**Thursday, April 25, 2013**

**(Statewide Session)**

~~Indicates Matter Stricken~~

## Indicates New Matter

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

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

Isaiah proclaims:

 “Forget the former things; do not dwell on the past. See, I am doing a new thing! Now it springs up; do you perceive it?”

(Isaiah 43:18-19a)

 Let us pray:

 Glorious Lord, Your world is indeed a marvelous and grand work of creation. We praise You for Your gracious gifts as we experience them here in South Carolina. And we thank You for each of these leaders who serve You in this Senate. Grant to them the insights and wisdom and yes, even the courage, necessary to continue moving our State forward. May every Senator and staff member embrace the exciting opportunities which are before our eyes at this period of our history. And grant hope and promise to all of our citizens. Bless these servants, O Lord. Bless them all. In Your loving name we pray.

Amen.

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

**Point of Quorum**

 At 11:04 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 Allen Bennett

Bright Bryant Campsen

Cleary Coleman Corbin

Courson Cromer Davis

Fair Ford Gregory

Hayes Hembree Hutto

Johnson Leatherman Lourie

Malloy *Martin, Larry Martin, Shane*

Massey McElveen McGill

Nicholson O'Dell Peeler

Pinckney Rankin Reese

Scott Setzler Shealy

Sheheen Thurmond Turner

Verdin Williams Young

 A quorum being present, the Senate resumed.

**REGULATION WITHDRAWN**

 The following was received:

Document No. 4267

Agency: Contractors’ Licensing Board

Chapter: 29

Statutory Authority: 1976 Code Sections 40-1-70 and 40-11-60

SUBJECT: Emergency Licensure

Received by Lieutenant Governor February 12, 2013

Referred to Labor, Commerce and Industry Committee

Legislative Review Expiration: Permanently Withdrawn

Withdrawn due to end of two-year session

Resubmitted with no substantive changes

120 Day Period Tolled

Permanently Withdrawn April 25, 2013

**Doctor of the Day**

 Senator BRYANT introduced Dr. John Burrell of Anderson, S.C., Doctor of the Day.

**Leave of Absence**

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

**Leave of Absence**

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

**Leave of Absence**

 At 12:47 P.M., Senator REESE requested a leave of absence for the balance of the day.

**Leave of Absence**

 At 12:47 P.M., Senator O’DELL requested a leave of absence for the balance of the day.

**Leave of Absence**

 At 12:47 P.M., Senator LEATHERMAN requested a leave of absence for the balance of the day.

**Leave of Absence**

 At 1:39 P.M., Senator HAYES requested a leave of absence for the balance of the day.

**Expression of Personal Interest**

 Senator FORD rose for an Expression of Personal Interest.

**Expression of Personal Interest**

 Senator COURSON rose for an Expression of Personal Interest.

**Expression of Personal Interest**

 Senator MALLOY rose for an Expression of Personal Interest

**CO-SPONSORS ADDED**

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

S. 148 Sen. Alexander

S. 160 Sen. Fair

S. 618 Sen. Campsen

S. 649 Sen. Shane Martin

S. 655 Sen. Bennett

**RECALLED**

 H. 3829 -- Reps. Bedingfield, Stringer, Allison, Bannister, Chumley, Dillard, Hamilton, Henderson, Loftis, Nanney, Putnam, Robinson‑Simpson, G.R. Smith and Willis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 53, TITLE 59 SO AS TO BE CAPTIONED THE “GREENVILLE TECHNICAL COLLEGE AREA COMMISSION”; TO DESIGNATE SECTIONS 1A, 4, AND 5 OF ACT 743 OF 1962 AS SECTIONS 59‑53‑1500, 59‑53‑1510, AND 59‑53‑1520, RESPECTIVELY, OF ARTICLE 18, CHAPTER 53, TITLE 59; AND TO AMEND ARTICLE 18, CHAPTER 53, TITLE 59, RELATING TO THE MEMBERSHIP, POWERS, AND DUTIES OF THE GREENVILLE TECHNICAL COLLEGE AREA COMMISSION, SO AS TO RECONSTITUTE THE MEMBERSHIP OF THE COMMISSION AND THE TERMS AND APPOINTING PROCEDURES FOR MEMBERS.

 Senator COURSON asked unanimous consent to make a motion to recall the Bill from the Committee on Education.

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

**INTRODUCTION OF BILLS AND RESOLUTIONS**

 The following were introduced:

 S. 654 -- Senators McElveen and Johnson: A SENATE RESOLUTION TO RECOGNIZE MILLWOOD ELEMENTARY SCHOOL OF SUMTER AT THE CELEBRATION OF ITS FIFTIETH ANNIVERSARY AND TO HONOR THE ADMINISTRATION, FACULTY, STAFF, STUDENTS, PARENTS, AND ALUMNI OF THIS OUTSTANDING SCHOOL FOR THEIR PART IN ENSURING MILLWOOD’S SUCCESS IN SERVING THE EDUCATIONAL NEEDS OF ITS STUDENTS.

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 The Senate Resolution was adopted.

 S. 655 -- Senators Campbell, Leatherman, Alexander, O'Dell, Setzler and Bennett: A BILL TO AMEND SECTION 40-22-280 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE APPLICATION OF THE CHAPTER CONCERNING ENGINEERS AND SURVEYORS, TO ADD AN EXEMPTION FOR CERTAIN ENGINEERS.

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

 S. 656 -- Senator Rankin: A BILL TO AMEND SECTION 28-2-370 OF THE 1976 CODE, RELATING TO FACTORS THAT MAY BE CONSIDERED WHEN DETERMINING JUST COMPENSATION IN CONDEMNATION ACTIONS REGARDING EMINENT DOMAIN, TO INCLUDE DIMINUTION IN VALUE OF THE LANDOWNER’S REMAINING PROPERTY CAUSED BY RECONFIGURATION OF ROADWAYS AND CIRCUITOUS ACCESS.

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

 S. 657 -- Senator L. Martin: A BILL TO AMEND SECTION 22-2-190, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, RELATING TO MAGISTRATE JURY AREAS IN EACH COUNTY, SO AS TO REVISE AND UPDATE THE TERRITORIAL DESCRIPTIONS OF THE JURY AREAS AND PROVIDE REFERENCES TO PUBLIC MAPS SHOWING THE JURY AREAS.

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

 S. 658 -- Senators Rankin, Malloy and Lourie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-13-485 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES IN THIS STATE AND TO PROVIDE A CIVIL PENALTY; AND TO REPEAL CHAPTER 39, TITLE 34 RELATING TO DEFERRED PRESENTMENT SERVICES.

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

 S. 659 -- Senator Lourie: A SENATE RESOLUTION TO HONOR JANE WILEY, STATE DIRECTOR FOR AARP SOUTH CAROLINA, FOR HER MORE THAN EIGHT YEARS OF DEDICATED SERVICE TO THE SENIORS OF THIS GREAT STATE, TO CONGRATULATE HER ON THE OCCASION OF HER RETIREMENT, AND TO WISH HER MUCH SUCCESS AND FULFILLMENT IN ALL HER FUTURE ENDEAVORS.

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 The Senate Resolution was adopted.

 S. 660 -- Senators Scott and Hutto: A SENATE RESOLUTION TO CONGRATULATE MIDDLE PLACE LEARNING & INFORMATION STATION OF BAMBERG COUNTY ON ITS GRAND OPENING, TO TAKE PLACE ON MAY 4, 2013, AND TO RECOGNIZE THE HISTORIC ROLE MIDDLE PLACE SCHOOL, WHICH ONCE STOOD WHERE MIDDLE PLACE LEARNING & INFORMATION STATION NOW STANDS, HAS PLAYED IN THE EDUCATION OF THE PEOPLE OF SOUTH CAROLINA.

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 The Senate Resolution was adopted.

 H. 3027 -- Reps. G. M. Smith, Pitts, Ballentine, J. E. Smith, Bernstein, Harrell, Cobb-Hunter, Whipper and R. L. Brown: A BILL TO AMEND SECTION 12-43-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX ASSESSMENT RATIOS, SO AS TO PROVIDE THAT, IN CERTAIN SITUATIONS, AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES MAY CLAIM THE FOUR PERCENT ASSESSMENT RATIO REGARDLESS OF THE OWNER’S RELOCATION AND REGARDLESS OF ANY RENTAL INCOME, AND TO PROVIDE THAT AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES, IN CERTAIN SITUATIONS, MAY CLAIM THE FOUR PERCENT ASSESSMENT RATIO ON TWO RESIDENTIAL PROPERTIES SO LONG AS THE OWNER ATTEMPTS TO SELL THE FIRST RESIDENCE WITHIN THIRTY DAYS OF ACQUIRING THE SECOND RESIDENCE.

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

 H. 3093 -- Reps. J. E. Smith, W. J. McLeod and Whipper: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 67 TO TITLE 12 SO AS TO ENACT THE “SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT”, TO PROVIDE THAT A TAXPAYER MAKING INVESTMENTS OF A CERTAIN SIZE IN REHABILITATING AN ABANDONED BUILDING BASED ON THE POPULATION OF THE POLITICAL SUBDIVISION IN WHICH THE BUILDING IS LOCATED MAY AT THE TAXPAYER’S OPTION RECEIVE SPECIFIED INCOME TAX CREDITS OR CREDITS AGAINST THE PROPERTY TAX LIABILITY.

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

 H. 3223 -- Rep. White: A BILL TO AMEND SECTIONS 1-11-55, AS AMENDED, 1-11-425, 1-23-120, AS AMENDED, 2-1-230, 2-3-75, 2-13-60, 2-13-180, 2-13-190, AS AMENDED, 2-13-200, 2-13-210, 11-35-310, 11-53-20, AND 29-6-250, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING, IN WHOLE OR IN PART, TO THE OFFICE OF LEGISLATIVE PRINTING, INFORMATION AND TECHNOLOGY SYSTEMS (LPITS), SO AS TO CHANGE THE NAME OF THIS OFFICE TO THE LEGISLATIVE SERVICES AGENCY (LSA).

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

 H. 3258 -- Reps. J. E. Smith, Cobb-Hunter and Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-780 SO AS TO PROVIDE THAT A LEAVE DONOR UNDER THE STATE EMPLOYEES LEAVE TRANSFER PROGRAM ALSO MAY DONATE SICK LEAVE OR ANNUAL LEAVE, OR BOTH, TO A SPECIFIC LEAVE RECIPIENT RATHER THAN TO THE LEAVE POOL ACCOUNT IN THE MANNER THE HUMAN RESOURCE MANAGEMENT DIVISION SHALL DIRECT.

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

 H. 3263 -- Rep. J. E. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 79 TO TITLE 2, TO ENACT THE “SOUTH CAROLINA MILITARY PREPAREDNESS AND ENHANCEMENT ACT” SO AS TO ESTABLISH AND PROVIDE FOR THE MEMBERSHIP, POWERS, AND DUTIES OF THE SOUTH CAROLINA MILITARY PREPAREDNESS AND ENHANCEMENT COMMISSION, TO PROVIDE THAT THIS COMMISSION SHALL ACT TO ENHANCE THE VALUE OF MILITARY FACILITIES LOCATED IN THIS STATE AND ASSIST DEFENSE COMMUNITIES WITH THIS VALUE ENHANCEMENT, TO ESTABLISH THE SOUTH CAROLINA MILITARY VALUE REVOLVING LOAN ACCOUNT TO PROVIDE LOANS TO ASSIST DEFENSE COMMUNITIES TO ENHANCE THE VALUE OF MILITARY FACILITIES, AND TO PROVIDE FOR OTHER METHODS AND INCENTIVES TO ACCOMPLISH THESE PURPOSES.

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

 H. 3357 -- Reps. Henderson, Merrill, Herbkersman, Harrell, Gilliard, Stavrinakis, Hodges, Gagnon, Ryhal, Erickson, Whipper and R. L. Brown: A BILL TO AMEND SECTION 12-62-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TAX REBATE TO A MOTION PICTURE PRODUCTION COMPANY BY THE SOUTH CAROLINA FILM COMMISSION, SO AS TO PROVIDE THAT THE REBATE MAY NOT EXCEED TWENTY PERCENT OF THE TOTAL AGGREGATE PAYROLL FOR QUALIFYING PERSONS SUBJECT TO INCOME TAX WITHHOLDINGS OF SOUTH CAROLINA AND MAY NOT EXCEED TWENTY-FIVE PERCENT FOR QUALIFYING RESIDENTS OF SOUTH CAROLINA; AND TO AMEND SECTION 12-62-60, AS AMENDED, RELATING TO REBATES TO MOTION PICTURE PRODUCTION COMPANIES, SO AS TO PROVIDE THAT THE DEPARTMENT MAY REBATE UP TO THIRTY PERCENT OF CERTAIN EXPENDITURES.

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

 H. 3410 -- Reps. Forrester, Allison, Loftis, V. S. Moss, Cole, Tallon, Mitchell, Cobb-Hunter and Whipper: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 1, TITLE 13 SO AS TO TRANSFER THE REGIONAL EDUCATION CENTERS ESTABLISHED BY THE EDUCATION AND ECONOMIC DEVELOPMENT COORDINATING COUNCIL TO THE DEPARTMENT OF COMMERCE; TO AMEND SECTION 59-59-170, RELATING TO THE EDUCATION AND ECONOMIC DEVELOPMENT COORDINATING COUNCIL, AND SECTION 59-59-190, RELATING TO ASSISTANCE OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, THE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION, AND THE COMMISSION ON HIGHER EDUCATION SHALL PROVIDE THE DEPARTMENT OF EDUCATION WITH RESPECT TO CERTAIN PROGRAMS UNDER THE SOUTH CAROLINA EDUCATION AND ECONOMIC DEVELOPMENT ACT, SO AS TO MAKE CONFORMING CHANGES; AND TO REPEAL SECTION 59-59-180 RELATING TO REGIONAL EDUCATION CENTERS.

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

 H. 3464 -- Reps. Allison, Brannon, Erickson, Bedingfield, Taylor, Kennedy, Clyburn, Anderson, G. A. Brown, Clemmons, H. A. Crawford, Douglas, Forrester, Goldfinch, Hamilton, Hardwick, Hixon, Horne, Hosey, Nanney, Pope, Powers Norrell, G. R. Smith, J. R. Smith, Stringer, Wood, Felder, Cobb-Hunter and Gilliard: A BILL TO AMEND SECTION 63-7-730, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXPEDITED RELATIVE PLACEMENTS OF CHILDREN AT THE PROBABLE CAUSE HEARING, SO AS TO ENCOURAGE PLACEMENT OF THE CHILD WITH A GRANDPARENT OR OTHER RELATIVE OF THE FIRST OR SECOND DEGREE UNDER CERTAIN CIRCUMSTANCES; TO SET FORTH CRITERIA FOR THE COURT TO CONSIDER WHEN DECIDING WHETHER TO PLACE A CHILD WITH A GRANDPARENT OR OTHER RELATIVE OF THE FIRST OR SECOND DEGREE AT THE PROBABLE CAUSE HEARING; AND TO PROVIDE THAT IF THE COURT PLACES A CHILD WITH A GRANDPARENT OR OTHER RELATIVE OF THE FIRST OR SECOND DEGREE AT THE PROBABLE CAUSE HEARING, THE INDIVIDUAL MUST BE ADDED AS A PARTY TO THE ACTION FOR THE DURATION OF THE CASE OR UNTIL FURTHER ORDER OF THE COURT.

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

 H. 3557 -- Reps. Cobb-Hunter, White, Bannister, Rutherford, Harrell, Merrill, Simrill, Stavrinakis, Loftis, Horne, Weeks, Mitchell, Ott, Sellers, Hodges and Whipper: A BILL TO AMEND SECTION 12-6-3375, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TAX CREDIT FOR PORT CARGO VOLUME INCREASE, SO AS TO EXPAND THE TYPES OF BUSINESSES THAT QUALIFY FOR THE CREDIT, TO GIVE THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT DISCRETION IN AWARDING CREDITS, TO FURTHER DEFINE TERMS, TO PROVIDE THAT TAXPAYERS ENGAGED IN THE MOVEMENT OF GOODS IMPORTED OR EXPORTED THROUGH SOUTH CAROLINA’S PORT FACILITIES MAY BE ELIGIBLE FOR THE CREDIT IF THE CARGO SUPPORTS A PRESENCE IN THE STATE AND MEETS OTHER JOB AND CAPITAL INVESTMENT REQUIREMENTS, AND TO PROVIDE THAT A TAXPAYER THAT FAILS TO MEET THE REQUIREMENTS OF THE CREDIT MUST REPAY A PRO RATA PORTION OF THE CREDIT.

