McGill Nicholson

Peeler Reese Setzler

A quorum was not present.

**RECESS**

At 9:07 A.M., on motion of Senator COURSON, the Senate receded from business not to exceed 10 minutes.

At 9:19 A.M., the Senate resumed.

**Recorded Presence**

Senators CROMER, VERDIN, MALLOY, ANDERSON, ROSE, LEATHERMAN, HAYES, CAMPSEN, KNOTTS and O’DELL recorded their presence subsequent to the Call of the Senate.

A quorum being present, the Senate resumed.

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

**Leave of Absence**

On motion of Senator GROOMS, at 9:25 A.M., Senator CAMPBELL was granted a leave of absence for today and tomorrow.

**Statement by Senator GROOMS**

Due to a long-standing commitment made prior to the enactment of an extended Session, Senator CAMPBELL was unable to attend today. I will be in contact with him by telephone and his input into these unusual budget discussions will be heard.

**Leave of Absence**

On motion of Senator BRYANT, at 9:25 A.M., Senator SHANE MARTIN was granted a leave of absence for today.

**Leave of Absence**

On motion of Senator BRYANT, at 9:25 A.M., Senator RYBERG was granted a leave of absence for today.

**Leave of Absence**

On motion of Senator HAYES, at 9:30 A.M., Senator THOMAS was granted a leave of absence for today.

**Leave of Absence**

On motion of Senator McGILL, at 9:30 A.M., Senator WILLIAMS was granted a leave of absence for today.

**Leave of Absence**

On motion of Senator DAVIS, at 9:48 A.M., Senator SHOOPMAN was granted a leave of absence for the balance of the day.

**Leave of Absence**

On motion of Senator MALLOY, at 9:48 A.M., Senator PINCKNEY was granted a leave of absence for today.

**Leave of Absence**

At 12:30 P.M., Senator HAYES requested a leave of absence for the balance of the day.

**Leave of Absence**

At 1:00 P.M., Senator SCOTT requested a leave of absence for the balance of the day.

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following was introduced:

S. 1620 -- Senator Peeler: A SENATE RESOLUTION TO RECOGNIZE CANAAN UNITED METHODIST CHURCH OF SMYRNA, SOUTH CAROLINA, ON THE OCCASION OF ITS HISTORIC TWO HUNDREDTH ANNIVERSARY AND TO COMMEND THE CHURCH FOR TWO HUNDRED YEARS OF SERVICE TO THE COMMUNITY.

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The Senate Resolution was adopted.

**Message from the House**

Columbia, S.C., June 27, 2012

Mr. President and Senators:

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

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

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 27, 2012

Mr. President and Senators:

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

H. 4494 -- Reps. Huggins, Long, Pitts, G.R. Smith and Bedingfield: A BILL TO AMEND SECTION 23‑31‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURCHASE OF RIFLES OR SHOTGUNS IN CONTIGUOUS STATES, SO AS TO REMOVE THE REQUIREMENT THAT THE PURCHASE BE MADE FROM A CONTIGUOUS STATE.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 27, 2012

Mr. President and Senators:

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

H. 5410 -- Rep. Harrell: A CONCURRENT RESOLUTION TO PROVIDE THAT PURSUANT TO SECTION 9, ARTICLE III, OF THE CONSTITUTION OF THIS STATE, 1895, WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN ON THURSDAY, JUNE 7, 2012, NOT LATER THAN 5:00 P.M., OR ANYTIME EARLIER, EACH HOUSE SHALL STAND ADJOURNED TO MEET IN STATEWIDE SESSION AT 12:00 NOON ON TUESDAY, JUNE 19, 2012, AND CONTINUE IN STATEWIDE SESSION, IF NECESSARY, UNTIL NOT LATER THAN 5:00 P.M. ON THURSDAY, JUNE 21, 2012, FOR THE CONSIDERATION OF CERTAIN SPECIFIED MATTERS, AND TO PROVIDE THAT WHEN THE RESPECTIVE HOUSES OF THE GENERAL ASSEMBLY ADJOURN NOT LATER THAN MONDAY, NOVEMBER 12, 2012, THE GENERAL ASSEMBLY SHALL STAND ADJOURNED SINE DIE.

Very respectfully,

Speaker of the House

Received as information.

**Message from the House**

Columbia, S.C., June 27, 2012

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has sustained the veto by the Governor on R.299, H. 4497 by a vote of 54 to 47:

(R299, H4497) -- Reps. Sellers, Johnson, Brady, Gilliard, Jefferson and Knight: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑29‑187 SO AS TO ENACT THE “CERVICAL CANCER PREVENTION ACT”, TO PROVIDE THAT BEGINNING WITH THE 2012‑2013 SCHOOL YEAR, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY OFFER THE CERVICAL CANCER VACCINATION SERIES TO ADOLESCENT STUDENTS ENROLLING IN THE SEVENTH GRADE OF ANY PUBLIC OR PRIVATE SCHOOL IN THIS STATE, TO PROVIDE NO STUDENT IS REQUIRED TO HAVE THE VACCINE BEFORE ENROLLING IN OR ATTENDING SCHOOL, TO PROVIDE THE DEPARTMENT MAY DEVELOP AN INFORMATIONAL PROGRAM RELATED TO THIS VACCINATION OFFERING WITH SPECIFIC CONTENT REQUIREMENTS, TO DEFINE “CERVICAL CANCER VACCINATION SERIES”, AND TO MAKE IMPLEMENTATION OF VACCINE PROVISION AND INFORMATIONAL PROGRAM CONTINGENT UPON RECEIPT OF FULL FUNDING BY STATE AND FEDERAL FUNDS.

Very respectfully,

Speaker of the House

Received as information.

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

**AMENDED, READ THE THIRD TIME**

**RETURNED TO THE HOUSE WITH AMENDMENTS**

H. 5418 -- Reps. White, Harrell, Lucas, Bingham, Herbkersman, Limehouse, Merrill, Pitts, Simrill, G.M. Smith, G.R. Smith, Clyburn and Ott: A JOINT RESOLUTION TO PROVIDE FOR THE CONTINUING AUTHORITY TO PAY THE EXPENSES OF STATE GOVERNMENT IF THE 2012‑2013 FISCAL YEAR BEGINS WITHOUT A GENERAL APPROPRIATIONS ACT FOR THAT YEAR IN EFFECT.

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

The Senate proceeded to a consideration of amendments.

Senator BRIGHT explained Amendment No. 1.

**Motion Under Rule 26B Failed**

The question then was the motion to waive the provisions under Rule 26B to take up the amendment for consideration.

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

**Ayes 14; Nays 13**

**AYES**

Bright Bryant Campsen

Courson Cromer Davis

Grooms Hayes Knotts

*Martin, Larry* Massey Peeler

Rose Verdin

**Total--14**

**NAYS**

Alexander Anderson Cleary

Hutto Land Leatherman

Leventis Malloy Matthews

McGill Nicholson O'Dell

Reese

**Total--13**

Having failed to receive the necessary vote, the Senate refused to take up Amendment No. 1 for consideration.

**Statement by Senator ALEXANDER**

According to information provided by the Department of Health and Human Services, Planned Parenthood is an enrolled provider with Medicaid and cannot be excluded for payment as a qualified provider for eligible services to Medicaid patients.

Further, the dollar amount allocated in Fiscal Year 2011 - $45,909 for eligible services of which abortions was $0.00. That is the reason I voted to not take up the amendment on the continuing Resolution which ensures the continuation of essential services to our citizens.

**Amendment No. 2**

Senators LEATHERMAN, LAND and VERDIN proposed the following amendment (5418R002.HKL), which was adopted:

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

/ SECTION 1. (A) If the 2012‑2013 state fiscal year begins with no annual general appropriations act in effect for that year, the authority to pay the recurring expenses of state government continues at the level of amounts appropriated in Act 73 of 2011 for the recurring expenses of state government for fiscal year 2012‑2013 except as provided in subsection (B).

The effective dates of Parts IA and IB of Act 73 of 2011 are extended until the effective date for appropriations made in a general appropriations act for fiscal year 2012‑2013, after which appropriations made pursuant to this joint resolution are deemed to have been made pursuant to the general appropriations act for fiscal year 2012‑2013.

(B) Notwithstanding debt service appropriations in Act 73 of 2011 and until the effective date of the appropriations made in a general appropriations act for fiscal year 2012‑2013, there is appropriated from the general fund of the State whatever amount is necessary for timely debt service on state obligations and other amounts constitutionally required to be appropriated, including the Capital Reserve Fund. The General Reserve Fund is established in the amount required by law.

SECTION 2. Section 12‑6‑545(B)(2) of the 1976 Code is amended read:

“(2) The rate of the income tax imposed pursuant to this subsection is:

Taxable Year Beginning in Rate of Tax

2006 6.5 percent

2007 6 percent

2008 5.5 percent

~~after~~ 2008 through 2011 5 percent

2012 4.33 percent

2013 3.67 percent

after 2013 3 percent.”

SECTION 3. SECTION 1 of this joint resolution takes effect July 1, 2012, and applies as provided in SECTION 1. SECTION 2 takes effect upon approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator LEATHERMAN explained Amendment No. 2.

Senator VERDIN spoke on the amendment.

**Expression of Personal Interest**

Senator CAMPSEN rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator LARRY MARTIN rose for an Expression of Personal Interest.

**Expression of Personal Interest**

Senator FORD rose for an Expression of Personal Interest.

Senator MALLOY spoke on the amendment.

**Remarks by Senator MALLOY**

Thank you, Mr. PRESIDENT.

Gentlemen of the Senate, I’d like to relate a quick story. As a boy my dad told me, “Son, you never need a bank. You need a banker.” Today, what we are going to end up talking about quickly is that some folks have H&R Block, some have no one and some have an accountant. Many times, unless you earn a certain amount, generally, you don’t ever go see an accountant. Where is the benefit? An accountant is able to help you lessen your tax burden from time to time, help you get accuracy and fair reporting of your income taxes and itemizations and those matters.

The other thing I recall as a young fellows, is -- and I will never forget this -- almost to every person in my family, what was said was that, “The rich will always get richer and the poor is getting poorer.” As I come here, so goes the story in the State of South Carolina. So goes the story for this tax break. I realize it is only $60 million. I can’t believe I said that -- only $60 million in the great scheme of things, when you talk about $60 million, you talk about this.

My Minority Leader has told us what goes on and I appreciate the efforts you all have made. I think it is unfortunate that we have to give this type of tax break in this point in time in order to end up getting the budget passed in light of the fact that we have track that has died on the vine.

We talk about evidence-based. The reason we do things and cannot show a good reason other than it is something we have done, looking at our State as a whole and taxes as they relate to the body, we have already ended up giving a windfall for the unemployment taxes, something over $70 million. It’s a fact that those making over $500,000 a year take the lion’s share decrease -- 40%. Those in the median incomes in South Carolina, the ones that need the break the most are the ones that end up bearing the burden.

So with that, you know, obviously, Senators, as we look at what is going on with reluctance, I have to support the Resolution because of the overall ramifications. I’m telling you we need to end up making certain that we do look at the overall tax structure and schemes because it is juxtaposed, all over the place. There is no scheme to it. There are states that have a better tax structure than we do.

I have represented players in my life. For example, there is no income tax in the State of Tennessee. They didn’t have them. There are things we need to continue to do. The thing that is troubling for me on this, and I will get out of the way, is the fact that if you look at the charts--and I have just been provided with a chart -- and I’ll give you these numbers quickly, you know, it is amazing there’s 485 estimated number of taxpayers making over from one million to two million dollars. There are 214 over $2 million. Then, 1,524 individuals are in the $500,000 to a million bracket. You know what is a shame? You are taking 44% of this tax cut -- $12,000, almost $13,000 on an average -- on the tax cut.

For my family, when I go to the family reunion, for those fortunate enough to make up to $30,000 a year, they will get 1.7% of this tax cut -- a measly $157, on the average. I tell you, as we go forward, I realize what it takes, but I ask this Senate, if we can do better. We can do better for the citizens of South Carolina that have not. For those making half million and above, they are living pretty well. Obviously, it is early in the morning. Time to end up moving forward. I’m going to support this. This troubles me.

From 2006, we were up 6.5% and get down eventually to 3%. I say that is progress on the one side, but that is not progress overall. So, I appeal to all of us to make certain that at some point in time we address this so that we can end up conquering that divide between those that have and those that have not. For those that are watching us to know that we want to be a voice for those that have not, you know, give us a pass on this because we’ve got to do what is right for South Carolina at this point in time. We’ve got to foster compromise. We’ve got to end up bending whenever it is not time for us. The bend is not supposedly our time. It is bigger than each and every one of us. Each time that we end up thinking it doesn’t have to be the most pervasive but is what is best for the body. I want to appeal that as we go forward that we look to those that have not. Any time we have a benefit, we seem to be going to give it to the rich; let’s think about those voices you don’t hear, those little eyes that you don’t see, those folks that are looking to us to make certain that we can run a good government for them so they can have a good opportunity here in South Carolina.

On motion of Senator LAND, with unanimous consent, the remarks of Senator MALLOY were ordered printed in the Journal.

Senator CAMPSEN spoke on the amendment.

The question then was the adoption of the amendment.

The amendment was adopted.

**Recorded Vote**

Senators BRIGHT and BRYANT desired to be recorded as voting in favor of the adoption of Amendment No. 2.

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

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

**Ayes 30; Nays 2**

**AYES**

Alexander Anderson Campsen

Cleary Courson Cromer

Davis Elliott Ford

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Malloy *Martin, Larry* Massey

Matthews McGill Nicholson

O'Dell Peeler Reese

Rose Setzler Verdin

**Total--30**

**NAYS**

Bright Bryant

**Total--2**

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

**Statement by Senator SCOTT**

Having been out of the Chamber at the time the vote was taken, I would have voted in favor of the third reading of H. 5418.

**Expression of Personal Interest**

Senator MASSEY rose for an Expression of Personal Interest.

With Senator MASSEY retaining the floor, Senator HAYES asked unanimous consent to take up S. 1419 for immediate consideration.