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

 H. 3632 -- Reps. G. M. Smith, White, Sandifer, J. R. Smith, Bannister and Lucas: A BILL TO AMEND SECTION 42-5-190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAINTENANCE TAX IMPOSED BY THE WORKERS’ COMPENSATION COMMISSION ON SELF INSURERS, SO AS TO PROVIDE THAT THE COMMISSION SHALL RETAIN A PORTION OF THE ANNUAL MAINTENANCE TAX REVENUE TO PAY THE SALARIES AND EXPENSES OF THE COMMISSION AND TO PROVIDE THAT THE COMMISSION SHALL RETAIN ONE HALF OF THE INTEREST CHARGED ON DELINQUENT MAINTENANCE TAX FOR THE SAME PURPOSE.

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

 H. 3767 -- Reps. Hixon, J. R. Smith, Quinn, Southard, Huggins, Bowen, Stavrinakis, Sabb, Allison, Atwater, Ballentine, Barfield, Chumley, Clyburn, Cole, Daning, Dillard, Erickson, Felder, Finlay, George, Goldfinch, Hamilton, Harrell, Hayes, Hiott, Horne, Hosey, Jefferson, Kennedy, Loftis, Long, Lowe, Lucas, Merrill, V. S. Moss, Norman, Ott, Owens, Pope, Putnam, Riley, Rivers, Rutherford, Simrill, Skelton, Sottile, Spires, Tallon, Taylor, Toole, Wells and Wood: A BILL TO AMEND SECTION 12-36-920, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TWO PERCENT STATE SALES TAX IMPOSED ON ACCOMMODATIONS, SO AS TO PROVIDE THAT THE TAX DOES NOT APPLY TO GROSS PROCEEDS FROM RENTALS RECEIVED BY PERSONS RENTING THEIR PERSONAL RESIDENCE FOR FEWER THAN FIFTEEN DAYS TOTAL IN A YEAR AND IF THE GROSS PROCEEDS OF THE RENTAL INCOME ARE EXCLUDED FROM FEDERAL TAXABLE INCOME PURSUANT TO THE PROVISIONS OF SECTION 280A(g) OF THE INTERNAL REVENUE CODE OF 1986.

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

 H. 3784 -- Reps. J. E. Smith, Pitts, Vick and Harrell: A BILL TO AMEND SECTION 59-114-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM, SO AS TO CLARIFY THAT EACH ACADEMIC YEAR’S ANNUAL MAXIMUM GRANT MUST BE BASED ON THE AMOUNT OF AVAILABLE PROGRAM FUNDS; TO AMEND SECTION 59-114-40, AS AMENDED, RELATING TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM QUALIFICATION REQUIREMENTS, SO AS TO PROVIDE THAT NATIONAL GUARD MEMBERS BECOME ELIGIBLE FOR COLLEGE ASSISTANCE PROGRAM GRANTS UPON COMPLETION OF BASIC TRAINING AND ADVANCED INDIVIDUAL TRAINING; AND TO AMEND SECTION 59-114-65, RELATING TO GRANT AVAILABILITY, SO AS TO ALLOW APPROPRIATIONS TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM TO BE CARRIED FORWARD TO A SUBSEQUENT FISCAL YEAR AND EXPENDED FOR THE SAME PURPOSE, AND TO EXEMPT APPROPRIATIONS TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM FROM MIDYEAR BUDGET REDUCTIONS.

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

 H. 3860 -- Rep. White: A BILL TO AMEND SECTION 11-35-3005, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROJECT DELIVERY METHODS AUTHORIZED FOR PROCUREMENT OF INFRASTRUCTURE FACILITIES UNDER THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE, SO AS TO PROVIDE THAT AN ENTITY OR INDIVIDUAL OFFERING TO CONTRACT FOR DESIGN-BUILD, DESIGN-BUILD-OPERATE-MAINTAIN, OR DESIGN-BUILD-FINANCE-OPERATE-MAINTAIN PROJECT DELIVERY METHODS IS NOT REQUIRED TO HOLD A LICENSE OTHERWISE REQUIRED BY TITLE 40, SO LONG AS THE PERSON WHO ACTUALLY PERFORMS WORK REGULATED BY TITLE 40 HOLDS THE APPROPRIATE LICENSE; AND TO AMEND SECTION 11-35-3030, RELATING TO BOND AND SECURITY UNDER THE CONSOLIDATED PROCUREMENT CODE, SO AS TO REQUIRE PERFORMANCE AND PAYMENT BONDS EQUAL TO ONE HUNDRED PERCENT OF THE VALUE OF DESIGNATED PORTIONS OF CONSTRUCTION, PRIOR TO THE COMMENCEMENT OF WORK ON THOSE PORTIONS OF THE PROJECT.

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

 H. 4037 -- Reps. Harrell, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Bedingfield, Bernstein, Bingham, Bowen, Bowers, Branham, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, H. A. Crawford, K. R. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Edge, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Kennedy, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, Neal, Newton, Norman, Ott, Owens, Parks, Patrick, Pitts, Pope, Powers Norrell, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Vick, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Wood: A CONCURRENT RESOLUTION TO CONGRATULATE THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS AT THE CELEBRATION OF ITS SEVENTIETH ANNIVERSARY, TO COMMEND THE ORGANIZATION FOR ITS OUTSTANDING ACHIEVEMENT OVER THE PAST SEVENTY YEARS, AND TO EXTEND SINCERE BEST WISHES FOR CONTINUED SUCCESS.

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

**REPORTS OF STANDING COMMITTEES**

Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable report on:

S. 190 -- Senator Verdin: A BILL TO AMEND ARTICLE 11, CHAPTER 9, TITLE 48 OF THE 1976 CODE, RELATING TO SOIL AND WATER CONSERVATION DISTRICT COMMISSIONERS AND THE POWERS OF THE COMMISSIONERS AND THE DISTRICTS, BY ADDING SECTION 48‑9‑1330 TO PROVIDE FOR AN EXEMPTION FOR APPOINTED COMMISSIONERS FROM FINANCIAL DISCLOSURE REQUIREMENTS CONTAINED IN ARTICLE 11, CHAPTER 13, TITLE 8.

Ordered for consideration tomorrow.

 Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable with amendment report on:

S. 191 -- Senators Verdin, Sheheen, Lourie, Cromer, O’Dell, Hutto and Jackson: A BILL TO AMEND CHAPTER 3, TITLE 46 OF THE 1976 CODE, RELATING TO DUTIES OF THE DEPARTMENT OF AGRICULTURE, BY ADDING SECTION 46‑3‑25 TO REQUIRE THE DEPARTMENT TO CREATE AND MAINTAIN A PROGRAM TO ENCOURAGE SCHOOLS TO SERVE LOCALLY GROWN, MINIMALLY PROCESSED FARM FOODS.

Ordered for consideration tomorrow.

 Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable with amendment report on:

S. 193 -- Senator Verdin: A BILL TO AMEND SECTION 47‑1‑40 OF THE 1976 CODE, RELATING TO CRUELTY TO ANIMALS, TO REVISE CERTAIN CRIMINAL PENALTIES; TO AMEND SECTION 47‑1‑130, RELATING TO ARRESTS FOR CRUELTY TO ANIMALS, TO PROVIDE THAT A LAW ENFORCEMENT OFFICER MAY ARREST PERSONS FOR VIOLATING LAWS RELATING TO CRULETY TO ANIMALS; TO AMEND SECTION 47‑1‑140, RELATING TO CARE OF ANIMALS AFTER AN ARREST, TO PROVIDE THAT LAW ENFORCEMENT OFFICERS ARE TO PROVIDE PROPER CARE FOR THE ANIMALS; AND TO AMEND SECTION 47‑1‑150, RELATING TO ORDERS TO PROVIDE CARE, TO PROVIDE THAT SUCH ORDERS ARE TO BE ISSUED BY THE MAGISTRATE OR MUNICIPAL JUDGE, ANY LAW ENFORCEMENT OFFICER, OR ANY AGENT OF THE COUNTY.

 Ordered for consideration tomorrow.

Senator LEATHERMAN from the Committee on Finance polled out S. 618 favorable:

S. 618 -- Senators Bright, Hutto, Bryant, Verdin, Fair, L. Martin, Grooms, Massey, S. Martin, Davis, Shealy and Campsen: A BILL TO AMEND ARTICLE 5, CHAPTER 11, TITLE 1 OF THE 1976 CODE, RELATING TO STATE EMPLOYEES AND RETIREES INSURANCE, TO PROHIBIT EMPLOYER CONTRIBUTIONS TO THE STATE HEALTH INSURANCE PLAN FROM BEING USED TO PAY FOR ABORTIONS AND ANCILLARY SERVICES, TO PROVIDE THAT EMPLOYEE CONTRIBUTIONS MAY BE USED TO REIMBURSE EXPENSES AND ANCILLARY SERVICES ASSOCIATED WITH ABORTIONS PERFORMED IN CASES OF RAPE, INCEST, OR WHERE THE HEALTH OF THE MOTHER IS ENDANGERED, TO PROVIDE THAT REIMBURSEMENT MUST COME FROM A FUND CREATED SPECIFICALLY FOR THAT PURPOSE, TO ALLOW FOR SUBSCRIBERS TO OPT OUT OF PERMITTING A PORTION OF THEIR EMPLOYEE CONTRIBUTIONS FROM BEING TRANSFERRED TO THE FUND, TO PROVIDE FOR THE MEANS TO OPT OUT, AND TO ESTABLISH THE FUND AND TO PROVIDE FOR ITS PURPOSES.

**Poll of the Finance Committee**

**Polled 20; Ayes 20; Nays 0; Not Voting 3**

**AYES**

Leatherman Peeler Setzler

McGill Courson Matthews

O’Dell Reese Hayes

Alexander Pinckney Fair

Verdin Cromer Bryant

Ford Cleary Lourie

Williams Davis

**Total--20**

**NAYS**

**Total--0**

**NOT VOTING**

Grooms Jackson Campbell

**Total--3**

**S. 618--Rule 26B Waived**

**Read the Second Time**

 Senator HUTTO asked unanimous consent to take the Committee Report 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.

**Motion Under Rule 26B**

 Senator MALLOY asked unanimous consent to make a motion to waive the provisions of Rule 26B on third reading.

 There was no objection.

 Senator HUTTO explained the Bill.

 The question then was second reading of the Bill.

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

**Ayes 41; Nays 0**

**AYES**

Alexander Allen Bennett

Bright Bryant Campsen

Cleary Corbin Courson

Cromer Davis Fair

Ford Gregory Hayes

Hembree Hutto Johnson

Leatherman Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McElveen McGill

Nicholson O'Dell Peeler

Rankin Reese Scott

Setzler Shealy Sheheen

Thurmond Turner Verdin

Williams Young

**Total--41**

**NAYS**

**Total--0**

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

Senator ALEXANDER from the Committee on Labor, Commerce and Industry polled out S. 655 favorable:

S. 655 -- Senators Campbell, Leatherman, Alexander, O’Dell and Setzler: A BILL TO AMEND SECTION 40-22-280 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE APPLICATION OF THE CHAPTER CONCERNING ENGINEERS AND SURVEYORS, TO ADD AN EXEMPTION FOR CERTAIN ENGINEERS.

**Poll of the Labor, Commerce and Industry Committee**

**Polled 17; Ayes 16; Nays 0; Not Voting 1**

**AYES**

Alexander Setzler O’Dell

Reese Ford Leatherman

Bryant Massey Williams

Nicholson Davis Scott

Johnson Bennett Corbin

Turner

**Total--16**

**NAYS**

**Total--0**

**NOT VOTING**

Bright

**Total--1**

 Ordered for consideration tomorrow.

 Senator BRYANT from the Committee on Invitations polled out H. 3937 favorable:

 H. 3937 -- Rep. Funderburk: A CONCURRENT RESOLUTION TO DECLARE THURSDAY, APRIL 11, 2013, AS “CITY OF CAMDEN DAY” IN SOUTH CAROLINA.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Bryant Alexander McGill

Reese Ford Verdin

Campsen Cromer Malloy

Cleary Johnson

**Total--11**

**NAYS**

**Total--0**

 Ordered for consideration tomorrow.

 Senator BRYANT from the Committee on Invitations polled out H. 3969 favorable:

 H. 3969 -- Reps. Lucas, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Bedingfield, Bernstein, Bingham, Bowen, Bowers, Branham, Brannon, G.A. Brown, R.L. Brown, Burns, Chumley, Clemmons, Clyburn, Cobb‑Hunter, Cole, H.A. Crawford, K.R. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Edge, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Harrell, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Kennedy, King, Knight, Limehouse, Loftis, Long, Lowe, Mack, McCoy, McEachern, M.S. McLeod, W.J. McLeod, Merrill, Mitchell, D.C. Moss, V.S. Moss, Munnerlyn, Murphy, Nanney, Neal, Newton, Norman, Ott, Owens, Parks, Patrick, Pitts, Pope, Powers Norrell, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson‑Simpson, Rutherford, Ryhal, Sabb, Sandifer, Sellers, Simrill, Skelton, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Vick, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Wood: A CONCURRENT RESOLUTION TO EXPRESS THE BELIEF OF THE GENERAL ASSEMBLY THAT NASCAR RACING IS AN INTEGRAL AND VITAL PART OF THE STATE OF SOUTH CAROLINA AND ITS ECONOMY, TO RECOGNIZE THE DARLINGTON RACEWAY AS ONE OF OUR STATE’S MOST TREASURED ATTRACTIONS, AS WELL AS IDENTIFY NASCAR’S RICH HISTORY IN THE STATE OF SOUTH CAROLINA, AND TO NAME THE WEEK OF MAY 5, 2013, THROUGH MAY 12, 2013, AS “DARLINGTON RACEWAY WEEK ‑ A WEEK TOO TOUGH TO TAME” IN SOUTH CAROLINA.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Bryant Alexander McGill

Reese Ford Verdin

Campsen Cromer Malloy

Cleary Johnson

**Total--11**

**NAYS**

**Total--0**

 Ordered for consideration tomorrow.

 Senator BRYANT from the Committee on Invitations polled out H. 3970 favorable:

 H. 3970 -- Reps. G.R. Smith, J.R. Smith, Bedingfield, Hamilton, Finlay, Powers Norrell, Clyburn, Anderson, H.A. Crawford, Simrill, Bales, G.A. Brown, Atwater, Toole, Burns, Kennedy, Barfield, Gagnon, Govan, Nanney, Newton, Pope, Ridgeway and Wood: A CONCURRENT RESOLUTION TO RECOGNIZE TUESDAY, APRIL 30, 2013, AS “NATIONAL FAST DAY” IN HONOR OF THE ONE HUNDRED FIFTIETH ANNIVERSARY OF PRESIDENT ABRAHAM LINCOLN’S PROCLAMATION APPOINTING A NATIONAL FAST DAY.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Bryant Alexander McGill

Reese Ford Verdin

Campsen Cromer Malloy

Cleary Johnson

**Total--11**

**NAYS**

**Total--0**

 Ordered for consideration tomorrow.

 Senator BRYANT from the Committee on Invitations polled out H. 3988 favorable:

 H. 3988 -- Rep. Quinn: A CONCURRENT RESOLUTION TO CELEBRATE THE JOY AND BEAUTY OF ORGAN MUSIC IN THE PALMETTO STATE BY PROCLAIMING THE WEEK OF JUNE 30 THROUGH JULY 6, 2013, AS “ORGANISTS’ WEEK” IN SOUTH CAROLINA.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Bryant Alexander McGill

Reese Ford Verdin

Campsen Cromer Malloy

Cleary Johnson

**Total--11**

**NAYS**

**Total--0**

 Ordered for consideration tomorrow.