**CONCURRENCE**

S. 1419 -- Senators Thomas, Ford and Hayes: A BILL TO AMEND CHAPTER 45, TITLE 38, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INSURANCE BROKERS AND SURPLUS LINES INSURANCE, SO AS TO DEFINE TERMS, TO PROVIDE THAT THE REVENUE COLLECTED FROM THE BROKER’S PREMIUM TAX RATE MUST BE CREDITED TO A SPECIAL EARMARKED FUND, TO PROVIDE THE MANNER IN WHICH THE FUND MAY BE USED AND DISBURSED, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO CONDUCT EXAMINATIONS OF BROKER RECORDS, TO ALLOW THE DEPARTMENT OF INSURANCE TO PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT THE CHAPTER, TO PROVIDE THE MANNER IN WHICH THE NONADMITTED AND REINSURANCE REFORM ACT OF 2010 MAY BE IMPLEMENTED; AND TO AMEND SECTION 38‑7‑160, RELATING TO MUNICIPAL LICENSE FEES AND TAXES, SO AS TO DISALLOW A MUNICIPALITY FROM CHARGING AN ADDITIONAL LICENSE FEE OR TAX BASED UPON A PERCENTAGE OF PREMIUMS FOR PURPOSES OF SURPLUS LINES INSURANCE.

The House returned the Bill with amendments.

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

There was no objection.

The question then was concurrence with the House amendments.

Senator HAYES explained the amendments.

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

**Ayes 29; Nays 0**

**AYES**

Alexander Anderson Campsen

Cleary Courson Cromer

Davis Elliott Ford

Gregory Grooms Hayes

Hutto Jackson Knotts

Land Leatherman Leventis

Malloy *Martin, Larry* Massey

Matthews McGill Nicholson

O'Dell Peeler Reese

Rose Setzler

**Total--29**

**NAYS**

**Total--0**

The Senate concurred in the House amendments and a message was sent to the House accordingly. Ordered that the title be changed to that of an Act and the Act enrolled for Ratification.

**Statement by Senator SCOTT**

Having been out of the Chamber at the time the vote was taken, I would have voted in favor of concurrence on S. 1419.

**S. 45--FREE CONFERENCE POWERS GRANTED**

**FREE CONFERENCE COMMITTEE APPOINTED**

**REPORT OF THE COMMITTEE**

**OF FREE CONFERENCE ADOPTED**

S. 45 -- Senators McConnell, Campsen and Ford: A BILL TO AMEND CHAPTER 15, TITLE 17 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 17‑15‑55, SO AS TO PROVIDE THAT THE CIRCUIT COURT SHALL CONSIDER MOTIONS REGARDING RECONSIDERATION OF BOND FOR GENERAL SESSIONS OFFENSES SET BY A SUMMARY COURT JUDGE; TO PROVIDE THAT FURTHER DEFENSE MOTIONS TO RECONSIDER BOND MAY BE HEARD BY THE CIRCUIT COURT ONLY UPON THE DEFENDANT’S PRIMA FACIE SHOWING OF A MATERIAL CHANGE IN CIRCUMSTANCE; TO PROVIDE THAT MOTIONS BY THE STATE TO REVOKE OR MODIFY A DEFENDANT’S BOND MUST BE MADE IN WRITING, STATE WITH PARTICULARITY THE GROUNDS FOR REVOCATION OR MODIFICATION, AND SET FORTH THE RELIEF OR ORDER SOUGHT; AND TO PROVIDE THAT, IF THE STATE’S MOTION TO REVOKE OR MODIFY BOND INCLUDES A PRIMA FACIE SHOWING OF IMMINENT DANGER TO THE COMMUNITY, OR IMMINENT DANGER TO THE DEFENDANT, OR FLIGHT BY THE DEFENDANT, THE CHIEF JUDGE OR PRESIDING JUDGE SHALL CONDUCT OR ORDER AN EMERGENCY HEARING WITHIN FORTY‑EIGHT HOURS.

On motion of Senator KNOTTS, with unanimous consent, the Report of the Committee of Conference was taken up for immediate consideration.

Senator KNOTTS spoke on the report.

**S. 45--Free Conference Powers Granted**

**Free Conference Committee Appointed**

S. 45 -- Senators McConnell, Campsen and Ford: A BILL TO AMEND CHAPTER 15, TITLE 17 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 17‑15‑55, SO AS TO PROVIDE THAT THE CIRCUIT COURT SHALL CONSIDER MOTIONS REGARDING RECONSIDERATION OF BOND FOR GENERAL SESSIONS OFFENSES SET BY A SUMMARY COURT JUDGE; TO PROVIDE THAT FURTHER DEFENSE MOTIONS TO RECONSIDER BOND MAY BE HEARD BY THE CIRCUIT COURT ONLY UPON THE DEFENDANT’S PRIMA FACIE SHOWING OF A MATERIAL CHANGE IN CIRCUMSTANCE; TO PROVIDE THAT MOTIONS BY THE STATE TO REVOKE OR MODIFY A DEFENDANT’S BOND MUST BE MADE IN WRITING, STATE WITH PARTICULARITY THE GROUNDS FOR REVOCATION OR MODIFICATION, AND SET FORTH THE RELIEF OR ORDER SOUGHT; AND TO PROVIDE THAT, IF THE STATE’S MOTION TO REVOKE OR MODIFY BOND INCLUDES A PRIMA FACIE SHOWING OF IMMINENT DANGER TO THE COMMUNITY, OR IMMINENT DANGER TO THE DEFENDANT, OR FLIGHT BY THE DEFENDANT, THE CHIEF JUDGE OR PRESIDING JUDGE SHALL CONDUCT OR ORDER AN EMERGENCY HEARING WITHIN FORTY‑EIGHT HOURS.

Senator KNOTTS asked unanimous consent to be granted Free Conference Powers.

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

**Ayes 32; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Cleary

Courson Cromer Davis

Elliott Ford Gregory

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Matthews

McGill Nicholson O'Dell

Peeler Reese Rose

Setzler Verdin

**Total--32**

**NAYS**

**Total--0**

Free Conference Powers were granted.

Whereupon, Senators KNOTTS, MASSEY and COLEMAN and were appointed to the Committee of Free Conference on the part of the Senate and a message was sent to the House accordingly.

The question then was adoption of the Report of the Committee of Free Conference.

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

**Ayes 32; Nays 0**

**AYES**

Alexander Anderson Bright

Bryant Campsen Cleary

Courson Cromer Davis

Elliott Ford Gregory

Grooms Hayes Hutto

Jackson Knotts Land

Leatherman Leventis Lourie

Malloy *Martin, Larry* Matthews

McGill Nicholson O'Dell

Peeler Reese Rose

Setzler Verdin

**Total--32**

**NAYS**

**Total--0**

**Statement by Senator SCOTT**

Having been out of the Chamber at the time the vote was taken, I would have voted in favor of the adoption of the Report of the Committee of Free Conference on S. 45.