 Senator BRYANT from the Committee on Invitations polled out H. 3992 favorable:

 H. 3992 -- Reps. Howard, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Bedingfield, Bernstein, Bingham, Bowen, Bowers, Branham, Brannon, G.A. Brown, R.L. Brown, Burns, Chumley, Clemmons, Clyburn, Cobb‑Hunter, Cole, H.A. Crawford, K.R. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Edge, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Harrell, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Huggins, Jefferson, Kennedy, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, M.S. McLeod, W.J. McLeod, Merrill, Mitchell, D.C. Moss, V.S. Moss, Munnerlyn, Murphy, Nanney, Neal, Newton, Norman, Ott, Owens, Parks, Patrick, Pitts, Pope, Powers Norrell, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson‑Simpson, Rutherford, Ryhal, Sabb, Sandifer, Sellers, Simrill, Skelton, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Vick, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Wood: A CONCURRENT RESOLUTION TO COMMEND THE BOYS & GIRLS CLUBS OF SOUTH CAROLINA FOR THEIR WONDERFUL EFFORTS IN HELPING SOUTH CAROLINA’S YOUTH PREPARE FOR A PRODUCTIVE LIFE, TO RECOGNIZE THE THIRTEEN YOUNG PEOPLE FROM DIFFERENT BOYS & GIRLS CLUBS THROUGHOUT THE STATE WHO HAVE BEEN NAMED 2013 YOUTH OF THE YEAR BY THE SOUTH CAROLINA ALLIANCE OF BOYS & GIRLS CLUBS, AND TO DECLARE THURSDAY, APRIL 25, 2013, AS “BOYS AND GIRLS CLUBS DAY” AT THE STATE HOUSE.

**Poll of the Invitations Committee**

**Polled 11; Ayes 11; Nays 0; Not Voting 0**

**AYES**

Bryant Alexander McGill

Reese Ford Verdin

Campsen Cromer Malloy

Cleary Johnson

**Total--11**

**NAYS**

**Total--0**

 Ordered for consideration tomorrow.

**Message from the House**

Columbia, S.C., April 25, 2013

Mr. President and Senators:

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

 S. 163 -- Senators Campbell, McGill, O’Dell, Cleary, Ford and Alexander: A BILL TO AMEND SECTION 12-62-50 OF THE 1976 CODE, RELATING TO THE TAX REBATE TO A MOTION PICTURE PRODUCTION COMPANY BY THE SOUTH CAROLINA FILM COMMISSION, TO PROVIDE THAT THE REBATE MAY NOT EXCEED TWENTY PERCENT OF THE TOTAL AGGREGATE PAYROLL FOR PERSONS SUBJECT TO INCOME TAX WITHHOLDINGS OF SOUTH CAROLINA AND MAY NOT EXCEED TWENTY-FIVE PERCENT FOR RESIDENTS OF SOUTH CAROLINA AND FOR PERSONS EMPLOYED WITH THE PRODUCTION WHEN TOTAL PRODUCTION COSTS IN THIS STATE EQUAL OR EXCEED ONE MILLION DOLLARS DURING THE TAXABLE YEAR; AND TO AMEND SECTION 12-62-60, RELATING TO REBATES TO MOTION PICTURE PRODUCTION COMPANIES, TO PROVIDE THAT THE DEPARTMENT MAY REBATE UP TO THIRTY PERCENT OF THE EXPENDITURES IN SOUTH CAROLINA IF THERE IS A MINIMUM IN‑STATE EXPENDITURE OF ONE MILLION DOLLARS.

Respectfully submitted,

Speaker of the House

Received as information.

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

**Message from the House**

Columbia, S.C., April 24, 2013

Mr. President and Senators:

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

 H. 3568 -- Reps. Weeks, Sandifer and Gilliard: A BILL TO AMEND SECTION 16‑13‑385, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ALTERING, TAMPERING WITH, OR BYPASSING ELECTRIC, GAS, OR WATER METERS, SECTION 58‑7‑60, RELATING TO THE UNLAWFUL APPROPRIATION OF GAS, AND SECTION 58‑7‑70, RELATING TO THE WRONGFUL USE OF GAS AND INTERFERENCE WITH GAS METERS, ALL SO AS TO RESTRUCTURE THE PENALTIES AND PROVIDE GRADUATED PENALTIES FOR VIOLATIONS OF THE STATUTES.

and has ordered the Bill enrolled for Ratification.

Very respectfully,

Speaker of the House

 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. 3973 -- Reps. Bedingfield, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Bernstein, Bingham, Bowen, Bowers, Branham, Brannon, G.A. Brown, R.L. Brown, Burns, Chumley, Clemmons, Clyburn, Cobb‑Hunter, Cole, H.A. Crawford, K.R. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Edge, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Harrell, Hart, Hayes, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Kennedy, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, M.S. McLeod, W.J. McLeod, Merrill, Mitchell, D.C. Moss, V.S. Moss, Munnerlyn, Murphy, Nanney, Neal, Newton, Norman, Ott, Owens, Parks, Patrick, Pitts, Pope, Powers Norrell, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson‑Simpson, Rutherford, Ryhal, Sabb, Sandifer, Sellers, Simrill, Skelton, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Vick, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Wood: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53‑3‑115 SO AS TO PROVIDE THAT THE MONTH OF SEPTEMBER OF EVERY YEAR IS DESIGNATED AS “GOLDEN SEPTEMBER CHILDHOOD CANCER AWARENESS MONTH” IN SOUTH CAROLINA.

**READ THE THIRD TIME, SENT TO THE HOUSE**

S. 584 -- Senators Campsen and Rankin: A BILL TO AMEND CHAPTER 9, TITLE 50 OF THE 1976 CODE, RELATING TO HUNTING AND FISHING LICENSES, BY ADDING SECTION 50‑9‑15, TO DEFINE “LICENSE SALES VENDOR” AND “LICENSE YEAR”; TO AMEND SECTION 50‑9‑20, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, TO PROVIDE FOR THE DURATION OF LICENSES FOR RECREATIONAL AND COMMERCIAL USE, AND PERMITS THE DEPARTMENT TO ISSUE A LICENSE THAT EXPIRES ON THE DAY BEFORE THE ANNIVERSARY OF ITS ISSUANCE; TO AMEND SECTION 50‑9‑30, RELATING TO RESIDENCY REQUIREMENTS FOR LICENSES, TO REVISE THE REQUIREMENTS; TO AMEND SECTION 50‑9‑350, RELATING TO APPRENTICE HUNTING LICENSES, TO PROVIDE THAT THE HOLDER OF AN APPRENTICE HUNTING LICENSE WHO OBTAINS A CERTIFICATE OF COMPLETION PRIOR TO THE EXPIRATION DATE OF HIS APPRENTICE HUNTING LICENSE WILL USE HIS APPRENTICE HUNTING LICENSE AS HIS STATEWIDE HUNTING LICENSE, PROVIDED THE LICENSEE MUST HAVE THE CERTIFICATE OF COMPLETION IN HIS POSSESSION WHILE HUNTING; TO AMEND SECTION 50‑9‑510, RELATING TO LICENSES FOR PURCHASE FOR THE PRIVILEGE OF HUNTING, TO REMOVE THE HUNTING LICENSE VALID ONLY IN A SINGLE COUNTY, TO REMOVE RESTRICTIONS ON THE THREE YEAR LICENSE PURCHASE, TO CLARIFY REQUIREMENTS FOR MIGRATORY WATERFOWL PERMITS, AND TO PROVIDE FOR THE RETAINED VENDOR FEE; TO AMEND SECTION 50‑9‑530, RELATING TO CATAWBA LICENSES, TO PROVIDE THERE IS NO COST TO A CATAWBA HUNTING AND FISHING LICENSEE FOR ANY OTHER TAGS REQUIRED BY LAW FOR RECREATIONAL HUNTING AND FISHING EXCEPT FOR THOSE DEPARTMENT HUNTING AND FISHING ACTIVITIES CONTROLLED BY LOTTERY; TO AMEND SECTION 50‑9‑540, RELATING TO RECREATIONAL LICENSES, TO PROVIDE THAT RESIDENTS AND NONRESIDENTS MUST PURCHASE ANY OTHER LICENSE THAT GRANTS FISHING PRIVILEGE, TO DELETE THE LAKES AND RESERVOIRS PERMIT, AND TO CHANGE THE TEMPORARY NONRESIDENT FISHING LICENSE FROM SEVEN TO FOURTEEN DAYS; TO AMEND SECTION 50‑9‑610, RELATING TO ADDITIONAL REQUIREMENTS FOR TAKING NONGAME FRESHWATER FISH, TO PROVIDE THAT TAGS MUST BE ATTACHED AS PRESCRIBED; TO AMEND SECTION 50‑9‑665, RELATING TO BEAR TAGS, TO PROVIDE FOR THE REQUIREMENT FOR BEAR TAGS; TO AMEND SECTION 50‑9‑920, RELATING TO REVENUES FROM THE SALE OF PRIVILEGES, LICENSES, PERMITS, AND TAGS, TO MAKE CONFORMING CHANGES AND TO PROVIDE FOR LICENSE REVENUE DISTRIBUTION; TO AMEND SECTION 50‑9‑950, RELATING TO THE FISH AND WILDLIFE PROTECTION FUND, TO PROVIDE FUND ASSETS AND USES; TO AMEND SECTION 50‑9‑955, RELATING TO THE FISH AND WILDLIFE DEFERRED LICENSE FUND, TO PROVIDE FOR THE ANNUAL TRANSFER OF FUNDS; TO AMEND SECTION 50‑9‑960, RELATING TO THE MARINE RESOURCES FUND, TO PROVIDE FUND ASSETS AND USES; TO AMEND SECTION 50‑9‑965, RELATING TO THE MARINE RESOURCES DEFERRED LICENSE FUND, TO PROVIDE FOR THE ANNUAL TRANSFER OF FUNDS; AND TO REPEAL SECTION 50‑15‑65(E).

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

 There was no objection.

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

 Senator RANKIN asked unanimous consent to give the Bill a third reading.

 There was no objection.

 The Bill was read the third time, passed and ordered sent to the House of Representatives.

**RECOMMITTED TO COMMITTEE ON EDUCATION**

**RETAINING ITS PLACE ON THE CALENDAR**

S. 313 -- Senators Hayes, Courson, Setzler, Matthews, Lourie, Hutto, Jackson, Rankin, L. Martin, O’Dell, Malloy, Ford and Johnson: 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, STANDARDS, AND CRITERIA CONCERNING 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 GENERALLY 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 AND SHALL AWARD A DIPLOMA TO A NONRESIDENT STUDENT WHO MEETS ALL 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 ANNUALLY SHALL SURVEY SCHOOL DISTRICTS TO DETERMINE PARTICIPATION IN THE OPEN ENROLLMENT PROGRAM AND PROVIDE CERTAIN DELETED REPORTS ON THE PROGRAM TO THE GENERAL ASSEMBLY, TO PROVIDE A DISTRICT MAY RECEIVE CERTAIN WAIVERS CONCERNING THE IMPLEMENTATION OF THIS ACT, AND TO PROVIDE THAT IMPLEMENTATION OF THIS PROGRAM EACH FISCAL YEAR IS CONTINGENT UPON THE APPROPRIATION OF ADEQUATE FUNDING BY THE GENERAL ASSEMBLY.

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

 There was no objection.

 The Senate proceeded to a consideration of the Bill, the question being the adoption of the previously proposed amendment and second reading of the Bill.

 Senator HAYES explained the Bill.

 Senator HAYES asked unanimous consent to recommit the Bill to the Committee on Education.

 There was no objection.

 The Bill was recommitted to the Committee on Education, retaining its place on the Calendar.

**READ THE SECOND TIME**

 S. 540 -- Labor, Commerce and Industry Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE PERPETUAL CARE CEMETERY BOARD, RELATING TO PERPETUAL CARE CEMETERY BOARD, DESIGNATED AS REGULATION DOCUMENT NUMBER 4168, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

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

**Ayes 35; Nays 5**

**AYES**

Alexander Allen Bennett

Campsen Courson Cromer

Fair Ford Gregory

Hayes Hembree Hutto

Johnson Leatherman Lourie

Malloy *Martin, Larry* Massey

McElveen McGill Nicholson

O'Dell Peeler Pinckney

Rankin Reese Scott

Setzler Shealy Sheheen

Thurmond Turner Verdin

Williams Young

**Total--35**

**NAYS**

Bright Bryant Corbin

Davis *Martin, Shane*

**Total--5**

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

**READ THE SECOND TIME**

 S. 636 -- Senator Alexander: A BILL TO AMEND SECTION 7‑7‑430, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN OCONEE COUNTY, SO AS TO ADD THE “NEW HOPE” PRECINCT, TO DESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE 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 43; Nays 0**

**AYES**

Alexander Allen Bennett

Bright Bryant Campsen

Cleary Coleman Corbin

Courson Cromer Davis

Fair Ford Gregory

Hayes Hembree Hutto

Jackson Johnson Leatherman

Lourie Malloy *Martin, Larry*

*Martin, Shane* Massey Matthews

McElveen McGill Nicholson

Peeler Pinckney Rankin

Reese Scott Setzler

Shealy Sheheen Thurmond

Turner Verdin Williams

Young

**Total--43**

**NAYS**

**Total--0**

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

**AMENDED, READ THE SECOND TIME**

 S. 148 -- Senators Shealy, Bryant, Gregory and Alexander: A BILL TO AMEND CHAPTER 20, TITLE 37 OF THE 1976 CODE, RELATING TO CONSUMER IDENTITY THEFT PROTECTION, BY ADDING SECTION 37‑20‑161, TO PROVIDE FOR CERTAIN MEASURES TO SAFEGUARD A CLASS OF “PROTECTED CONSUMERS” FROM BECOMING VICTIMS OF IDENTITY THEFT, TO ALLOW REPRESENTATIVES, PROVIDING SUFFICIENT PROOF OF AUTHORITY, TO PLACE A PREEMPTIVE SECURITY FREEZE ON PROTECTED CONSUMER’S CREDIT REPORTS, TO PROVIDE THE LIMITATIONS OF THIS SECTION, TO PROVIDE REQUIREMENTS TO IMPLEMENT A SECURITY FREEZE, TO PROVIDE FOR THE DURATION AND EXTENT OF A SECURITY FREEZE, AND TO PROVIDE TERMS FOR REMOVAL OF A SECURITY FREEZE ON A PROTECTED CONSUMER’S CREDIT REPORT OR RECORD.

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

 Senators MALLOY, SHEALY and SETZLER proposed the following amendment (148R001.GM), which was adopted:

 Amend the bill, as and if amended, SECTION 1, page 4, by striking line 28 and inserting:

 / protected consumer or the protected consumer’s representative.

 (J) A consumer reporting agency may charge a fee to place a security freeze for a protected consumer only if the protected consumer does not already have a consumer credit file and the agency must create one in order to place the security freeze.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator MALLOY explained the amendment.

 The amendment was adopted.

 The question then ws second reading.

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

**Ayes 42; Nays 0**

**AYES**

Alexander Allen Bennett

Bright Bryant Campsen

Cleary Coleman Corbin

Courson Cromer Davis

Fair Ford Gregory

Hayes Hembree Hutto

Johnson Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McElveen McGill

Nicholson O’Dell Peeler

Pinckney Rankin Reese

Scott Setzler Shealy

Sheheen Thurmond Turner

Verdin Williams Young

**Total--42**

**NAYS**

**Total--0**

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

**AMENDED, POINT OF ORDER**

S. 19 -- Senators Ford and Campsen: A BILL TO AMEND SECTION 17-15-55, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BOND AND THE AUTHORITY OF THE CIRCUIT COURT TO REVOKE BOND UNDER CERTAIN CIRCUMSTANCES, SO AS TO INCLUDE THE COMMISSION OF A SUBSEQUENT VIOLENT CRIME BY A PERSON RELEASED ON BOND IN THE PURVIEW OF THE STATUTE AND TO ADD AN ADDITIONAL PENALTY IF A PERSON COMMITS A GENERAL SESSIONS COURT OFFENSE WHILE ON RELEASE ON BOND.