The Report of the Free Conference Committee was adopted as follows:

**S. 45--Free Conference Report**

The General Assembly, Columbia, S.C., June 20, 2012

The COMMITTEE OF CONFERENCE, to whom was referred:

S. 45 -- Senator McConnell: A BILL TO AMEND CHAPTER 15, TITLE 17 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 17‑15‑55, SO AS TO PROVIDE THAT THE CIRCUIT COURT SHALL CONSIDER MOTIONS REGARDING RECONSIDERATION OF BOND FOR GENERAL SESSIONS OFFENSES SET BY A SUMMARY COURT JUDGE; TO PROVIDE THAT FURTHER DEFENSE MOTIONS TO RECONSIDER BOND MAY BE HEARD BY THE CIRCUIT COURT ONLY UPON THE DEFENDANT’S PRIMA FACIE SHOWING OF A MATERIAL CHANGE IN CIRCUMSTANCE; TO PROVIDE THAT MOTIONS BY THE STATE TO REVOKE OR MODIFY A DEFENDANT’S BOND MUST BE MADE IN WRITING, STATE WITH PARTICULARITY THE GROUNDS FOR REVOCATION OR MODIFICATION, AND SET FORTH THE RELIEF OR ORDER SOUGHT; AND TO PROVIDE THAT, IF THE STATE’S MOTION TO REVOKE OR MODIFY BOND INCLUDES A PRIMA FACIE SHOWING OF IMMINENT DANGER TO THE COMMUNITY, OR IMMINENT DANGER TO THE DEFENDANT, OR FLIGHT BY THE DEFENDANT, THE CHIEF JUDGE OR PRESIDING JUDGE SHALL CONDUCT OR ORDER AN EMERGENCY HEARING WITHIN FORTY‑EIGHT HOURS.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments:

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

/ SECTION 1. Section 17‑15‑30 of the 1976 Code is amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, ~~the~~ a court may, on the basis of available information, consider the nature and circumstances of ~~the~~ an offense charged and ~~the~~ an accused’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) ~~The~~ A court shall consider, if available:

(1) ~~the~~ an accused’s criminal record;

(2) any charges pending against ~~the~~ an accused at the time release is requested;

(3) all incident reports generated as a result of ~~the~~ an offense charged~~, if available~~; and

(4) whether ~~the~~ an accused is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status.

(C)(1) Prior to or at the time of ~~the~~ a hearing, the arresting law enforcement ~~officer, local detention facility officer, or local jail officer, as applicable, attending the hearing~~ agency shall provide the court with the following information, if available:

~~(1)~~(a) the accused’s criminal record;

~~(2)~~(b) any charges pending against the accused at the time release is requested;

~~(3)~~(c) all incident reports generated as a result of the offense charged; and

~~(4)~~(d) any other information that will assist the court in determining conditions of release.

~~(D)~~(2) The arresting law enforcement ~~officer, local detention facility officer, or local jail officer, as applicable,~~ agency shall inform the court if any of the information ~~required in subsection (C)~~ is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement ~~officer, local detention facility officer, or local jail officer, as applicable,~~ agency to provide the court with the information ~~required in subsection (C)~~ does not constitute grounds for the postponement or delay of the person’s hearing.

~~(E)~~(D) A court hearing ~~this matter~~ these matters has contempt powers to enforce ~~these~~ the provisions of this section.”

SECTION 2. Chapter 15, Title 17 of the 1976 Code is amended by adding:

“Section 17‑15‑55. (A)(1) The circuit courts, at their discretion, may review and reconsider bond for general sessions offenses set by summary court judges. Also, the circuit courts may consider motions regarding reconsideration of bond for general sessions offenses set by summary court judges upon motions filed with the clerks of court. Hearings on these motions must be scheduled. The rules of evidence do not apply to bond hearings.

(2) After a circuit court judge has heard and ruled upon a defendant’s motion to reconsider a bond set by a summary court judge, further defense motions to reconsider may be heard by the circuit court only upon the defendant’s prima facie showing of a material change in circumstances which relate to the factors provided in Section 17-15-30, and which have arisen since the prior motion to reconsider. In addition, the circuit court may hear further defense motions to reconsider based on the length of time the defendant has been held for trial after six months. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances. Information regarding the defendant’s guilt or innocence does not qualify as a change in circumstances for purposes of reconsidering bond absent the solicitor’s consent.

(B)(1) Motions by the State to revoke or modify a bond must be made in writing, state with particularity the grounds for revocation or modification, and set forth the relief or order sought. The motions must be filed with the clerks of court, and a copy must be served on the chief judge, defense counsel of record, and bond surety, if any.

(2) After a circuit court judge has heard and ruled upon the state’s motion to reconsider a bond set by a summary court judge, further state motions to reconsider may be heard by the circuit court only upon the state’s prima facie showing of a material change in circumstances which have arisen since the prior motion to reconsider. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances.

(3) If the state’s motion to revoke or modify bond includes a prima facie showing of imminent danger to the community, imminent danger to the defendant, or flight by the defendant, the chief judge or presiding judge shall conduct or order an emergency bond hearing to be conducted by the circuit court judge within forty-eight hours of receiving service of the state’s motion or as soon as practical. The chief judge shall order the solicitor to notify the defense counsel of record and bond surety of the time and date of the hearing, and the solicitor shall provide proof reasonable efforts were made to affect the notice. Upon notice by the State, the defense counsel of record and bond surety shall make reasonable efforts to notify the defendant of the emergency hearing. The court may proceed with the hearing despite the absence of the defendant or bond surety. The court may not proceed with the hearing if the defense counsel of record is not present. If an emergency bond hearing is held without the presence of the defendant and bond is revoked, the judge having heard the matter may conduct the hearing on the defendant’s motion to reconsider the revocation. Defense motions to reconsider revocation must be filed with the clerk of court and served on the solicitor and bond surety.”

SECTION 3. Section 17‑15‑10 of the 1976 Code is amended to read:

“Section 17-15-10. (A) Any person charged with a noncapital offense triable in either the magistrate’s, county or circuit court, shall, at his appearance before any of such courts, be ordered released pending trial on his own recognizance without surety in an amount specified by the court, unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community will result. If such a determination is made by the court, it may impose any one or more of the following conditions of release:

~~(a)~~(1) Require the execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the court;

~~(b)~~(2) Place the person in the custody of a designated person or organization agreeing to supervise him;

~~(c)~~(3) Place restrictions on the travel, association or place of abode of the person during the period of release;

~~(d)~~(4) Impose any other conditions deemed reasonably necessary to assure appearance as required, including a condition that the person return to custody after specified hours.

(B) Any person charged with the offense of burglary in the first degree pursuant to Section 16-11-311 may have his bond hearing for that charge in summary court unless the solicitor objects.”

SECTION 4. The provisions of Section 1 of Act 115 of 2012 which amended Section 17-15-20 of the 1976 Code and allow sureties to be relieved of an appearance bond under certain designated circumstances are retroactive and apply to all existing and future appearance bonds.

SECTION 5. Except as provided in SECTION 4, the repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. Section 38‑53‑50 of the 1976 Code is amended to read:

“Section 38‑53‑50. (A) A surety desiring to be relieved on a bond for good cause shall file with the clerk of court a motion to be relieved on the bond. A copy of the motion must be served upon the defendant, his attorney, and the solicitor’s office. The court then shall schedule a hearing to determine if the surety should be relieved on the bond and notify all parties of the hearing date. At the time of the filing of the motion, a fee of twenty dollars must be paid to the clerk of court to be retained by the clerk for use in the operation of the clerk’s office. The fee will cover the cost of copies of the motion required by the surety.

(B) If the circumstances warrant immediate incarceration of the defendant to prevent imminent violation of one of the specific terms of the bail bond, or if the defendant has violated one of the specific terms of the bond, the surety may take the defendant to the appropriate detention facility for holding until the court orders that the surety be relieved. The surety, within three business days following recommitment, must file with the detention facility and the court an affidavit clocked in with the clerk of court on a form provided by the Division of Court Administration stating the facts to support the surrender of the defendant for good cause. Nonpayment of fees alone is not sufficient cause to warrant immediate incarceration of the defendant. When the defendant and the affidavit are presented at the appropriate detention facility, the facility shall take custody of the defendant. When the affidavit is filed with the court, the surety also shall file a motion to be relieved on the bond pursuant to subsection (A). A surety who surrenders a defendant and files an affidavit which does not show good cause is subject to penalties imposed for perjury as provided for in Article 1, Chapter 9, Title 16.

(C) If the defendant is incarcerated by the surety or a law enforcement agency as a result of a bench warrant, the surety shall file an affidavit with the court stating that the defendant is incarcerated in the appropriate detention facility as a result of the bench warrant as well as the violation of the specific term or terms of the bail bond stated in the bench warrant. Once the affidavit pursuant to the provisions of this subsection has been filed and served on the defendant, the surety is relieved of all liability on the bail bond by the court unless otherwise ordered by the circuit court within fourteen calendar days of the filing of the affidavit, or, if there is no term of court within the fourteen day period, at the ensuing term of court.

(D) After the surety has been relieved by order of the court, a new undertaking must be filed with the appropriate court in order to secure the subsequent release of the defendant. The undertaking must contain the same conditions included in the original bond unless the conditions have been changed by the court.”

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

Amend title to conform.

/s/Sen. John M. Knotts, Jr. /s/Rep. Bruce W. Bannister

/s/Sen. A. Shane Massey /s/Rep. Peter M. McCoy, Jr.

/s/Sen. Creighton B. Coleman /s/Rep. L.E. Stavrinakis

On Part of the Senate. On Part of the House.

, and a message was sent to the House accordingly.

**S. 45--REPORT OF COMMITTEE OF FREE CONFERENCE**

**ENROLLED FOR RATIFICATION**

S. 45 -- Senators McConnell, Campsen and Ford: A BILL TO AMEND CHAPTER 15, TITLE 17 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 17‑15‑55, SO AS TO PROVIDE THAT THE CIRCUIT COURT SHALL CONSIDER MOTIONS REGARDING RECONSIDERATION OF BOND FOR GENERAL SESSIONS OFFENSES SET BY A SUMMARY COURT JUDGE; TO PROVIDE THAT FURTHER DEFENSE MOTIONS TO RECONSIDER BOND MAY BE HEARD BY THE CIRCUIT COURT ONLY UPON THE DEFENDANT’S PRIMA FACIE SHOWING OF A MATERIAL CHANGE IN CIRCUMSTANCE; TO PROVIDE THAT MOTIONS BY THE STATE TO REVOKE OR MODIFY A DEFENDANT’S BOND MUST BE MADE IN WRITING, STATE WITH PARTICULARITY THE GROUNDS FOR REVOCATION OR MODIFICATION, AND SET FORTH THE RELIEF OR ORDER SOUGHT; AND TO PROVIDE THAT, IF THE STATE’S MOTION TO REVOKE OR MODIFY BOND INCLUDES A PRIMA FACIE SHOWING OF IMMINENT DANGER TO THE COMMUNITY, OR IMMINENT DANGER TO THE DEFENDANT, OR FLIGHT BY THE DEFENDANT, THE CHIEF JUDGE OR PRESIDING JUDGE SHALL CONDUCT OR ORDER AN EMERGENCY HEARING WITHIN FORTY‑EIGHT HOURS.

The Report of the Committee of Free Conference having been adopted by both Houses, ordered that the title be changed to that of an Act, and the Act enrolled for Ratification.

A message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., June 28, 2012

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has overridden the veto by the Governor on R.319, H. 3790 by a vote of 55 to 5:

(R319, H3790) -- Rep. Sellers: AN ACT TO CREATE THE BAMBERG COUNTY WATER AND SEWER AUTHORITY; TO PROVIDE FOR ITS DUTIES, RESPONSIBILITIES, AND POWERS; AND TO PROVIDE FOR THE APPOINTMENT AND TERMS OF THE AUTHORITY’S MEMBERS.

Very respectfully,

Speaker of the House

Received as information.

**VETO OVERRIDDEN**

(R319, H3790) -- Rep. Sellers: AN ACT TO CREATE THE BAMBERG COUNTY WATER AND SEWER AUTHORITY; TO PROVIDE FOR ITS DUTIES, RESPONSIBILITIES, AND POWERS; AND TO PROVIDE FOR THE APPOINTMENT AND TERMS OF THE AUTHORITY’S MEMBERS.

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

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

The question was put, “Shall the Act become law, the veto of the Governor to the contrary notwithstanding?”

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

**Ayes 20; Nays 10**

**AYES**

Alexander Anderson Bryant

Coleman Ford Hutto

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Matthews McGill

Nicholson O'Dell Reese

Scott Setzler

**Total--20**

**NAYS**

Bright Campsen Cleary

Courson Cromer Davis

Gregory Grooms Peeler

Rose

**Total--10**

The necessary two-thirds vote having been received, the veto of the Governor was overridden, and a message was sent to the House accordingly.

**Message from the House**

Columbia, S.C., June 28, 2012

Mr. President and Senators:

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

H. 5418 -- Reps. White, Harrell, Lucas, Bingham, Herbkersman, Limehouse, Merrill, Pitts, Simrill, G.M. Smith, G.R. Smith, Clyburn and Ott: A JOINT RESOLUTION TO PROVIDE FOR THE CONTINUING AUTHORITY TO PAY THE EXPENSES OF STATE GOVERNMENT IF THE 2012‑2013 FISCAL YEAR BEGINS WITHOUT A GENERAL APPROPRIATIONS ACT FOR THAT YEAR IN EFFECT.

and has ordered the Joint Resolution enrolled for Ratification.

Very respectfully,

Speaker of the House

Received as information.

With Senator MASSEY retaining the floor, Senator LEATHERMAN, with unanimous consent, was recognized to give a status report on the Reports of the Committee of Conference to H. 4813, the General Appropriation Bill, and H. 4814, the Capital Reserve Fund Bill.

**Point of Order**

Senator BRIGHT raised a Point of Order under Rule 37 that the Report of the Committee of Conference on H. 4813 was out of order and violative of the 24-hour rule.

The PRESIDENT stated that the Point of Order was not timely as the Report of the Committee of Conference on H. 4813 was not before the body.

Senator MASSEY resumed speaking.

**RATIFICATION OF ACTS**

Pursuant to an invitation the Honorable Speaker and House of Representatives appeared in the Senate Chamber on June 28, 2012, at 11:00 A.M. and the following Acts and Joint Resolutions were ratified:

(R324, S. 1340) -- Senators Malloy and Knotts: AN ACT TO AMEND SECTION 41‑15‑520, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REMEDIES OF AN EMPLOYEE ALLEGING DISCRIMINATION, SO AS TO PROVIDE PROCEDURES THE DIRECTOR OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL FOLLOW UPON RECEIPT OF A COMPLAINT ALLEGING DISCRIMINATION.

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(R325, S. 1419) -- Senators Thomas, Ford and Hayes: AN ACT TO AMEND CHAPTER 45, TITLE 38, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INSURANCE BROKERS AND SURPLUS LINES INSURANCE, SO AS TO DEFINE TERMS, TO PROVIDE THAT THE REVENUE COLLECTED FROM THE BROKER’S PREMIUM TAX RATE MUST BE CREDITED TO A SPECIAL EARMARKED FUND, TO PROVIDE THE MANNER IN WHICH THE FUND MAY BE USED AND DISBURSED, TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO CONDUCT EXAMINATIONS OF BROKER RECORDS, TO ALLOW THE DEPARTMENT OF INSURANCE TO PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT THE CHAPTER, TO PROVIDE THE MANNER IN WHICH THE NONADMITTED AND REINSURANCE REFORM ACT OF 2010 MAY BE IMPLEMENTED; AND TO AMEND SECTION 38‑7‑160, RELATING TO MUNICIPAL LICENSE FEES AND TAXES, SO AS TO DISALLOW A MUNICIPALITY FROM CHARGING AN ADDITIONAL LICENSE FEE OR TAX BASED UPON A PERCENTAGE OF PREMIUMS FOR PURPOSES OF SURPLUS LINES INSURANCE.