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

 Senators HUTTO, CORBIN, THURMOND and YOUNG proposed the following amendment (JUD0019.001), which was adopted:

 Amend the bill, as and if amended, by striking SECTION 1 in its entirety and inserting:

 / SECTION 1. Section 17‑15‑55 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

 “( ) If a person released on bond pursuant to the provisions of this chapter for a serious or most serious offense, as defined in Section 17-25-45, is charged with a serious or most serious offense, as defined in Section 17‑25‑45, while released on bond, the bond hearing for the subsequent serious or most serious offense must be held in the circuit court. If the court finds probable cause that the person committed the current offense or that the person is unlikely to comply with any condition of release, a rebuttable presumption arises that no condition will assure the person will not pose a danger to the safety of any other person or the community. If the court finds that certain conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond in accordance with the provisions of this chapter and set or amend bond accordingly. If the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, bond must be revoked.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator HUTTO explained the amendment.

 The amendment was adopted.

**Point of Order**

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

 The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 503 -- Senators Thurmond, Hembree, Campsen, Cleary, Rankin and Ford: A BILL TO AMEND CHAPTER 1, TITLE 6 OF THE 1976 CODE, BY ADDING ARTICLE 6 TO ENACT THE “BEACH PRESERVATION ACT”, TO ALLOW A QUALIFIED COASTAL MUNICIPALITY TO IMPOSE A FEE NOT TO EXCEED ONE PERCENT ON THE GROSS PROCEEDS DERIVED FROM THE RENTAL OR CHARGES FOR ACCOMMODATIONS FURNISHED TO TRANSIENTS SUBJECT TO THE MUNICIPALITY’S LOCAL ACCOMMODATIONS TAX, TO PROVIDE THAT THE MUNICIPALITY MAY IMPOSE THE FEE ONLY AFTER ITS APPROVAL IN A REFERENDUM HELD IN THE MUNICIPALITY, TO PROVIDE THAT THE FEE IS IN ADDITION TO ALL OTHER LOCAL ACCOMMODATIONS TAXES IMPOSED AND MUST NOT BE DEEMED CUMULATIVE TO OTHER LOCAL ACCOMMODATIONS TAXES IMPOSED BY THE MUNICIPALITY, TO PROVIDE USES FOR WHICH THE FEE REVENUE MUST BE APPLIED, TO PROVIDE FOR REPORTING AND FOR REMITTANCE OF THESE FEES, AND TO PROVIDE DEFINITIONS.

**Point of Order**

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

 The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 535 -- Senators Peeler, Alexander, L. Martin, McGill, Coleman, Jackson, Campbell, Setzler, Cromer, O’Dell, Sheheen, Turner, Fair, Ford, Nicholson, Hayes and Pinckney: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11 TO CHAPTER 119, TITLE 59, ENACTING THE “CLEMSON UNIVERSITY ENTERPRISE ACT”, SO AS TO ALLOW THE BOARD OF TRUSTEES OF CLEMSON UNIVERSITY BY RESOLUTION TO ESTABLISH AN ENTERPRISE DIVISION AS PART OF CLEMSON UNIVERSITY, TO PROVIDE THAT CERTAIN ASSETS, PROGRAMS, AND OPERATIONS OF CLEMSON UNIVERSITY MAY BE TRANSFERRED TO THE ENTERPRISE DIVISION, TO PROVIDE THAT THE ENTERPRISE DIVISION IS EXEMPT FROM VARIOUS STATE LAWS GOVERNING PROCUREMENT, HUMAN RESOURCES, PERSONNEL, AND DISPOSITION OF REAL AND PERSONAL PROPERTY WITH SOME SUCH EXEMPTIONS APPLYING AUTOMATICALLY AND OTHERS REQUIRING ADDITIONAL ACTIONS BY THE BOARD OF TRUSTEES, TO PROVIDE THAT BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS MAY BE ISSUED FOR THE ENTERPRISE DIVISION AND PROVIDE AUDIT AND REPORTING REQUIREMENTS; AND TO AMEND SECTIONS 8‑11‑260, 8‑17‑370, AND 11‑35‑710, ALL AS AMENDED, AND RELATING RESPECTIVELY TO EXEMPTIONS FROM STATE PERSONNEL ADMINISTRATIONS, THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT, AND THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE, SO AS TO ADD EXEMPTIONS CONFORMING TO THE CLEMSON UNIVERSITY ENTERPRISE ACT.

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

**Point of Order**

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

 The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 601 -- Senators Thurmond, Ford, Sheheen, Campsen and Rankin: A BILL TO AMEND SECTION 2‑17‑10, RELATING TO TERMS REGARDING LOBBYISTS AND LOBBYING, TO DEFINE THE TERMS “LOBBYING”, “LOBBYIST”, “PUBLIC BODY”, AND “PUBLIC OFFICIAL” TO INCLUDE MEMBERS OF AND THE GOVERNING BODIES OF POLITICAL SUBDIVISIONS.

**Point of Order**

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

 The PRESIDENT sustained the Point of Order.

**POINT OF ORDER**

S. 610 -- Senators Rankin, Cleary, Hembree and McGill: A BILL TO AMEND SECTION 11‑41‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO AS TO CLARIFY THAT THE DEFINITION OF “ECONOMIC DEVELOPMENT PROJECT”, INCLUDING A NATIONAL AND INTERNATIONAL CONVENTION AND TRADE SHOW CENTER OWNED BY A PUBLIC ENTITY INCLUDES AN ADJACENT FACILITY ALLOWING SPECIFIC EVENTS THEREBY MAKING ADDITIONAL TIME AND SPACE AVAILABLE FOR THE MAJOR CONVENTIONS, TRADE SHOWS, AND SPECIAL EVENTS CONTEMPLATED BY THE ACT AND REQUIRE JOINT BOND REVIEW COMMITTEE REVIEW AND COMMENT ON SUCH AN ADJACENT FACILITY; AND TO AMEND SECTION 11‑41‑70, RELATING TO PURPOSES OF THE ISSUE OF BONDS PURSUANT TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT AND SPECIFIC REQUIREMENTS APPLICABLE TO A PUBLIC ENTITY RECEIVING BOND PROCEEDS, SO AS TO EXTEND FROM TEN TO FIFTEEN YEARS THE PERIOD IN WHICH A NATIONAL AND INTERNATIONAL CONVENTION AND TRADE SHOW CENTER MUST BE COMPLETED.

**Point of Order**

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

**Point of Order**

 Senator RANKIN raised a Point of Order that the Point of Order raised by Senator SHANE MARTIN came too late.

 The PRESIDENT overruled the Point of Order.

 The PRESIDENT sustained the Point of Order raised by Senator SHANE MARTIN.

**PERFECTING AMENDMENT TABLED**

**CARRIED OVER**

 S. 250 -- Senator Cromer: A BILL TO AMEND SECTION 33‑56‑30 OF THE 1976 CODE, RELATING TO REGISTRATION STATEMENTS FOR THE SOLICITATION OF CHARITABLE FUNDS, TO EXEMPT PUBLIC SCHOOLS AND PUBLIC SCHOOL DISTRICTS.

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

 Senator BRYANT proposed the following amendment (JUD0250.003), which was tabled:

 Amend the committee report, as and if amended, by striking page [250-3], line 7 and inserting the following:

 / amounts; and

 (3) scholarship granting organizations whose contributors receive tax credits as regulated by the Department of Revenue. /

 Renumber sections to conform.

 Amend title to conform.

 Senator BRYANT explained the amendment.

 Senator HUTTO moved to lay the amendment on the table.

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

**Ayes 22; Nays 20**

**AYES**

Alexander Allen Coleman

Courson Hayes Hutto

Johnson Lourie Malloy

*Martin, Larry* Matthews McElveen

McGill Nicholson O'Dell

Pinckney Rankin Reese

Scott Setzler Sheheen

Williams

**Total--22**

**NAYS**

Bennett Bright Bryant

Campsen Cleary Corbin

Cromer Davis Fair

Ford Gregory Hembree

*Martin, Shane* Massey Peeler

Shealy Thurmond Turner

Verdin Young

**Total--20**

 The amendment was laid on the table.

 The question then was second reading of the Bill.

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

**PREVIOUSLY PROPOSED AMENDMENT WITHDRAWN**

**CARRIED OVER**

 S. 259 -- Senator Thurmond: A BILL TO AMEND SECTION 59‑111‑320 OF THE 1976 CODE, RELATING TO PERSONS AGE SIXTY AND OVER ATTENDING CLASSES AT STATE‑SUPPORTED COLLEGES, UNIVERSITIES, AND TECHNICAL SCHOOLS WITHOUT PAYMENT OF TUITION, TO DELETE THE PROVISION THAT THESE PERSONS RECEIVING COMPENSATION AS FULL‑TIME EMPLOYEES MUST PAY TUITION.

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

 Senator SHANE MARTIN proposed the following amendment (259R001.SRM), which was withdrawn:

 Amend the bill, as and if amended, page 1, by striking lines 28 through 29, and inserting:

 / legal residents of South Carolina ~~who have attained the age of sixty~~ to attend classes for credit or noncredit purposes on a space /

 Renumber sections to conform.

 Amend title to conform.

 Senator SHANE MARTIN asked unanimous consent to withdraw the previously proposed amendment.

 There was no objection and the amendment was withdrawn.

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

**CARRIED OVER**

S. 306 -- Senators Campsen and Ford: A BILL TO AMEND SECTION 50‑1‑130 OF THE 1976 CODE, RELATING TO PENALTIES ASSOCIATED WITH MISDEMEANOR OFFENSES CONTAINED IN TITLE 50, TO REVISE THE PENALTIES FOR THESE OFFENSES, AND TO PROVIDE THAT MAGISTRATE’S COURT HAS BOTH ORIGINAL AND CONCURRENT JURISDICTION OVER MISDEMEANOR OFFENSES.

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

 S. 481 -- Senators Malloy, McGill, Leatherman, Setzler, Johnson and Ford: A BILL TO AMEND SECTION 12‑21‑2425, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ADMISSIONS LICENSE TAX EXEMPTION FOR A MOTORSPORTS ENTERTAINMENT COMPLEX, SO AS TO REQUIRE THE COMPLEX TO BE A NASCAR SANCTIONED SPEEDWAY THAT HOSTS AT LEAST ONE RACE EACH YEAR FEATURING THE PREEMINENT NASCAR CUP SERIES, INSTEAD OF REQUIRING THE SPEEDWAY TO HAVE AT LEAST SIXTY THOUSAND SEATS FOR RACE PATRONS.

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

 S. 553 -- Judiciary Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE WORKERS' COMPENSATION COMMISSION, RELATING TO MEDIATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 4286, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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

 S. 562 -- Senator Campsen: A BILL TO AMEND SECTION 27‑27‑10 OF THE 1976 CODE, RELATING TO RECOVERY FOR IMPROVEMENTS MADE IN GOOD FAITH, TO PROVIDE THAT THE DEFENDANT SHALL BE ENTITLED TO RECOVER THE FULL VALUE OF ALL IMPROVEMENTS IF HE HAS PURCHASED OR OTHERWISE ACQUIRED TITLE TO THE LANDS AND TENEMENTS IN THE ACTION.

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

**MINORITY REPORT REMOVED, CARRIED OVER**

 S. 412 -- Senators Thurmond, Lourie, Hayes, McElveen, Turner and Rankin: A BILL TO AMEND SECTION 8-13-1308 OF THE 1976 CODE, RELATING TO THE CONTENTS OF CERTIFIED CAMPAIGN REPORTS OF CANDIDATES AND COMMITTEES, AND TO AMEND SECTION 8-13-1309, RELATING TO THE CONTENTS OF CERTIFIED CAMPAIGN REPORTS OF BALLOT MEASURE COMMITTEES, TO REQUIRE A CANDIDATE OR COMMITTEE OR BALLOT MEASURE COMMITTEE TO ELECTRONICALLY REPORT DURING THE TWENTY DAY PERIOD PRIOR TO AN ELECTION THE RECEIPT OF A CONTRIBUTION FROM A PERSON THAT EXCEEDS TWO HUNDRED FIFTY DOLLARS BY A SINGLE CONTRIBUTION OR WHEN COMBINED WITH ALL OTHER CONTRIBUTIONS MADE DURING THE PERIOD.

 Senator BRIGHT asked unanimous consent to make a motion to remove the minority report from the Bill.

 There was no objection and the minority report was removed from the Bill.

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

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

**MOTION ADOPTED**

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

**HAVING DISPENSED WITH THE MOTION PERIOD, THE SENATE PROCEEDED TO A CONSIDERATION OF REPORTS OF COMMITTEES OF CONFERENCE AND FREE CONFERENCE.**

**Message from the House**

Columbia, S.C., April 24, 2013

Mr. President and Senators:

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

 H. 3453 -- Reps. Bingham, Allison, Anthony, Hayes and Atwater: A JOINT RESOLUTION TO REQUIRE LOCAL SCHOOL DISTRICTS TO DECIDE AND NOTIFY TEACHERS OF THEIR EMPLOYMENT FOR THE 2013‑2014 SCHOOL YEAR BY MAY 5, 2013; TO PROVIDE THAT A CONTINUING‑CONTRACT TEACHER WHO IS BEING RECOMMENDED FOR FORMAL EVALUATION THE FOLLOWING SCHOOL YEAR MUST BE NOTIFIED IN WRITING ON OR BEFORE THE DATE THE SCHOOL DISTRICT ISSUES THE WRITTEN OFFER OF EMPLOYMENT OR REEMPLOYMENT; TO REQUIRE TEACHERS WHO ARE REEMPLOYED BY WRITTEN NOTIFICATION TO NOTIFY THE DISTRICT BOARD OF THEIR ACCEPTANCE WITHIN TEN DAYS OF RECEIPT OF WRITTEN NOTIFICATION OF EMPLOYMENT; AND TO ALLOW DISTRICTS TO UNIFORMLY NEGOTIATE SALARIES OF CERTAIN RETIRED TEACHERS BELOW THE DISTRICT SALARY SCHEDULE.

Very respectfully,

Speaker of the House

 Received as information.

**H. 3453--REPORT OF COMMITTEE OF CONFERENCE ADOPTED**

 **ENROLLED FOR RATIFICATION**

 H. 3453 -- Reps. Bingham, Allison, Anthony, Hayes and Atwater: A JOINT RESOLUTION TO REQUIRE LOCAL SCHOOL DISTRICTS TO DECIDE AND NOTIFY TEACHERS OF THEIR EMPLOYMENT FOR THE 2013‑2014 SCHOOL YEAR BY MAY 5, 2013; TO PROVIDE THAT A CONTINUING‑CONTRACT TEACHER WHO IS BEING RECOMMENDED FOR FORMAL EVALUATION THE FOLLOWING SCHOOL YEAR MUST BE NOTIFIED IN WRITING ON OR BEFORE THE DATE THE SCHOOL DISTRICT ISSUES THE WRITTEN OFFER OF EMPLOYMENT OR REEMPLOYMENT; TO REQUIRE TEACHERS WHO ARE REEMPLOYED BY WRITTEN NOTIFICATION TO NOTIFY THE DISTRICT BOARD OF THEIR ACCEPTANCE WITHIN TEN DAYS OF RECEIPT OF WRITTEN NOTIFICATION OF EMPLOYMENT; AND TO ALLOW DISTRICTS TO UNIFORMLY NEGOTIATE SALARIES OF CERTAIN RETIRED TEACHERS BELOW THE DISTRICT SALARY SCHEDULE.

 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.