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(R326, H. 3508) -- Reps. Gambrell, Sandifer, Harrell, Erickson, Limehouse, Weeks, H.B. Brown, Agnew, Allison, Anthony, Bales, Bannister, Bedingfield, Bingham, Brady, Brannon, G.A. Brown, Cole, Crosby, Forrester, Hardwick, Harrison, Hayes, Hiott, Hixon, Horne, Lowe, Lucas, McCoy, D.C. Moss, Owens, Parker, Pinson, Pitts, Skelton, J.E. Smith, J.R. Smith, Sottile, Tallon, Vick, White, Taylor, Hamilton, Battle, Allen, Dillard, Alexander, Cooper, Mack and Bowen: AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO RETITLE ARTICLE 23, CHAPTER 9, TITLE 58, RELATING TO GOVERNMENT‑OWNED TELECOMMUNICATIONS SERVICE PROVIDERS AS “GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDERS”; BY ADDING SECTION 58‑9‑2660 SO AS TO PROVIDE A GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDER MAY PETITION THE PUBLIC SERVICE COMMISSION TO DESIGNATE ONE OR MORE AREAS AS AN “UNSERVED AREA”, TO SPECIFY THE PROCEDURE FOR MAKING AND PROTESTING THIS PETITION, TO PROVIDE FOR A HEARING OF A PROTEST TO A PETITION, TO PROVIDE FOR THE APPLICATION OF CERTAIN PROVISIONS OF LAW TO AN UNSERVED AREA, AND TO PROVIDE A PROCESS FOR PETITIONING FOR A DETERMINATION THAT AN AREA HAS CEASED TO BE AN UNSERVED AREA; TO AMEND SECTION 58‑9‑10, AS AMENDED, RELATING TO DEFINITIONS CONCERNING TELEPHONE COMPANIES, SO AS TO MODIFY THE DEFINITION OF “BROADBAND SERVICE”; TO AMEND SECTION 58‑9‑2600, RELATING TO THE PURPOSE OF ARTICLE 23, CHAPTER 9, TITLE 58, SO AS TO MAKE CONFORMING CHANGES AND CLARIFY THE SCOPE OF THE ARTICLE; TO AMEND SECTION 58‑9‑2610, RELATING TO DEFINITIONS CONCERNING GOVERNMENT‑OWNED TELECOMMUNICATIONS SERVICE PROVIDERS, SO AS TO MAKE CONFORMING CHANGES AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION 58‑9‑2620, AS AMENDED, RELATING TO DUTIES, RESTRICTIONS, RATE COMPUTATIONS, AND ACCOUNTING REQUIREMENTS OF GOVERNMENT‑OWNED TELECOMMUNICATIONS SERVICE PROVIDERS, SO AS TO MAKE CONFORMING CHANGES, TO ALLOW A GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDER MAY PROVIDE CERTAIN MATCHING FUNDS TO COMPLY WITH A FEDERAL GRANT, TO GIVE THE OFFICE OF REGULATORY STAFF JURISDICTION TO INVESTIGATE THE COMPLIANCE OF A GOVERNMENT‑OWNED COMMUNICATIONS PROVIDER WITH THE PROVISIONS OF THIS CHAPTER, TO PROVIDE THE COMMISSION MAY ENFORCE THE COMPLIANCE OF A GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDER WITH THE PROVISIONS OF THIS CHAPTER, AND TO CLARIFY THAT THIS SECTION DOES NOT EXPAND OR LIMIT THE JURISDICTION OF THE COMMISSION OR OFFICE OF REGULATORY STAFF WITH RESPECT TO ANY SERVICE PROVIDER OTHER THAN A GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDER; TO AMEND SECTION 58‑9‑2630, RELATING TO CERTAIN TAX COLLECTIONS AND PAYMENTS, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 58‑9‑2650, RELATING TO LIABILITY INSURANCE RATES FOR COMMUNICATIONS OPERATIONS, SO AS TO MAKE CONFORMING CHANGES; BY ADDING SECTION 58‑9‑2670 SO AS TO EXEMPT CERTAIN GOVERNMENT‑OWNED COMMUNICATIONS SERVICE PROVIDERS FROM CERTAIN PROVISIONS; BY ADDING SECTION 58‑9‑2689 SO AS TO REQUIRE THE STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE TO SUBMIT A REPORT TO THE GENERAL ASSEMBLY EVERY FIVE YEARS DETAILING THE EFFECT OF THIS ACT; AND TO CLARIFY THAT THIS ACT DOES NOT EXPAND, DIMINISH, OR OTHERWISE AFFECT CERTAIN PROVISIONS REGARDING THE SOUTH CAROLINA LIGHTRAIL CONSORTIUM.

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(R327, H. 4494) -- Reps. Huggins, Long, Pitts, G.R. Smith and Bedingfield: AN ACT TO AMEND SECTION 23‑31‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURCHASE OF RIFLES OR SHOTGUNS IN CONTIGUOUS STATES, SO AS TO REMOVE THE REQUIREMENT THAT THE PURCHASE BE MADE FROM A CONTIGUOUS STATE; AND TO REPEAL ARTICLE 3, CHAPTER 31, TITLE 23 RELATING TO THE REGULATION OF PISTOLS.

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(R328, H. 5418) -- Reps. White, Harrell, Lucas, Bingham, Herbkersman, Limehouse, Merrill, Pitts, Simrill, G.M. Smith, G.R. Smith, Clyburn and Ott: A JOINT RESOLUTION TO PROVIDE FOR THE CONTINUING AUTHORITY TO PAY THE EXPENSES OF STATE GOVERNMENT IF THE 2012‑2013 FISCAL YEAR BEGINS WITHOUT A GENERAL APPROPRIATIONS ACT FOR THAT YEAR IN EFFECT, AND TO PROVIDE EXCEPTIONS; AND 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 OVER THREE YEARS.

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On motion of Senator LEATHERMAN, the Report of the Committee of Conference on H. 4813 was taken up for immediate consideration.

**Message from the House**

Columbia, S.C., June 28, 2012

Mr. President and Senators:

The House respectfully informs your Honorable Body that it has adopted the Report of the Committee of Conference on:

**H. 4813--GENERAL APPROPRIATIONS BILL**

Very respectfully,

Speaker of the House

Received as information.

**REPORT OF THE COMMITTEE OF CONFERENCE ADOPTED**

**H. 4813--GENERAL APPROPRIATIONS BILL**

On motion of Senator LEATHERMAN, the Report of the Committee of Conference was taken up for immediate consideration.

Senator LEATHERMAN explained the Report of the Committee of Conference.

**Point of Order**

Senator BRIGHT raised a Point of Order under Rule 37 that the Report of the Committee of Conference was out of order and violative of the 24-hour rule.

Senator LEATHERMAN spoke on the Point of Order.

The PRESIDENT sustained the Point of Order.

Senator LEATHERMAN moved to suspend Rule 37.

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

**Ayes 26; Nays 7**

**AYES**

Alexander Anderson Cleary

Coleman Courson Cromer

Elliott Ford Grooms

Hayes Hutto Jackson

Knotts Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Matthews McGill

Nicholson O'Dell Reese

Setzler Verdin

**Total--26**

**NAYS**

Bright Bryant Campsen

Davis Massey Peeler

Rose

**Total--7**

The provisions of Rule 37 were waived.

Senator LEATHERMAN spoke on the report.

The question then was the adoption of the Report of the Committee of Conference on H. 4813 incorporated herein by reference in Doc. No. H:\Legwork\Senate\amend\BBM\10733HTC12.docx.

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

**Ayes 26; Nays 8**

**AYES**

Alexander Anderson Cleary

Coleman Courson Cromer

Elliott Ford Gregory

Hutto Jackson Knotts

Land Leatherman Leventis

Lourie Malloy *Martin, Larry*

Matthews McGill Nicholson

O'Dell Reese Scott

Setzler Verdin

**Total--26**

**NAYS**

Bright Bryant Campsen

Davis Grooms Massey

Peeler Rose

**Total--8**

The Report of the Committee of Conference was adopted and a message was sent to the House accordingly.

**Statement by Senator HAYES**

Having been out of the Chamber at the time the vote was taken, I would have voted in favor of the adoption of the Report of the Committee of Conference on H. 4813.

**Statement by Senator RANKIN**

Having been out of the Chamber at the time the vote was taken, being unavoidably detained on my way to the Senate, I would have voted in favor of the adoption of the Report of the Committee of Conference on H. 4813.

**ENROLLED FOR RATIFICATION**

**H. 4813--GENERAL APPROPRIATIONS BILL**

The Report of the Committee of Conference having been adopted by both Houses, ordered that the title be changed to that of an Act, and the Act enrolled for Ratification.

A message was sent to the House accordingly.

**REPORT OF THE COMMITTEE OF CONFERENCE ADOPTED**

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 LEATHERMAN, the Report of the Committee of Conference was taken up for immediate consideration.

Senator LEATHERMAN explained the Report of the Committee of Conference.

Senator PEELER spoke on the report.

**Remarks by Senator PEELER**

Thank you, Mr. PRESIDENT.

Members of the Senate, I appreciate your allowing me to be heard before we take a vote on this. I want to speak to our capital reserve and also the budget that just passed. It’s a sad day in the State of South Carolina, in my opinion, that the budget, as it left the Senate, contained a $2 million fund for the victims of the train wreck in Spartanburg -- the amusement train accident in Spartanburg County -- a little over a year ago, where 27 individuals -- young individuals -- were on the train. One was killed as a result of the tragedy. Others were maimed and under our present laws, the losses for the entire 27, would be covered at a total sum of $600,000. And that’s all. Some were damaged permanently -- their head, their limbs, their bodies broken. One family lost a 6-year-old son. But a total of $600,000 is all this State is able to pay towards the medical expenses -- not for lawyer fees, Senator from Lexington and not for people out to try to gain a buck. But it’s just to pay just the medical bills for these children that they can’t pay. Their hard-working mothers and fathers are trying to scrape up money to pay their medical bills and the wisdom of the Senate prevailed and created a $2 million fund that would be administered -- not to pay lawyers, not to pay folks that were trying to gain off this -- just something to help the families with their medical bills. $2 million is probably not enough. It’s probably just a drop in the bucket, but it’s something. Are we on the hook? Yes. Is Spartanburg County on the hook? Yes. But this is a copout of the worst kind that we didn’t set up this fund. Welcome to South Carolina. Enter at your own risk.

If you bring a bus or a car into South Carolina and you’re injured on State property, $600,000 for the entire bus load is all it will pay. That the State of South Carolina pays differently than a privately-owned company is ridiculous. If that happened on Carowinds property, the sky would be the limit, but because this train is owned by Spartanburg County, $600,000 is the maximum that can be paid by the county and State and both are on the hook, in my opinion. The train was operated by someone that was not trained to be an operator of the amusement ride, in my opinion. The train was operating at a speed faster than it was manufactured for. The train was supposed to have been inspected by a state inspector but was not inspected properly, I’m told, because the battery was dead n the train. Everything that could go wrong went wrong that day.

The Senate had a fund for $2 million to help the victims and the budget conference committee saw fit to strike that fund. I was told it was on a 3-for, 3-against vote. I would like to hear what the reasoning behind that was. The chairman says he couldn't get 2 and 2. We understand you must have two House members and two Senators on a conference committee to agree. I’d like to know why. I don’t know we will ever know why.

I’ve got to go home today, my fellow members of the Senate and explain this to my constituents because the majority of the victims lived in my district. The train is not located in my district, but the majority of the victims were. It could have been in your district or yours or yours, but it was mine. I have to go home and look them in the eye and tell them you all didn’t see fit to fund a pittance of this $6.6 billion budget to help pay the medical bills for these children. I can’t explain it. There is no way in the world I can explain it. Why in the world we are leaving here today and not funding that fund is beyond me.

Thank you.

On motion of Senator COLEMAN, with unanimous consent, the remarks of Senator PEELER were ordered printed in the Journal.

The question then was the adoption of the Report of the Committee of Conference.

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

**Ayes 23; Nays 9**

**AYES**

Alexander Cleary Coleman

Courson Cromer Elliott

Ford Gregory Hutto

Jackson Land Leatherman

Leventis Lourie Malloy

*Martin, Larry* Matthews McGill

Nicholson O'Dell Reese

Setzler Verdin

**Total--23**

**NAYS**

Bright Bryant Campsen

Davis Grooms Knotts

Massey Peeler Rose

**Total--9**

**Statement by Senator HAYES**

Having been out of the Chamber at the time the vote was taken, I would have voted in favor of the adoption of the Report of the Committee of Conference on H. 4814.

**Statement by Senator SCOTT**

Having been out of the Chamber at the time the vote was taken, I would have voted in favor of the adoption of the Report of the Committee of Conference on H. 4814.

**Statement by Senator RANKIN**

Having been out of the Chamber at the time the vote was taken, being unavoidably detained on my way to the Senate, I would have voted in favor of the adoption of the Report of the Committee of Conference on H. 4814.