**THE SENATE PROCEEDED TO THE SPECIAL ORDERS.**

**READ THE THIRD TIME, SENT TO THE HOUSE**

 S. 349 -- Senator O’Dell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 60, TITLE 40 SO AS TO ENACT THE “APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT”, TO PROVIDE A CITATION, TO PROVIDE CERTAIN DEFINITIONS, TO REQUIRE REGISTRATION FOR AN ENTITY ACTING AS AN APPRAISAL MANAGEMENT COMPANY, TO SPECIFY REGISTRATION REQUIREMENTS, TO PROVIDE EXEMPTIONS FROM REGISTRATION, TO SPECIFY THE TERM FOR WHICH REGISTRATION IS VALID AND FOR RENEWAL AND CANCELLATION OF REGISTRATIONS, TO PROVIDE FOR REGISTRATION FEES, TO LIMIT OWNERSHIP OF AN APPRAISAL MANAGEMENT COMPANY, TO REQUIRE AN APPLICANT FOR REGISTRATION TO DESIGNATE ONE CONTROLLING PERSON AS THE MAIN CONTACT BETWEEN THE COMPANY AND THE BOARD, TO PROVIDE REQUIREMENTS FOR A CONTROLLING PERSON ACTING AS A MAIN CONTACT BETWEEN A COMPANY AND THE BOARD, TO PROVIDE REQUIREMENTS RELATING TO THE USE AND PAYMENT OF INDEPENDENT APPRAISERS, TO SPECIFY CERTAIN REPORTING REQUIREMENTS OF AN APPRAISAL MANAGEMENT COMPANY, TO MAKE ATTEMPTS BY CERTAIN APPRAISAL MANAGEMENT COMPANY PERSONNEL TO INFLUENCE OR ATTEMPT TO INFLUENCE AN APPRAISAL IN A CERTAIN MANNER, TO PROHIBIT AN APPRAISAL MANAGEMENT COMPANY FROM CHANGING A COMPLETED APPRAISAL OR USING AN APPRAISAL REPORT OR ITS CONTENT PROVIDED BY AN INDEPENDENT APPRAISER IN ANOTHER TRANSACTION, TO PROVIDE RESTRICTIONS ON THE REMOVAL OF AN INDEPENDENT APPRAISER FROM THE APPRAISER PANEL BY AN APPRAISAL MANAGEMENT COMPANY, TO PROVIDE CERTAIN PENALTIES AND REMEDIES THE BOARD MAY IMPOSE FOR A VIOLATION OF THE ARTICLE, TO PROVIDE SURETY BOND REQUIREMENTS FOR AN APPRAISAL MANAGEMENT COMPANY, AND TO PROVIDE THE BOARD MAY PROVIDE ADJUDICATORY PROCEEDINGS PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT; TO AMEND SECTION 40‑60‑10, RELATING TO THE REAL ESTATE APPRAISERS BOARD, SO AS TO INCREASE THE MEMBERSHIP OF THE BOARD BY TWO MEMBERS; AND TO DESIGNATE SECTIONS 40‑60‑5 THROUGH 40‑60‑230 AS ARTICLE 1 OF CHAPTER 60, TITLE 40, ENTITLED “REAL ESTATE APPRAISERS”, AND TO RETITLE CHAPTER 60, TITLE 40 AS THE “REAL ESTATE APPRAISAL PROFESSIONALS ACT”.

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

 The Bill was read the third time, passed and ordered sent to the House of Representatives.

**AMENDED, AMENDMENT PROPOSED**

**DEBATE INTERRUPTED**

 H. 3560 -- Reps. Tallon, Harrell, Quinn, Stavrinakis, Patrick, Allison, McCoy, Pitts, Taylor, H.A. Crawford, Simrill, J.R. Smith, Crosby, Brannon, V.S. Moss, G.R. Smith, Henderson, Delleney, Cole, McEachern, Barfield, Ridgeway, Stringer, Nanney, R.L. Brown, Wood, Daning, Erickson, Clemmons, Powers Norrell, Funderburk, Mitchell, Merrill, Kennedy, D.C. Moss, Gagnon, Bannister, Atwater, Rivers, Owens, Bingham, Forrester, Ballentine, Toole, Hixon, Spires, Huggins, Lucas, Horne, Putnam, Weeks, M.S. McLeod and Anderson: A BILL TO AMEND SECTION 16‑23‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO, AMONG OTHER THINGS, INDIVIDUALS WHO ARE PROHIBITED FROM POSSESSING OR ACQUIRING A HANDGUN, SO AS TO ALSO PROHIBIT A PERSON ADJUDICATED MENTALLY INCAPACITATED OR COMMITTED TO A MENTAL INSTITUTION FROM POSSESSING OR ACQUIRING A HANDGUN; TO AMEND SECTION 44‑22‑100, RELATING TO THE CONFIDENTIALITY OF MENTAL HEALTH COMMITMENT AND TREATMENT RECORDS, SO AS TO AUTHORIZE REPORTING INFORMATION IN THESE RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS) TO BE UTILIZED IN DETERMINING IF A PERSON IS DISQUALIFIED FROM PURCHASING A FIREARM; AND BY ADDING ARTICLE 10, CHAPTER 31, TITLE 23 SO AS TO ESTABLISH A CONFIDENTIAL PROCESS FOR COMPILING AND TRANSMITTING INFORMATION ON PERSONS WHO HAVE BEEN ADJUDICATED MENTALLY INCAPACITATED OR COMMITTED TO A MENTAL INSTITUTION, THEREBY BEING DISQUALIFIED FROM POSSESSING OR ACQUIRING A HANDGUN AND TO REQUIRE THE STATE LAW ENFORCEMENT DIVISION (SLED) TO TRANSMIT THIS INFORMATION TO NICS; TO REQUIRE SLED TO CROSS CHECK THE NAMES SENT TO NICS WITH SLED’S DATABASE FOR CONCEALED WEAPONS PERMITS TO ASCERTAIN IF ANY PERMITS MUST BE REVOKED; AND TO ESTABLISH A JUDICIAL PROCESS FOR PERSONS PROHIBITED FROM POSSESSING FIREARMS, DUE SOLELY TO AN ADJUDICATION AS MENTALLY INCAPACITATED OR COMMITMENT TO A MENTAL INSTITUTION, TO OBTAIN REMOVAL OF THE DISQUALIFICATIONS THAT PROHIBITED THEM FROM POSSESSING FIREARMS.

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

**Amendment No. P1-1**

 Senator THURMOND proposed the following Amendment No. P1-1 (JUD3560.002), which was withdrawn:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, page 6, by striking Section 21-31-1050(5) in its entirety and inserting:

 / (5) 'Firearm muffler or firearm silencer' means a device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

 Section 23-31-1060. Nothing in this article affects a court’s duty to conduct a hearing on the issue of a person’s fitness to stand trial pursuant to Section 44-23-430. A solicitor shall not dismiss charges against a person prior to such hearing based solely on the person’s fitness to stand trial.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator THURMOND explained the amendment.

 On motion of Senator THURMOND, with unanimous consent, Amendment No. P1-1 was withdrawn.

**Amendment No. P2-1**

 Senator COLEMAN proposed the following Amendment No. P2-1 (JUD3560.003), which was adopted:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, page 2, by striking Section 21-31-1020(C) in its entirety and inserting:

 / (C) The courts shall submit the information to SLED within five days from the filing of each order related to adjudications and commitments. Under no circumstances may the courts or SLED submit information pursuant to this section relating to a person’s diagnosis or treatment. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, by striking on page 7, SECTION 3 in its entirety and inserting:

 / SECTION 3. Courts required to submit information to SLED pursuant to this act concerning individuals who have been adjudicated as a mental defective or who have been committed to a mental institution shall, from the effective date of this act forward, submit information within five days from the filing of each order and in accordance with procedures developed as required by this act and have one year from this act's effective date to submit retroactive information on such individuals going back a minimum of ten years or, if records are not available as far back as ten years, as far back as records exist./

 Renumber sections to conform.

 Amend title to conform.

 Senator COLEMAN explained the amendment.

 The amendment was adopted.

**Amendment No. P3-1**

 Senators MALLOY and HEMBREE proposed the following Amendment No. P3-1 (JUD3560.004), which was adopted:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, page 5, by striking Section 21-31-1040(C) in its entirety and inserting:

 / (C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use the firearm or ammunition within the agency, transfer the firearm or ammunition to another law enforcement agency for the lawful use of that agency, trade the firearm or ammunition with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy the firearm or ammunition. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which the firearm or ammunition may be involved are finally determined. If SLED seized the firearm or ammunition, SLED may keep the firearm or ammunition for use by SLED’s forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies pursuant to this section. A law enforcement agency that receives a firearm or ammunition pursuant to this subsection may administratively release the firearm or ammunition to an innocent owner. If possession of the firearm or ammunition is necessary for legal proceedings, the firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally concluded. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this subsection which resulted in the firearm or ammunition’s confiscation. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this subsection. /

 Renumber sections to conform.

 Amend title to conform.

 Senator MALLOY explained the amendment.

 The amendment was adopted.

**Amendment No. P4-1**

 Senator BRIGHT proposed the following Amendment No. P4-1 (JUD3560.005), which was ruled out of order:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, page 2, by striking Section 21-31-1020(E) in its entirety and inserting:

 / (E) If the court has submitted a person’s identifying information to SLED, SLED shall:

 (1) review the state concealed weapons permit holders list, and, if the review reveals that the person possesses a current concealed weapons permit, the permit must be revoked and surrendered to a sheriff, police department, SLED agent, or by certified mail to the Chief of SLED. If the permit holder fails to return the permit within ten days of being notified of the permit’s revocation, SLED shall retrieve the permit from the permit holder; and

 (2) transmit the person’s identifying information to the Department of Motor Vehicles. The Department of Motor Vehicles shall review the department’s driver’s license records, and, if the review reveals that the person possesses a current driver’s license, the driver’s license must be revoked and surrendered to the department. /

 Renumber sections to conform.

 Amend title to conform.

 Senator BRIGHT explained 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.

 Senator BRIGHT spoke on the Point of Order.

 Senator HUTTO spoke on the Point of Order.

 The PRESIDENT sustained the Point of Order.

 The amendment was ruled out of order.

**Motion Adopted**

 On motion of Senator CLEARY, with unanimous consent, Senators FAIR, ALEXANDER, CLEARY, McGILL and LOURIE were granted leave to attend a Senate Finance subcommittee meeting and were granted leave to vote from the balcony.

**Amendment No. P6-1**

 Senator BRIGHT proposed the following Amendment No. P6‑1(JUD3560.007), which was tabled:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, page 2, by striking Section 21-31-1020(A) in its entirety and inserting:

 / Section 23‑31‑1020. (A) The Judicial Department and the Chief of SLED, or the chief’s designee, shall work in conjunction with the appropriate court of each county in developing procedures for the collection and submission of information of persons who have been adjudicated as a mental defective and the courts have determined are unfit to carry a weapon or who have been committed to a mental institution and the courts have determined are unfit to carry a weapon. The courts shall determine on a case-by-case basis whether a person is a mental defective or should be committed to a mental institution, and whether the person is unfit to carry a weapon. The courts shall only collect and submit information to SLED if the courts have specially made such determinations. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, page 3, by striking Section 21-31-1030(A) in its entirety and inserting:

 / Section 23‑31‑1030. (A) If a person is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23-31-1040 as a result of adjudication as a mental defective or commitment to a mental institution and the court has determined the person is unfit to carry a weapon, the person may petition the court that issued the original order to remove the prohibitions. The person may file the petition upon the expiration of any current commitment order; however, the court only may consider petitions for relief due to adjudications and commitments that occurred in South Carolina. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, page 5, by striking Section 21-31-1040(A) in its entirety and inserting:

 / Section 23-31-1040. (A) It is unlawful for a person who has been adjudicated as a mental defective and the court has determined is unfit to carry a weapon or who has been committed to a mental institution and the court has determined is unfit to carry a weapon to ship, transport, possess, or receive a firearm or ammunition. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, page 5, by striking Section 21-31-1040(D) in its entirety and inserting:

 / (D) At the time the person is adjudicated as a mental defective or is committed to a mental institution and the court has determined the person is unfit to carry a weapon, the court shall provide to the person or the person’s representative, as appropriate, a written form that conspicuously informs the person or the person’s representative, as appropriate, of the provisions of this section. /

Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, page 7, by striking SECTION 3 in its entirety and inserting:

 / SECTION 3. Courts required to submit information to SLED pursuant to this act concerning individuals who have been adjudicated as a mental defective and the courts have determined to be unfit to carry a weapon or who have been committed to a mental institution and the courts have determined to be unfit to carry a weapon shall, from the effective date of this act forward, submit information as the information arises and in accordance with procedures developed as required by this act and have one year from this act's effective date to submit retroactive information on such individuals going back a minimum of ten years or, if records are not available as far back as ten years, as far back as records exist. /

 Renumber sections to conform.

 Amend title to conform.

 Senator BRIGHT explained the amendment.

 Senator MASSEY moved to lay the amendment on the table.

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

**Ayes 33; Nays 7**

**AYES**

Alexander Allen Bennett

Campsen Cleary Coleman

Courson Cromer Fair

Gregory Hayes Hembree

Hutto Jackson Johnson

Lourie Malloy *Martin, Larry*

Massey Matthews McElveen

McGill Nicholson Peeler

Pinckney Rankin Scott

Setzler Sheheen Thurmond

Turner Williams Young

**Total--33**

**NAYS**

Bright Bryant Corbin

Davis *Martin, Shane* Shealy

Verdin

**Total--7**

 The amendment was laid on the table.

**Amendment No. P8-1**

 Senator BRIGHT proposed the following Amendment No. P8-1 (JUD3560.008), which was tabled:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, page 3-5, by striking Section 21-31-1030 in its entirety and inserting:

 / Section 23‑31‑1030. The courts shall determine at the time of adjudication or commitment and on a case-by-case basis a definite length of time that persons must be prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to this article. In determining the length of time, the court shall take into consideration the person’s treatment program. At the end of the time period determined by the court, the prohibitions must be removed./

 Renumber sections to conform.

 Amend title to conform.

 Senator BRIGHT explained the amendment.

 Senator LARRY MARTIN moved to lay the amendment on the table.

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

**Ayes 37; Nays 2**

**AYES**

Alexander Allen Bennett

Campsen Cleary Coleman

Corbin Courson Cromer

Davis Fair Gregory

Hembree Hutto Jackson

Johnson Lourie Malloy

*Martin, Larry Martin, Shane* Massey

Matthews McElveen McGill

Nicholson Peeler Pinckney

Rankin Scott Setzler

Shealy Sheheen Thurmond

Turner Verdin Williams

Young

**Total--37**

**NAYS**

Bright Bryant

**Total--2**

 The amendment was laid on the table.

**Amendment No. P5-1**

 Senator BRIGHT proposed the following Amendment No. P5-1 (JUD3560.006), which was tabled:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, pages 1 and 2, by striking Section 21-31-1010 in its entirety and inserting:

 / Section 23‑31‑1010. As used in this article, and for purposes of 18 U.S.C. Section 922(g)(4):

 (1) ‘Adjudicated as a mental defective’ means a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

 (a) is a danger to himself or to others; or

 (b) lacks the mental capacity to contract or manage the person’s own affairs.

 The term includes:

 (a) a finding of insanity by a court in a criminal case; and

 (b) those persons found incompetent by a court to stand trial or found not guilty by reason of lack of mental responsibility by a court. (2) ‘Committed to a mental institution’ means a formal commitment of a person to a mental institution by a court. The term includes a commitment to a mental institution involuntarily, and a commitment to a mental institution for mental defectiveness, mental illness, and other reasons, such as drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

 (3) ‘Mental institution’ includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital. /

 Renumber sections to conform.

 Amend title to conform.

 Senator BRIGHT explained the amendment.

 Senator HUTTO moved to lay the amendment on the table.

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

**Ayes 31; Nays 5**

**AYES**

Alexander Allen Bennett

Cleary Coleman Courson

Cromer Fair Gregory

Hembree Hutto Jackson

Johnson Lourie Malloy

*Martin, Larry* Matthews McElveen

McGill Nicholson Peeler

Pinckney Rankin Scott

Setzler Shealy Sheheen

Thurmond Turner Williams

Young

**Total--31**

**NAYS**

Bright Bryant Corbin

*Martin, Shane* Verdin

**Total--5**

 The amendment was laid on the table.