The Report of the Committee of Conference was adopted, as follows:

**H. 4814--Conference Report**

The General Assembly, Columbia, S.C., June 18, 2012

The COMMITTEE OF CONFERENCE, to whom was referred:

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.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments:

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

/ SECTION 1. In accordance with the provisions of Section 36(B)(2) and (3), Article III, Constitution of South Carolina, 1895, and Section 11‑11‑320(C) and (D) of the 1976 Code, there is appropriated from the monies available in the Capital Reserve Fund for Fiscal Year 2011‑2012 the following amounts:

(1) R60-Department of Employment

and Workforce

SUTA Tax Relief $43,200,000

(2) H59-State Board for Technical and

Comprehensive Education

CATT Program/Ready SC $ $13,250,000

(3) H59-State Board for Technical and

Comprehensive Education

Trident Technical College

Aeronautical Training Equipment $ 500,000

(4) H59-State Board for Technical and

Comprehensive Education

Orangeburg-Calhoun Technical

College Programmable

Logic Controller Equipment $ 500,000

(5) H59-State Board for Technical and

Comprehensive Education

Denmark Technical College

Deferred Maintenance $ 250,000

(6) J02-Department of Health and

Human Services

Medicaid Management

Information System $3,238,588

(7) H09-The Citadel

Jenkins Hall Arms Room Upgrade $ 200,000

(8) H09-The Citadel

Deferred Maintenance $ 737,691

(9) H12-Clemson University

Grid Simulator Project $ 3,000,000

(10) H12-Clemson University

Greenwood Genetics Lab $ 2,000,000

(11) H12-Clemson University

Deferred Maintenance $ 1,595,044

(12) H15-University of Charleston

Science Center Construction $ 1,924,246

(13) H17-Coastal Carolina University

Research Vessel $ 948,366

(14) H18-Francis Marion University

Nurse Practitioner Program $ 100,000

(15) H18-Francis Marion University

Deferred Maintenance $1,141,069

(16) H21-Lander University

Deferred Maintenance $ 646,417

(17) H24-South Carolina State University

Deferred Maintenance $ 1,255,979

(18) H27-University of South Carolina

Columbia Campus

USC Palmetto College $ 2,115,000

(19) H27-University of South Carolina

Columbia Campus

USC Law School $ 10,000,000

(20) H29-USC‑Aiken Campus

Deferred Maintenance $ 553,795

(21) H34-USC‑Upstate Campus

Deferred Maintenance $ 729,126

(22) H36-USC‑Beaufort Campus

Deferred Maintenance $ 327,207

(23) H37-USC‑Lancaster Campus

Deferred Maintenance $ 137,302

(24) H38-USC‑Salkehatchie Campus

Deferred Maintenance $ 116,979

(25) H39-USC‑Sumter Campus

Deferred Maintenance $ 367,869

(26) H40-USC‑Union Campus

Deferred Maintenance $ 53,290

(27) H47-Winthrop University

Student Information Technology

Infrastructure Update $ 500,000

(28) H47-Winthrop University

Deferred Maintenance $ 1,374,947

(29) H51-Medical University of

South Carolina

Ashley Tower

Renovation ‑ MUSC

Hospital Authority $ 5,500,000

(30) H51-Medical University of

South Carolina

Deferred Maintenance $ 3,200,000

(31) P16-Department of Agriculture

Farmers Market Phase II

Property Acquisition

and Expansion $ 50,000

(32) P20-Clemson University-PSA

Power Grid Research $ 75,000

$ 99,587,915

SECTION 2. The Comptroller General shall post the appropriations contained in this joint resolution as provided in Section 11‑11‑320(D) of the 1976 Code. Unexpended funds appropriated pursuant to this joint resolution may be carried forward to succeeding fiscal years and expended for the same purposes.

SECTION 3. This joint resolution takes effect thirty days after the completion of the 2011‑2012 fiscal year in accordance with the provisions of Section 36(B)(3)(a), Article III, Constitution of South Carolina, 1895, and Section 11‑11‑320(D)(1) of the 1976 Code. /

Amend title to read:

/ A JOINT RESOLUTION TO APPROPRIATE MONIES FROM THE CAPITAL RESERVE FUND FOR FISCAL YEAR 2011‑2012, AND TO ALLOW UNEXPENDED FUNDS APPROPRIATED TO BE CARRIED FORWARD TO SUCCEEDING FISCAL YEARS AND EXPENDED FOR THE SAME PURPOSES. /

/s/Sen. Hugh K. Leatherman, Sr. /s/Rep. W. Brian White

/s/Sen. John C. Land III /s/Rep. G. Murrell Smith, Jr.

/s/Sen. Daniel B. Verdin III /s/Rep. Harry L. Ott, Jr.

On Part of the Senate. On Part of the House.

, and a message was sent to the House accordingly.

**H. 4814--ENROLLED FOR RATIFICATION**

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.

The Report of the Committee of Conference having been adopted by both Houses, ordered that the title be changed to that of an Act, and the Act enrolled for Ratification.

, and a message was sent to the House accordingly

**Expression of Personal Interest**

Senator LAND rose for an Expression of Personal Interest.

**Remarks by Senator LAND**

It is hard for y’all to get rid of me. I’ve been looking so forward to my last day. I seem to have taken the podium and talked more in the last few days than all Session.

I did want say something about the Senate and the Finance Committee and our Chairman of Finance, the Senator from Florence -- Senator LEATHERMAN. I just want to commend you on this budget and the way you handled it. I see in my workings with you, the compassion -- just like the compassion for the Senator from Cherokee’s issue. You would really like to accommodate everyone that makes a request to you‚ because you’ve got a big heart. Of course, sometimes we can’t. I just wanted to commend you to the entire Senate and to the people of South Carolina that your stewardship of the Finance Committee gives me great comfort as I leave this legislative body that you will do everything that you know how to do to move South Carolina forward.

I have watched you, as I said the other day, in absolute amazement how you can keep all these numbers in your mind down to $8,000 here, $8 million or $800 million over there and know exactly where it is going, why it is going there and who was promoting that issue and so forth. I just thank you for what you have done. As I said, I take great comfort as I leave here that you are in charge of the Finance Committee. You know your numbers and that you are willing to give many, many more hours than any of the rest of us spend. And, in fact, I don’t know that I would have the energy or mental ability to do what you have done. As I leave this body, I just want to thank you for what you have done. I want to thank the PRESIDENT *Pro Tempore*, too. It was a learning experience for me again and for your first time. I’m sure I speak for you when I commend our chairman on his knowledge of the budget and care and compassion for issues that come before that committee on the budget. I believe this is probably one of the better budgets, though it doesn’t represent the most money. But the way you targeted the money to healthcare, to law enforcement, to education and to growth of South Carolina with the ports money, it is excellent. I commend it to South Carolina.

I think we live in a better State because of your leadership and your service to the people of South Carolina in your capacity as Chairman of the Finance Committee. My hat’s off to you. I wish you the very, very best, Mr. Chairman, and, in the spirit of JOHN MARTIN, the Senator from up in Fairfield County -- upcountry where Senator COLEMAN comes from, I ask for leave of this Senate for the rest of my life.

On motion of Senator FORD, with unanimous consent, the remarks of Senator LAND were ordered printed in the Journal.

**Leave of Absence**

At 1:30 P.M., Senator LAND requested a leave of absence from this Chamber for the rest of his life.

**Expression of Personal Interest**

Senator ELLIOTT rose for an Expression of Personal Interest.

**MOTION ADOPTED**

On motion of Senators McGILL and CLEARY, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. David Morant of Plantersville Community in Georgetown County, S.C.

and

**MOTION ADOPTED**

On motion of Senator McGILL, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Jimmy Stephenson of Kingstree, S.C.

and

**MOTION ADOPTED**

On motion of Senator HUTTO, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. David Hart Crum of Denmark, S.C., attorney at law and beloved uncle of Liz Crum. Mr. Crum was a WWII veteran and had served principally in the Pacific. Mr. Crum was one of Senator Strom Thurmond’s first Senatorial aides. A true Southern gentleman and of great personal integrity, he was a devoted servant to the town, the community and his clients. He was an inspiration and joy to be around and he will be missed by family, friends and professional colleagues in the legal profession.

**ADJOURNMENT**

At 1:30 P.M., on motion of Senator COURSON, the Senate adjourned for the day and receded pursuant to the *Sine Die* Resolution, H. 5410.

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