**Amendment No. P7-1**

 Senator BRIGHT proposed the following Amendment No. P7-1 (JUD3560.009), which was tabled:

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX, as and if amended, page 2, by striking Section 21-31-1020(B) in its entirety and inserting:

 / (B) When a court submits this information to SLED, SLED shall maintain the information. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, page 2, by striking Section 21-31-1020(D) in its entirety and inserting:

 / (D) SLED shall keep information submitted by the courts confidential. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, page 2, by striking Section 21-31-1020(E) in its entirety and inserting:

 / (E) If the court has submitted a person’s name and other identifying information to SLED, SLED shall review the state concealed weapons permit holders list, and if the review reveals that the person possesses a current concealed weapons permit, the permit must be revoked and surrendered to a sheriff, police department, SLED agent, or by certified mail to the Chief of SLED. If the permit holder fails to return the permit within ten days of being notified of the permit’s revocation, SLED shall retrieve the permit from the permit holder. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, page 5, by striking Section 21-31-1030(I) in its entirety and inserting:

 / (I) If a court issues an order removing the firearms and ammunition prohibitions pursuant to this section, the court shall provide SLED with a certified copy of the order. /

 Amend Amendment No. 1 bearing document path L:\S‑JUD\AMEND\JUD3560.001.DOCX further, as and if amended, pages 6-7, by striking Section 44-22-100(A) in its entirety and inserting:

 / “Section 44‑22‑100. (A) Certificates, applications, records, and reports made for the purpose of this chapter or Chapter 9, Chapter 11, Chapter 13, ~~Article 1 of~~ Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52, ~~of this title~~ and directly or indirectly identifying a mentally ill or alcohol and drug abuse patient or former patient or individual whose commitment has been sought, must be kept confidential, and must not be disclosed unless:

 (1) the individual identified or ~~his~~ the individual’s guardian consents;

 (2) a court directs that disclosure is necessary for the conduct of proceedings before ~~it~~ the court and that failure to make the disclosure is contrary to ~~the~~ public interest;

 (3) disclosure is required for research conducted or authorized by the department or the Department of Alcohol and Other Drug Abuse Services and with the patient’s consent;

 (4) disclosure is necessary to cooperate with law enforcement, health, welfare, and other state or federal agencies, or when furthering the welfare of the patient or ~~his~~ the patient’s family; ~~or~~

 (5) disclosure is necessary to make reports to the Judicial Department or SLED in accordance with Article 10, Chapter 31, Title 23; or

 (6) disclosure is necessary to carry out the provisions of this chapter or Chapter 9, Chapter 11, Chapter 13, ~~Article 1 of~~ Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52 ~~of this title~~. /

 Renumber sections to conform.

 Amend title to conform.

 Senator BRIGHT explained the amendment.

 Senator LARRY MARTIN moved to lay the amendment on the table.

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

**Ayes 34; Nays 5**

**AYES**

Alexander Allen Bennett

Campsen Cleary Coleman

Courson Cromer Davis

Fair Gregory Hembree

Hutto Jackson Johnson

Lourie Malloy *Martin, Larry*

Massey Matthews McElveen

McGill Nicholson Peeler

Pinckney Rankin Scott

Setzler Shealy Sheheen

Thurmond Turner Williams

Young

**Total--34**

**NAYS**

Bright Bryant Corbin

*Martin, Shane* Verdin

**Total--5**

 The amendment was laid on the table.

**Amendment No. 1**

 Senator LARRY MARTIN proposed the following Amendment No. 1 (JUD3560.001), which was adopted:

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

 / SECTION 1. Chapter 31, Title 23 of the 1976 Code is amended by adding:

 “Article 10

 NICS: Mental Health Adjudication and Commitment Reporting

 Section 23‑31‑1010. As used in this article, and for purposes of 18 U.S.C. Section 922(g)(4):

 (1) 'Adjudicated as a mental defective' means a determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

 (a) is a danger to himself or to others; or

 (b) lacks the mental capacity to contract or manage the person’s own affairs.

 The term includes:

 (a) a finding of insanity by a court in a criminal case; and

 (b) those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. Sections 850(a) and 876(b).

 (2) ‘Committed to a mental institution’ means a formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily, and a commitment to a mental institution for mental defectiveness, mental illness, and other reasons, such as drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

 (3) ‘Mental institution’ includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

 Section 23‑31‑1020. (A) The Judicial Department and the Chief of SLED, or the chief’s designee, shall work in conjunction with the appropriate court of each county in developing procedures for the collection and submission of information of persons who have been adjudicated as a mental defective or who have been committed to a mental institution.

 (B) When a court submits this information to SLED, SLED shall transmit the information to the National Instant Criminal Background Check System (NICS) established pursuant to the Brady Handgun Violence Protection Act of 1993, Pub. Law 103-159.

 (C) On an ongoing basis the courts shall submit the information to SLED as adjudications and commitments occur. Under no circumstances may the courts or SLED submit information pursuant to this section relating to a person’s diagnosis or treatment.

 (D) SLED shall keep information submitted by the courts confidential, and such information may only be disclosed to NICS pursuant to this section, for purposes directly related to the Brady Act, or as provided in subsection (E).

 (E) If the court has submitted a person’s name and other identifying information to SLED to be transmitted to NICS, SLED shall review the state concealed weapons permit holders list, and if the review reveals that the person possesses a current concealed weapons permit, the permit must be revoked and surrendered to a sheriff, police department, SLED agent, or by certified mail to the Chief of SLED. If the permit holder fails to return the permit within ten days of being notified of the permit’s revocation, SLED shall retrieve the permit from the permit holder.

 (F) Information submitted by the courts pursuant to this section, which is also contained in court orders or in other state or local agency records, is not affected by this section, and such court orders or other state or local agency records may be disclosed in accordance with existing laws and procedures.

 Section 23‑31‑1030. (A) If a person is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23-31-1040 as a result of adjudication as a mental defective or commitment to a mental institution, the person may petition the court that issued the original order to remove the prohibitions. The person may file the petition upon the expiration of any current commitment order; however, the court only may consider petitions for relief due to adjudications and commitments that occurred in South Carolina.

 (B) The petition must be accompanied by a fifty dollar filing fee and an authorization and release signed by the petitioner, authorizing disclosure of petitioner’s current and past medical records, including mental health records.

 (C) The petitioner shall serve the petition on and notify parties in the court’s discretion.

 (D)(1) Within ninety days of receiving the petition, unless the court grants an extension upon the petitioner’s request, the court shall conduct a hearing which must be presided over by a person other than the person who gathered evidence for use by the court in the hearing.

 (2) At the hearing on the petition, the petitioner shall have the opportunity to submit evidence, and a record of the hearing must be made and maintained for review. The court shall consider information and records, which otherwise are confidential or privileged, relevant to the criteria for removing firearms and ammunition prohibitions, and shall receive and consider evidence concerning the following:

 (a) the circumstances regarding the firearms and ammunitions prohibitions imposed by 18 U.S.C. Section 922(g)(4) and Section 23-31-1040;

 (b) the petitioner’s record, which must include, at a minimum, the petitioner’s mental health and criminal history records;

 (c) the petitioner’s reputation developed, at a minimum, through character witness statements, testimony, or other character evidence; and

 (d) a current evaluation presented by the petitioner conducted by the Department of Mental Health or a physician licensed in this State specializing in mental health specifically addressing whether due to mental defectiveness or mental illness the petitioner poses a threat to the safety of the public or himself.

 (E) Unless the court finds that the public interest would be better served, the hearing must be closed to the public and the petitioner's mental health records must be restricted from public disclosure. However, if the court determines the hearing should be open to the public, upon motion by the petitioner the court may allow for the in camera inspection of the petitioner's mental health records and for the use of such records, but such records must be restricted from public disclosure.

 (F)(1) The court shall make findings of fact regarding the following, and shall remove the firearms and ammunition prohibitions, if the petitioner proves by a preponderance of the evidence that:

 (a) the petitioner is no longer required to participate in court‑ordered psychiatric treatment;

 (b) the petitioner is determined by the Department of Mental Health or by a physician licensed in this State specializing in mental health to benot likely to act in a manner dangerous to public safety or himself; and

 (c) granting the petitioner relief will not be contrary to public interest.

 (2) Notwithstanding subsection (F)(1), the court must not remove the firearms and ammunition prohibitions, if, by a preponderance of the evidence, it is proven that the petitioner has engaged in acts of violence subsequent to the petitioner’s last adjudication as a mental defective or last commitment to a mental institution, unless the petitioner, by clear and convincing evidence, proves that the person is not likely to act in a manner dangerous to public safety or himself.

 (G) If the petitioner is denied relief and the firearms and ammunition prohibitions are not removed, the petitioner may appeal to the circuit court for de novo review. In conducting the review, the circuit court:

 (1) shall review the record;

 (2) may give deference to the decision of the court denying the petitioner relief; and

 (3) may receive additional evidence as necessary to conduct an adequate review.

 (H) Medical records, psychological reports, and other treatment records which have been submitted to the court or admitted into evidence pursuant to this section must be part of the record, but must be sealed and opened only by court order.

 (I) If a court issues an order removing the firearms and ammunition prohibitions pursuant to this section, the court shall provide SLED with a certified copy of the order. SLED promptly shall inform NICS of the court’s action removing the firearms and ammunition prohibitions.

 Section 23-31-1040. (A) It is unlawful for a person who has been adjudicated as a mental defective or who has been committed to a mental institution to ship, transport, possess, or receive a firearm or ammunition.

 (B) A person who violates this section is guilty of a felony, and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

 (C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use the firearm or ammunition within the agency, transfer the firearm or ammunition to another law enforcement agency for the lawful use of that agency, trade the firearm or ammunition with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy the firearm or ammunition. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which the firearm or ammunition may be involved are finally determined. If SLED seized the firearm or ammunition, SLED may keep the firearm or ammunition for use by SLED’s forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies pursuant to this section.

 (D) At the time the person is adjudicated as a mental defective or is committed to a mental institution, the court shall provide to the person or the person’s representative, as appropriate, a written form that conspicuously informs the person or the person’s representative, as appropriate, of the provisions of this section.

 Section 23-31-1050. As used in Section 23-31-1030 and Section 23-31-1040:

 (1) ‘Ammunition’ means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm other than an antique firearm. The term does not include:

 (a) a shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing; or

 (b) an unloaded, non-metallic shotgun hull or casing not having a primer.

 (2) ‘Antique firearm’ means:

 (a) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; and

 (b) a replica of a firearm described in subitem (2)(a) if such replica:

 (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

 (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

 (3) ‘Firearm’ means a weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such weapon; a firearm muffler or firearm silencer; or a destructive device; but the term does not include an antique firearm. In the case of a licensed collector, the term means only curios and relics.

 (4) ‘Firearm frame or receiver’ means that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

 (5) ‘Firearm muffler or firearm silencer’ means a device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.”

 SECTION 2. Section 44‑22‑100 of the 1976 Code is amended to read:

 “Section 44‑22‑100. (A) Certificates, applications, records, and reports made for the purpose of this chapter or Chapter 9, Chapter 11, Chapter 13, ~~Article 1 of~~ Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52, ~~of this title~~ and directly or indirectly identifying a mentally ill or alcohol and drug abuse patient or former patient or individual whose commitment has been sought, must be kept confidential, and must not be disclosed unless:

 (1) the individual identified or ~~his~~ the individual’s guardian consents;

 (2) a court directs that disclosure is necessary for the conduct of proceedings before ~~it~~ the court and that failure to make the disclosure is contrary to ~~the~~ public interest;

 (3) disclosure is required for research conducted or authorized by the department or the Department of Alcohol and Other Drug Abuse Services and with the patient’s consent;

 (4) disclosure is necessary to cooperate with law enforcement, health, welfare, and other state or federal agencies, or when furthering the welfare of the patient or ~~his~~ the patient’s family; ~~or~~

 (5) disclosure is necessary to make reports to the Judicial Department or SLED for the limited purpose of providing notice to the federal National Instant Criminal Background Check System (NICS), established pursuant to the Brady Handgun Violence Prevention Act of 1993, Pub.L. 103-159, and in accordance with Article 10, Chapter 31, Title 23; or

 (6) disclosure is necessary to carry out the provisions of this chapter or Chapter 9, Chapter 11, Chapter 13, ~~Article 1 of~~ Chapter 15, Chapter 17, Chapter 20, Chapter 23, Chapter 24, Chapter 25, Chapter 27, or Chapter 52 ~~of this title~~.

 (B) Nothing in this section:

 (1) precludes disclosure, upon proper inquiry, of information as to a patient’s current medical condition to members of ~~his~~ the patient’s family, or the Governor’s ombudsman office; or

 (2) requires the release of records of which disclosure is prohibited or regulated by federal law.

 (C) A person who violates this section is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both.”

 SECTION 3. Courts required to submit information to SLED pursuant to this act concerning individuals who have been adjudicated as a mental defective or who have been committed to a mental institution shall, from the effective date of this act forward, submit information as the information arises and in accordance with procedures developed as required by this act and have one year from this act's effective date to submit retroactive information on such individuals going back a minimum of ten years or if records are not available as far back as ten years, as far back as records exist.

 SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

 SECTION 5. This act takes effect ninety days after approval by the Governor. /

 Renumber sections to conform.

 Amend title to conform.

 Senator LARRY MARTIN explained the amendment.

 The amendment was adopted.

**Amendment No. 2B**

 Senator SHANE MARTIN proposed the following Amendment No. 2B (3560R005.SRM), which was ruled out of order:

 Amend the bill, as and if amended, pages 3‑6, by striking Section 23‑31‑1030 in its entirety and inserting:

 / Section 23‑31‑1030. (A) If a person is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23‑31‑1040 as a result of adjudication as a mental defective or commitment to a mental institution, the person may petition the court that issued the original order to remove the prohibitions. The person may file the petition upon the expiration of any current commitment order; however, the court only may consider petitions for relief due to adjudications and commitments that occurred in this State.

 (B) The petition must be accompanied by an authorization and release signed by the petitioner authorizing disclosure of the petitioner’s current and past medical records, including mental health records.

 (C) If the petition is filed pro se, the court shall provide notice to all parties of record. If the petitioner is represented by counsel, counsel shall provide notice to all parties of record.

 (D)(1) Within ninety days of receiving the petition, unless the court grants an extension upon request of the petitioner, the court shall conduct a hearing which must be presided over by a person other than the person who gathered evidence for use by the court in the hearing.

 (2) At the hearing on the petition, the petitioner shall have the opportunity to submit evidence, and a record of the hearing must be made and maintained for review. The court shall consider information and records, which otherwise are confidential or privileged, relevant to the criteria for removing firearm and ammunition prohibitions and shall receive and consider evidence concerning the following:

 (a) the circumstances regarding the firearm and ammunitions prohibitions imposed by 18 U.S.C. Section 922(g)(4) and Section 23‑31‑1040;

 (b) the petitioner’s record, which must include, at a minimum, the petitioner’s mental health and criminal history records;

 (c) the parties may present evidence of the petitioner’s reputation developed through character witness statements, testimony, or other character evidence; and

 (d) a current evaluation presented by the petitioner conducted by the Department of Mental Health or a physician licensed in this State specializing in mental health specifically addressing whether due to mental defectiveness or mental illness the petitioner poses a threat to the safety of the public or himself or herself.

 (E) The hearing must be closed to the public and the petitioner’s mental health records must be restricted from public disclosure. However, upon motion by the petitioner, the hearing may be open to the public and the court may allow for the in camera inspection of the petitioner’s mental health records and for the use of these records, but these records must be restricted from public disclosure.

 (F)(1) The court shall make findings of fact regarding the following and shall remove the firearm and ammunition prohibitions if the petitioner proves by a preponderance of the evidence that:

 (a) the petitioner is no longer required to participate in court‑ordered psychiatric treatment;

 (b) the petitioner is determined by the Department of Mental Health or by a physician licensed in this State specializing in mental health to benot likely to act in a manner dangerous to public safety; and

 (c) granting the petitioner relief will not be contrary to the public interest.

 (2) Notwithstanding subsection (F)(1), the court must not remove the firearm and ammunition prohibitions if, by a preponderance of the evidence, it is proven that the petitioner has engaged in acts of violence subsequent to the petitioner’s last adjudication as a mental defective or last commitment to a mental institution, unless the petitioner, by clear and convincing evidence, proves that he is not likely to act in a manner dangerous to public safety.

 (G) If the petitioner is denied relief and the firearm and ammunition prohibitions are not removed, the petitioner may appeal to the circuit court for de novo review. In conducting its review, the circuit court:

 (1) shall review the record;

 (2) may give deference to the decision of the court denying the petitioner relief; and

 (3) may receive additional evidence as necessary to conduct an adequate review.

 (H) Medical records, psychological reports, and other treatment records which have been submitted to the court or admitted into evidence under this section must be part of the record, but must be sealed and opened only on order of the court.

 (I) If a court issues an order pursuant to this section that removes the firearm and ammunition prohibitions that prohibited the petitioner from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23‑31‑1040, arising from adjudication as a mental defective or commitment to a mental institution, the court shall provide the State Law Enforcement Division with a certified copy of the order which may be transmitted through electronic means. The State Law Enforcement Division promptly shall inform the National Instant Criminal Background Check System of the court action removing these firearm and ammunition prohibitions. /

 Amend the bill further, as and if amended, page 8, after line 4, by adding an appropriately numbered new SECTION to read:

 / SECTION \_\_\_. Section 16‑23‑30(A) of the 1976 Code is amended to read:

 “(A) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State any handgun to:

 (1) a person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions, or the District of Columbia or who is a fugitive from justice ~~or a habitual drunkard~~ or a drug addict or who has been adjudicated mentally incompetent;

 (2) a person who is a member of a subversive organization as defined in Section 16‑23‑10(5);

 (3) a person under the age of eighteen, but this shall not apply to the issue of handguns to members of the Armed Forces of the United States, active or reserve, National Guard, State Militia, or R. O. T. C., when on duty or training or the temporary loan of handguns for instructions under the immediate supervision of a parent or adult instructor; or

 (4) a person who by order of a circuit judge ~~or county court judge~~ of this State has been adjudged unfit to carry or possess a firearm, such adjudication to be made upon application ~~by any police officer, or~~ by any prosecuting officer of this State, or sua sponte, by the court, but a person who is the subject of such an application is entitled to reasonable notice and a proper hearing prior to any such adjudication.”

 Amend the bill further, as and if amended, page 8, after line 4, by adding an appropriately numbered new SECTION to read:

 / SECTION \_\_\_. Section 16‑23‑10(5) of the 1976 Code is amended to read:

 “(5) ‘Subversive organization’ means, as declared by the Governor, any group, committee, club, league, society, association, or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure, or overthrow of the government of the United States or any state or political subdivision thereof, by the use of force, violence, espionage, sabotage, or threats or attempts of any of the foregoing.” /

 Renumber sections to conform.

 Amend title to conform.

 Senator SHANE MARTIN explained the amendment.

**Objection**

 Senator HEMBREE asked unanimous consent to make a motion to divide the amendment for consideration.

 Senator SHANE MARTIN objected.

**Point of Order**

 Senator HEMBREE 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 SHANE MARTIN spoke on the Point of Order.

 Senator HEMBREE spoke on the Point of Order.

 The PRESIDENT sustained the Point of Order.

 The amendment was ruled out of order.

**Amendment No. 3A**

 Senator ALLEN proposed the following Amendment No. 3A (3560R004.KBA), which was adopted:

 Amend the bill, as and if amended, page 4, by striking lines 5-8 and inserting:

 / (B) Notwithstanding the exclusive jurisdiction of the court to preside over hearings initiated pursuant to this section, the case may be removed to the circuit court upon motion of the petitioner or on motion of the court, made not later than ten days following the date the petition is filed. Upon such motion, the case must be removed to the circuit court where the court shall proceed with the case de novo. /

 Renumber sections to conform.

 Amend title to conform.

 Senator ALLEN explained the amendment.

 The amendment was adopted.

**Amendment No. 5**

 Senator SHANE MARTIN proposed the following Amendment No. 5 (3560R009.SRM), which was adopted:

 Amend the bill, as and if amended, pages 3‑6, by striking Section 23‑31‑1030 in its entirety and inserting:

 / Section 23‑31‑1030. (A) If a person is prohibited from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23‑31‑1040 as a result of adjudication as a mental defective or commitment to a mental institution, the person may petition the court that issued the original order to remove the prohibitions. The person may file the petition upon the expiration of any current commitment order; however, the court only may consider petitions for relief due to adjudications and commitments that occurred in this State.

 (B) The petition must be accompanied by an authorization and release signed by the petitioner authorizing disclosure of the petitioner’s current and past medical records, including mental health records.

 (C) If the petition is filed pro se, the court shall provide notice to all parties of record. If the petitioner is represented by counsel, counsel shall provide notice to all parties of record.

 (D)(1) Within ninety days of receiving the petition, unless the court grants an extension upon request of the petitioner, the court shall conduct a hearing which must be presided over by a person other than the person who gathered evidence for use by the court in the hearing.

 (2) At the hearing on the petition, the petitioner shall have the opportunity to submit evidence, and a record of the hearing must be made and maintained for review. The court shall consider information and records, which otherwise are confidential or privileged, relevant to the criteria for removing firearm and ammunition prohibitions and shall receive and consider evidence concerning the following:

 (a) the circumstances regarding the firearm and ammunitions prohibitions imposed by 18 U.S.C. Section 922(g)(4) and Section 23‑31‑1040;

 (b) the petitioner’s record, which must include, at a minimum, the petitioner’s mental health and criminal history records;

 (c) the parties may present evidence of the petitioner’s reputation developed through character witness statements, testimony, or other character evidence; and

 (d) a current evaluation presented by the petitioner conducted by the Department of Mental Health or a physician licensed in this State specializing in mental health specifically addressing whether due to mental defectiveness or mental illness the petitioner poses a threat to the safety of the public or himself or herself.

 (E) The hearing must be closed to the public and the petitioner’s mental health records must be restricted from public disclosure. However, upon motion by the petitioner, the hearing may be open to the public and the court may allow for the in camera inspection of the petitioner’s mental health records and for the use of these records, but these records must be restricted from public disclosure.

 (F)(1) The court shall make findings of fact regarding the following and shall remove the firearm and ammunition prohibitions if the petitioner proves by a preponderance of the evidence that:

 (a) the petitioner is no longer required to participate in court‑ordered psychiatric treatment;

 (b) the petitioner is determined by the Department of Mental Health or by a physician licensed in this State specializing in mental health to benot likely to act in a manner dangerous to public safety; and

 (c) granting the petitioner relief will not be contrary to the public interest.

 (2) Notwithstanding subsection (F)(1), the court must not remove the firearm and ammunition prohibitions if, by a preponderance of the evidence, it is proven that the petitioner has engaged in acts of violence subsequent to the petitioner’s last adjudication as a mental defective or last commitment to a mental institution, unless the petitioner, by clear and convincing evidence, proves that he is not likely to act in a manner dangerous to public safety.

 (G) If the petitioner is denied relief and the firearm and ammunition prohibitions are not removed, the petitioner may appeal to the circuit court for de novo review. In conducting its review, the circuit court:

 (1) shall review the record;

 (2) may give deference to the decision of the court denying the petitioner relief; and

 (3) may receive additional evidence as necessary to conduct an adequate review.

 (H) Medical records, psychological reports, and other treatment records which have been submitted to the court or admitted into evidence under this section must be part of the record, but must be sealed and opened only on order of the court.

 (I) If a court issues an order pursuant to this section that removes the firearm and ammunition prohibitions that prohibited the petitioner from shipping, transporting, possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. Section 922(g)(4) or Section 23‑31‑1040, arising from adjudication as a mental defective or commitment to a mental institution, the court shall provide the State Law Enforcement Division with a certified copy of the order which may be transmitted through electronic means. The State Law Enforcement Division promptly shall inform the National Instant Criminal Background Check System of the court action removing these firearm and ammunition prohibitions. /

 Renumber sections to conform.

 Amend title to conform.

 Senator SHANE MARTIN explained the amendment.

 The amendment was adopted.

**Amendment No. 6**

 Senator SHANE MARTIN proposed the following Amendment No. 6 (3560R007.SRM), which was ruled out of order:

 Amend the bill, as and if amended, page 8, after line 4, by adding an appropriately numbered new SECTION to read:

 / SECTION \_\_\_. Section 16‑23‑30(A) of the 1976 Code is amended to read:

 “(A) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State any handgun to:

 (1) a person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions, or the District of Columbia or who is a fugitive from justice ~~or a habitual drunkard~~ or a drug addict or who has been adjudicated mentally incompetent;

 (2) a person who is a member of a subversive organization;

 (3) a person under the age of eighteen, but this shall not apply to the issue of handguns to members of the Armed Forces of the United States, active or reserve, National Guard, State Militia, or R. O. T. C., when on duty or training or the temporary loan of handguns for instructions under the immediate supervision of a parent or adult instructor; or

 (4) a person who by order of a circuit judge ~~or county court judge~~ of this State has been adjudged unfit to carry or possess a firearm, such adjudication to be made upon application ~~by any police officer, or~~ by any prosecuting officer of this State, or sua sponte, by the court, but a person who is the subject of such an application is entitled to reasonable notice and a proper hearing prior to any such adjudication.”/

 Renumber sections to conform.

 Amend title to conform.

 Senator SHANE MARTIN explained the amendment.

**Point of Order**

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

 The PRESIDENT sustained the Point of Order.

 The amendment was ruled out of order.

**Amendment No. 7**

 Senators MASSEY and CAMPSEN proposed the following Amendment No. 7 (JUD3560.011):

 Amend the bill, as and if amended, page 3, by striking lines 7-11, and inserting:

 / (B) When a court submits this information to SLED by court order, SLED shall transmit the court ordered information to the National Instant Criminal Background Check System (NICS) established pursuant to the Brady Handgun Violence Protection Act of 1993, Pub. Law 103-159. /

 Amend the bill further, as and if amended, page 6, by striking lines 5-8, and inserting:

 / Section 23-31-1040. (A) It is unlawful for a person who has been adjudicated as a mental defective by a court or who has been committed to a mental institution by a court to ship, transport, possess, or receive a firearm or ammunition.

 (B) A person who violates this section is guilty of a felony, and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

 (C) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use the firearm or ammunition within the agency, transfer the firearm or ammunition to another law enforcement agency for the lawful use of that agency, trade the firearm or ammunition with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy the firearm or ammunition. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which the firearm or ammunition may be involved are finally determined. If SLED seized the firearm or ammunition, SLED may keep the firearm or ammunition for use by SLED’s forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies pursuant to this section. A law enforcement agency that receives a firearm or ammunition pursuant to this subsection may administratively release the firearm or ammunition to an innocent owner. If possession of the firearm or ammunition is necessary for legal proceedings, the firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally concluded. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this subsection which resulted in the firearm or ammunition’s confiscation. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this subsection.

 (D) At the time the person is adjudicated as a mental defective or is committed to a mental institution, the court shall provide to the person or the person’s representative, as appropriate, a written form that conspicuously informs the person or the person’s representative, as appropriate, of the provisions of this section. /

 Amend the bill further, as and if amended, page 8, by striking lines 6-15, and inserting:

 SECTION 3. Courts required to submit information to SLED pursuant to this act concerning individuals who have been adjudicated as a mental defective by a court or who have been committed to a mental institution by a court shall, from the effective date of this act forward, submit court ordered information within five days from the filing of each order and in accordance with procedures developed as required by this act and have one year from this act's effective date to submit retroactive court ordered information on such individuals going back a minimum of ten years or, if records are not available as far back as ten years, as far back as records exist. /

 Renumber sections to conform.

 Amend title to conform.

 Senator MASSEY explained the amendment.

**RECESS**

 At 2:57 P.M., on motion of Senator SHANE MARTIN, the Senate receded from business not to exceed five minutes.

 At 3:02 P.M., the Senate resumed.

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

**REPORT RECEIVED**

**Judicial Merit Selection Commission**

**Report of Candidate Qualifications**

**Spring 2013**

Date Draft Report Issued: Thursday, April 25, 2013

Date and Time: 12:00 Noon

Final Report Issued: Tuesday, April 30, 2013

**Judicial candidates are not free to**

**seek or accept commitments until**

**Tuesday, April 30, 2013, at Noon.**

April 25, 2013

Dear Members of the General Assembly:

 Enclosed is the Judicial Merit Selection Commission’s Report of Candidate Qualifications. This Report is designed to assist you in determining how to cast your vote. The Commission is charged by law with ascertaining whether judicial candidates are qualified for service on the bench. In accordance with this mandate, the Commission has thoroughly investigated all judicial candidates for their suitability for judicial service. The Commission found all candidates discussed in this Report to be qualified.

 The Commission’s finding that a candidate is qualified means that the candidate satisfies both the constitutional criteria for judicial office and the Commission’s evaluative criteria. The attached Report details each candidate's qualifications as they relate to the Commission’s evaluative criteria.

 Judicial candidates are **prohibited** from asking for your commitment until **12:00 Noon on April 30, 2013.**  **Members of the General Assembly are not permitted to issue letters of introduction, announcements of candidacy, statements detailing a candidate’s qualifications, or commitments to vote for a candidate until Tuesday, April 30, 2013. In sum, no member of the General Assembly should, orally or by writing, communicate about a candidate’s candidacy until the time designated after release of the Judicial Merit Selection Commission’s Report of Candidate Qualifications.** If you find a candidate violating the pledging prohibitions or if you have questions about this report, please contact the Commission office at 212-6623.

 Thank you for your attention to this matter.

Sincerely,

Sen. Larry A. Martin Rep. Alan D. Clemmons

Chairman Vice-Chairman

April 25, 2013

Members of the SC General Assembly

SC State House

Columbia, SC

Dear Fellow Members:

 This letter is written to call your attention to issues raised during the December 2003 Judicial Merit Selection hearings concerning a judicial candidate’s contact with members of the General Assembly, as well as third parties contacting members on a candidate’s behalf. It is also to remind you of these issues for the Spring 2013 screening.

 Section 2-19-70(C) of the SC Code contains strict prohibitions concerning candidates seeking or legislators giving their pledges of support or implied endorsement through an introduction prior to 48 hours after the release of the final report of the Judicial Merit Selection Commission (Commission). The purpose of this section was to ensure that members of the General Assembly had full access to the report prior to being asked by a candidate to pledge his or her support. The final sentence of Section 2-19-70(C) provides that “the prohibitions of this section do not extend to **an announcement of candidacy** **by the candidate** **and statements by the candidate** detailing the candidate’s qualifications” (emphasis added). Candidates may not, however, contact members of the Commission regarding their candidacy; please note that six members of the Commission also are legislators.

 In April 2000, the Commission determined that Section 2-19-70(C) means **no** member of the General Assembly should engage in any form of communication, written or verbal, concerning a judicial candidate before the 48-hour period expires following the release of the Commission’s report. The Commission would like to clarify and reiterate that until at least 48 hours have expired after the Commission has released its final report of candidate qualifications to the General Assembly**,** only candidates, and not members of the General Assembly, are permitted to issue letters of introduction, announcements of candidacy, or statements detailing the candidates’ qualifications.

 The Commission would again like to remind members of the General Assembly that a violation of the screening law is likely a disqualifying offense and must be considered when determining a candidate’s fitness for judicial office. Further, the law requires the Commission to report any violations of the pledging rules by members of the General Assembly to the House or Senate Ethics Committee, as may be applicable.

 Should you have any questions regarding this letter or any other matter pertaining to the judicial screening process, please do not hesitate to call Jane O. Shuler, Chief Counsel to the Commission, at 212-6629 (M-Th).

Sincerely,

Sen. Larry A. Martin Rep. Alan D. Clemmons

Chairman Vice-Chairman

**INTRODUCTION**

 The Judicial Merit Selection Commission is charged by law to consider the qualifications of candidates for the judiciary. This report details the reasons for the Commission’s findings, as well as each candidate’s qualifications as they relate to the Commission’s evaluative criteria. The Commission operates under the law that went into effect July 1, 1997, and which dramatically changed the powers and duties of the Commission. One component of this law is that the Commission’s finding of “qualified” or “not qualified” is binding on the General Assembly. The Commission is also cognizant of the need for members of the General Assembly to be able to differentiate between candidates and, therefore, has attempted to provide as detailed a report as possible.

 The Judicial Merit Selection Commission is composed of ten members, four of whom are non-legislators. The Commission has continued the more in-depth screening format started in 1997. The Commission has asked candidates their views on issues peculiar to service on the court to which they seek election. These questions were posed in an effort to provide members of the General Assembly with more information about candidates and the candidates’ thought processes on issues relevant to their candidacies. The Commission has also engaged in a more probing inquiry into the depth of a candidate’s experience in areas of practice that are germane to the office he or she is seeking. The Commission feels that candidates should have familiarity with the subject matter of the courts for which they offer, and feels that candidates’ responses should indicate their familiarity with most major areas of the law with which they will be confronted.

 The Commission also used the Citizens Committees on Judicial Qualifications as an adjunct of the Commission. Since the decisions of our judiciary play such an important role in people’s personal and professional lives, the Commission believes that all South Carolinians should have a voice in the selection of the state’s judges. It was this desire for broad-based grassroots participation that led the Commission to create the Citizens Committees on Judicial Qualifications. These committees, composed of people from a broad range of experiences (lawyers, teachers, businessmen, bankers, and advocates for various organizations; members of these committees are also diverse in their racial and gender backgrounds), were asked to advise the Commission on the judicial candidates in their regions. Each regional committee interviewed the candidates from its assigned area and also interviewed other individuals in that region who were familiar with the candidate either personally or professionally. Based on those interviews and its own investigation, each committee provided the Commission with a report on their assigned candidates based on the Commission’s evaluative criteria. The Commission then used these reports as a tool for further investigation of the candidate if the committee’s report so warranted. Summaries of these reports have also been included in the Commission’s report for your review.

 The Commission conducts a thorough investigation of each candidate’s professional, personal, and financial affairs, and holds public hearings during which each candidate is questioned on a wide variety of issues. The Commission’s investigation focuses on the following evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental health, and judicial temperament. The Commission's investigation includes the following:

 (1) survey of the bench and bar;

 (2) SLED and FBI investigation;

 (3) credit investigation;

 (4) grievance investigation;

 (5) study of application materials;

 (6) verification of ethics compliance;

 (7) search of newspaper articles;

 (8) conflict of interest investigation;

 (9) court schedule study;

 (10) study of appellate record;

 (11) court observation; and

 (12) investigation of complaints.

 While the law provides that the Commission must make findings as to qualifications, the Commission views its role as also including an obligation to consider candidates in the context of the judiciary on which they would serve and, to some degree, govern. To that end, the Commission inquires as to the quality of justice delivered in the courtrooms of SC and seeks to impart, through its questioning, the view of the public as to matters of legal knowledge and ability, judicial temperament, and the absoluteness of the Judicial Canons of Conduct as to recusal for conflict of interest, prohibition of ex parte communication, and the disallowance of the acceptance of gifts. However, the Commission is not a forum for reviewing the individual decisions of the state’s judicial system absent credible allegations of a candidate’s violations of the Judicial Canons of Conduct, the Rules of Professional Conduct, or any of the Commission’s nine evaluative criteria that would impact a candidate’s fitness for judicial service.

 The Commission expects each candidate to possess a basic level of legal knowledge and ability, to have experience that would be applicable to the office sought, and to exhibit a strong adherence to codes of ethical behavior. These expectations are all important, and excellence in one category does not make up for deficiencies in another.

 Routine questions related to compliance with ethical Canons governing ethics and financial interests are now administered through a written questionnaire mailed to candidates and completed by them in advance of each candidate’s staff interview. These issues were no longer automatically made a part of the public hearing process unless a concern or question was raised during the investigation of the candidate. The necessary public record of a candidate’s pledge to uphold the Canons, etc. is his or her completed and sworn questionnaire.

 Written examinations of the candidates’ knowledge of judicial practice and procedure were given at the time of candidate interviews with staff and graded on a “blind” basis by a panel of four persons designated by the Chairman. In assessing each candidate's performance on these practice and procedure questions, the Commission has placed candidates in either the “failed to meet expectations” or “met expectations” category. The Commission feels that these categories should accurately impart the candidate’s performance on the practice and procedure questions.

 This report is the culmination of weeks of investigatory work and public hearings. The Commission takes its responsibilities seriously, as it believes that the quality of justice delivered in SC’s courtrooms is directly affected by the thoroughness of its screening process. Please carefully consider the contents of this report, as we believe it will help you make a more informed decision.

 This report conveys the Commission’s findings as to the qualifications of the candidate currently offering for election to the Circuit Court.

**CIRCUIT COURT**

**QUALIFIED AND NOMINATED**

**Brian M. Gibbons**

**Circuit Court, Sixth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Gibbons meets the qualifications prescribed by law for judicial service as a Circuit Court Judge Gibbons.

Judge Gibbons was born in 1966. He is 46 years old and a resident of Chester, South Carolina. Judge Gibbons provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1992.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Gibbons.

Judge Gibbons demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to Judge Gibbonss, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Gibbons reported that he not made any campaign expenditures.

Judge Gibbons testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Gibbons testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Gibbons to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Gibbons described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name

1. Annual Judicial Conference for past 6 years, August of each year;
2. SC Conference of FC Judges past 6 years, April of each year;
3. SC Bar Convention – Seminar, January of each year;
4. Family Court Bench/Bar Seminar, December of each year.

I have always carried over the full slate of CLE hours since I have been a judge.

Judge Gibbons reported that he has taught the following law‑related courses:

Course/ Lecture Name Date

(a) Presented at the 2010 SC Bar Program

“Bridge the Gap” for new lawyers as part of

a panel dealing with Family Court. 2010;

(b) National Business Institute “What Family

Court Judges want you to know.” May 2010 Panel

 and May 2012 Panel;

(c) SC Rules of Family Court 2/08, 2/10;

(d) SC Bar - Rules, Rules, Rules Seminar

I have also presented and moderated at the

Family Court Bench/Bar seminars broadcast

statewide December 2010 & 2011;

(e) SCAJ Convention – Participated

in a panel discussion on Family Court matters 2009.

Judge Gibbons reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Gibbons did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Gibbons did not indicate any evidence of a troubled financial status. Judge Gibbons has handled his financial affairs responsibly.

The Commission also noted that Judge Gibbons was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Gibbons reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

Judge Gibbons reported that he has held the following public offices:

[Held] appointed Town/City attorney positions from 1994 through May 2005. These were appointed positions.

(6) Physical Health:

Judge Gibbons appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Gibbons appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Gibbons was admitted to the South Carolina Bar in 1992.

He gave the following account of his legal experience since graduation from law school:

(a)Associate–Hamilton, Hamilton & Delleney, PA - August 1992 - December 1993;

(b) Partner - Hamilton, Delleney & Gibbons, PA -1994-May 25, 2005;

(c) City Attorney – Chester 1994-2000;

(d) Town Attorney – Great Falls 1997-May 2005;

(e) Town Attorney – Fort Lawn 1998-January 2005.

Prior to being elected to the Family Court Bench, I was involved in a general practice law firm. I primarily practiced in the areas of Family Law, Criminal, and Personal Injury for almost thirteen (13) years prior to being elected to the Family Court bench. I have represented clients in civil litigation in Common Pleas and Magistrate Courts–both plaintiff and defense. I have represented many criminal defendants ranging in seriousness from DUI offenses to Armed Robbery. Being from a small, rural county, I was able to practice law in many different areas, which I believe has trained me to be a good judge who would understand all the different areas of practicing law, thus ensuring fairness and justice for litigants, defendants, and lawyers.

 I have represented the Municipalities of Chester, Great Falls, and Fort Lawn in various litigations, in addition to drafting ordinances and assisting in running the meetings.

 In May of 2005, I was elected to the Family Court bench. I run an efficient and proper courtroom, and I am confident I will continue to do so.

Judge Gibbons further reported regarding his experience with the Circuit Court practice area:

Experience in Criminal Matters:

 When I started practicing law back in 1992, the court appointment process was different than it is now. We had a public defender, but many cases were sent out to the local bar. Being the new associate at a law firm and since there were only 7 lawyers in Chester County in private practice (3 in my law firm), I learned to juggle a large criminal defense caseload while I was building my private practice. I have handled an extensive number of appointed cases as well as retained cases. I have defended people charged with misdemeanors and felonies. I have represented people in Municipal Court, Magistrate Court, Family Court and Circuit Court. I have argued all types of evidentiary motions and have tried many jury trials. I have visited the local jail to meet with clients. I have negotiated plea deals with the Solicitor. I have extensive criminal experience.

Experience in Civil matters:

 I also enjoyed a healthy caseload of civil matters. As mentioned earlier, I was the City Attorney for Chester, Great Falls, and Fort Lawn. At various times while employed in this capacity, lawsuits were either filed against us, or we pursued litigation against other entities.

 I represented people injured in automobile accidents or in premises liability claims. If their cases did not settle, I filed suit and represented them throughout the litigation process, including discovery and defending and arguing motions non-jury. I have represented people in medical and dental malpractice lawsuits and I have represented contractors foreclosing on mechanics liens. I have been appointed and represented many convicted people filing PCR applications. I am intimately familiar with the SC Rules of Civil Procedure. Most of my civil practice was on the Plaintiff’s side ranging from Magistrate Court to Circuit Court, even to Administrative Law Court. I also filed and represented people in Chapter 7 Bankruptcy Petitions.

Judge Gibbons reported the frequency of his court appearances prior to his service on the bench as follows:

(a) federal: less than 10%;

(b) state: 90% plus, ranging from Municipal Court to Magistrates to Family Court and Circuit Court.

Judge Gibbons reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) civil:10%;

(b) criminal: 20%;

(c) domestic: 70%.

When Judge Goldsmith was elected to the Family Court Bench 2001, my domestic practice dramatically increased. Prior to that, my practice was about 50/50 between civil/criminal and domestic.

Judge Gibbons reported the percentage of his practice in trial court prior to his service on the bench as follows:

(a) jury: 30% most settled;

(b) non-jury: 70%.

Judge Gibbons provided that prior to his service on the bench he most often served as sole counsel.

The following is Judge Gibbons’ account of his five most significant litigated matters:

(a)Wagner v. Wagner.

Family court case which went all the way up to South Carolina supreme court. Won every step of the way. Had numerous contempt hearings. Client was awarded significant amounts of real estate and custody. SCDSS became intertwined as well. Significant because just about all areas of family law were covered in this one case. Everything was contested. Husband had to be ruled in for contempt on numerous occasions. SCDSS got involved with abuse and neglect issues. Per curiam unpublished decisions in both the court of appeals and supreme court in favor of client.

(b) Toth v. Toth.

Significant equitable apportionment case which settled at trial. Dealt with valuation of a construction company where the husband was the sole shareholder. Both parties had competing CPAS. Matter was litigated for three years and involved almost all areas of domestic practice.

(c) Town of Fort Lawn vs. IRF, Budget and Control Board. The town was sued by its ex-police chief on both a contract theory and tort theory. Town’s carrier refused to cover alleging contractual in nature. We sued in a declaratory judgment action and won the case mandating coverage. IRF had to provide coverage, hired an employment law expert and the case was dismissed in favor of the town six months later.

(d) State of South Carolina vs. Camille Hankins.

I tried this case back in 1995. My client was charged with cruelty to animals. She had in excess of 80 dogs and cats in her house. A representative of PETA charged her and we had a day long trial in magistrate’s court in front of a jury. The 6th circuit solicitor actually prosecuted the case due to the media scrutiny. Significant for the intense media scrutiny, both regional and national with PETA. Client convicted, received a small fine and last I heard is still rescuing animals in North Carolina.

(e) Darla Wynne vs. Town of Great Falls.

I represented the town in this litigation brought by a wiccan seeking a court order restraining the types of prayer offered at public meetings. Intense media scrutiny. This case was tried in federal court and was heard on appeal by the US Court of Appeals for the 4th Circuit. We petitioned for certiorari to the US Supreme Court but were unsuccessful.

The following is Judge Gibbons’ account of five civil appeals he has personally handled:

(a) Wagner v Wagner; SC Supreme Court, SC Court of Appeals. Per Curiam Unpublished Decisions. Ended May 2000;

(b) Scott v Scott; SC Court Of Appeals. Unpublished;

(c) Ewing v Ewing; SC Court Of Appeals. Unpublished;

(d) Sladek v Sladek; Pending In Court of Appeals;

(e) Adkins v Piedmont Medical Center; Settled in US Court of Appeals.

Judge Gibbons reported that he has not personally handled any criminal appeals. He stated, “I have filed the notices and then would send the information to the SC Office of Appellate Defense.”

Judge Gibbons reported that he has held the following judicial office:

Elected May 25, 2005, to Seat One of the Family Court, Sixth Judicial Circuit. Serving continuously since. Re-elected in 2/07. Re‑elected on 1/30/13 for another six year term to expire in 2019.

Judge Gibbons provided the following list of his most significant orders or opinions:

(a) Pittman v. Pittman (07-DR-46-967) SC Court of Appeals Opinion 4858;

(b)Pappas v. Pappas (08-DR-46-2324);

(c) Doe v. Lingerfelt, Creel, and Baby Girl B (11-DR-11-11);

(d)Purser v. Owens (05-DR-29-496) SC Ct. App Opinion 4898;

(e)Miles v. Miles (06-DR-24-439) SC Sup. Ct. Opinion 26980 (a).

Judge Gibbons reported that he did not have any employment other than his judicial office while he was serving as a judge.

(9) Judicial Temperament:

The Commission believes that Judge Gibbons’ temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Piedmont Citizen’s Committee on Judicial Qualification found Judge Gibbons to be “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability. They found him “Well qualified” in the remaining evaluative criteria of ethical fitness, character, professional and academic ability, reputation, experience and judicial temperament. The Committee stated in summary, "We find him well qualified overall."

Judge Gibbons is married to Lorena Crouch Gibbons. He has three children.

Judge Gibbons reported that he was a member of the following bar associations and professional associations:

(a) SC Bar- Sixth Circuit Representative – Young Lawyers Division;

(b) SC Trial Lawyers Association – Board of Governors, Sixth Circuit Representative;

(c)Chester County Bar – Sec/Treas;

(d) Municipal Attorneys Association;

(e) SC Conference of Family Court Judges;

(f)National Conference of Juvenile and Family Court Judges.

Judge Gibbons provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Chester Rotary Club/Past President, Paul Harris Fellow;

(b)Chester YMCA Board/Past President;

(c) Chester/Fairfield Citadel Club – Past President, Sec/Treas;

(d) Blackstock Bluegrass Inc. – Past President;

(e) The Citadel Alumni Association;

(f) Richard Winn Academy – Board member;

(g) Palmetto Boys State Staff;

(h) Board of Deacons, Chester ARP Church – Past Chairman/Current Chairman.

Judge Gibbons further reported:

I have always been very involved in my church and community. I coach all of my children in their various sports. I have been actively involved with American Legion Palmetto Boys State program for the past almost 28 years.

(11) Commission Members’ Comments:

The Commission commented on Judge Gibbons' outstanding performance on the Commission's Practice and Procedure test and noted his broad legal experience would serve him well on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Gibbons qualified and nominated him for election to the Circuit Court.

**CONCLUSION**

The Judicial Merit Screening Commission found the following candidate QUALIFIED AND NOMINATED:

**Circuit Court**

Sixth Judicial Circuit, Seat 1 The Honorable Brian M. Gibbons

Respectfully submitted,

Senator Larry A. Martin Rep. Alan D. Clemmons

Rep. Bruce W. Bannister Ms. Kristian M. Cross

Mr. John Davis Harrell Senator George E. Campsen III

Rep. David J. Mack II Senator Floyd Nicholson

Mr. H. Donald Sellers Mr. Joseph Preston Strom, Jr.

**MOTION ADOPTED**

 On motion of Senator HUTTO, with unanimous consent, the Senate stood adjourned out of respect to the memory of Jamie Kirk Hahn of Raleigh, N.C.

and

**MOTION ADOPTED**

 On motion of Senator GREGORY, with unanimous consent, the Senate stood adjourned out of respect to the memory of Lt. Col. Joseph Chapman Pate, retired, decorated Army and Navy veteran of Columbia, S.C. Lt. Col. Pate joined the Navy at 17 years old to fight for his country during [World War II](http://www.legacy.com/memorial-sites/ww2/?personid=164383301&affiliateID=2338). In addition to his service in the Navy during World War II, Lt. Col. Pate served with the Army in the [Korean War](http://www.legacy.com/memorial-sites/korean-war/?personid=164383301&affiliateID=2338) and the [Vietnam War](http://www.legacy.com/memorial-sites/vietnam-war/?personid=164383301&affiliateID=2338). During peace time, he served as a Lt. Colonel at Fort Jackson and was responsible for the development of Weston Lake, the recreational lake and park system on Fort Jackson. Col. Pate was predeceased by his beloved wife, Miriam Durham Pate. He was a wonderful father to his children and was the doting grandfather of six.

**ADJOURNMENT**

 At 3:04 P.M., on motion of Senator COURSON, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

\* \* \*